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**F. No. 6/30/2020-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001**

Dated:31<sup>st</sup> March 2022

**FINAL FINDING**

**(Case No. AD (OI) 25/2020)**

**Subject: Anti-dumping investigations concerning imports of “Low Density Polyethylene (LDPE)” from Qatar, Saudi Arabia, Singapore, Thailand, United Arab Emirates and United States of America.**

**F. No.6/30/2020-DGTR: -** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as “the Rules”) thereof.

**A. BACKGROUND OF THE CASE**

1. The Designated Authority (hereinafter referred to as “Authority”) received an application from Chemicals and Petrochemicals Manufacturers Association (CPMA) (hereinafter referred to as the “applicant”) requesting initiation of an anti-dumping investigation under the Act and the Rules on the imports of “Low Density Polyethylene (LDPE)”, (hereinafter referred to as “subject goods” or “product under consideration”) originating in or exported from Qatar, Saudi Arabia, Singapore, Thailand, United Arab Emirates and United States of America (hereinafter referred to as the “subject countries”). Reliance Industries Limited (RIL), which is a member of CPMA and a producer of the product under consideration in India (herein after referred to as “applicant producer”), has provided the prescribed information in the application.
2. The Authority, on the basis of a duly substantiated application filed and sufficient prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 6/30/2020-DGTR dated 23<sup>rd</sup> October, 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of

the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries, and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

## **B. PROCEDURE**

3. The procedure described below has been followed with regard to the subject investigation:
  - a. The Authority notified the Embassies of the subject countries 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.
  - b. The Authority issued a public notice dated 23<sup>rd</sup> October 2020 published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods from the subject countries.
  - c. The Authority sent a copy of the initiation notification dated 23<sup>rd</sup> October 2020, to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers and users in India, user associations and other interested parties, as per the details made available by the applicant. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
  - d. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.
  - e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to the Embassies of the subject countries along with the details of the known producers/exporters from the subject countries.
  - f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties to file their Questionnaire Responses. Vide communication dated 19<sup>th</sup> November 2020, the time was extended up to 27<sup>th</sup> December 2020. Further vide communication dated 21<sup>st</sup> December 2020, the time was extended up to 10<sup>th</sup> January 2021. Thereafter, vide communication dated 8<sup>th</sup> January 2021, the time was extended up to 24<sup>th</sup> January 2021.
  - g. The following Governments made submissions during the course of the investigation:
    - i. Ministry of Economy, UAE
    - ii. General Authority of Foreign Trade, Saudi Arabia
  - h. The Authority sent questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
    - i. Qatar Petrochemical Company (QAPCO) Q.P.J.S.C, Qatar

- ii. Al-Jubail Petrochemical Company (KEMYA), Saudi Arabia
  - iii. International Polymers Company, Saudi Arabia
  - iv. Rabigh Refining & Petrochemical Company (“Petro Rabigh”), Saudi Arabia
  - v. Sadara Chemical Company, Saudi Arabia
  - vi. Saudi Ethylene and Polyethylene Company (SEPC), Saudi Arabia
  - vii. Saudi Kayan Petrochemical Company, Saudi Arabia
  - viii. Amiz Exports, Singapore
  - ix. Asia Polyfilm Singapore PTE Limited, Singapore
  - x. Euro Pacific Commodities Pte Limited, Singapore
  - xi. Nissen Chemical Singapore Pte Limited, Singapore
  - xii. The Polyolefin Company (S) Pte Limited, Singapore
  - xiii. PTT Global Chemical Public Company Limited, Thailand
  - xiv. Thai Polyethylene Company Limited, Thailand
  - xv. TPI Polene Public Company Limited, Thailand
  - xvi. Borouge, UAE
  - xvii. Chevron Philips Chemical, USA
  - xviii. Dow Inc., USA
  - xix. Equistar Chemicals LP., USA
  - xx. Exxon Mobil Corporation, USA
  - xxi. Farnosa Plastics Corporation, USA
  - xxii. Flint Hills Resources LLC, USA
  - xxiii. Sasol USA Corporation, USA
  - xxiv. Westlake Chemical Partners, USA
- i. In response to the above notification, the following producers/exporters and their related exporters/traders have responded and submitted exporters’ questionnaire responses and/or legal submissions:
- i. Qatar Chemical and Petrochemical Marketing and Distribution Company (Muntajat) Q.P.J.S.C, Qatar
  - ii. Qatar Petrochemical Company (QAPCO) Q.P.J.S.C, Qatar
  - iii. Al-Jubail Petrochemical Company (KEMYA), Saudi Arabia
  - iv. Aramco Chemicals Company, Saudi Arabia
  - v. Abu Dhabi Polymers Company Limited (Borouge) L.L.C, Saudi Arabia
  - vi. Dow Saudi Arabia Product Marketing B.V., Saudi Arabia
  - vii. Sadara Chemical Company, Saudi Arabia
  - viii. Saudi Basic Industries Corporation, Saudi Arabia
  - ix. Saudi Kayan Petrochemical Company, Saudi Arabia
  - x. Borouge Pte Limited, Singapore
  - xi. Dow Chemical Pacific (Singapore) Private Limited, Singapore
  - xii. Marubeni ASEAN Pte Limited, Singapore
  - xiii. SABIC Asia Pacific Pte Limited, Singapore
  - xiv. Sumitomo Chemical Asia Pte Limited, Singapore
  - xv. GC Marketing Solutions Company Limited, Thailand
  - xvi. PTT Global Chemical Company Limited, Thailand
  - xvii. SCG Performance Company Limited, Thailand

- xviii. SCG Plastics Company Limited, Thailand
  - xix. Thai Polyethylene Company Limited, Thailand
  - xx. Abu Dhabi Polymers Company Limited, UAE
  - xxi. Basell Trading International FZE, UAE
  - xxii. Dow Chemical International Private Limited, UAE
  - xxiii. Dow Chemical Pacific (Singapore) Private Limited, UAE
  - xxiv. National Petrochemical Industrialization Marketing Company Limited, UAE
  - xxv. Rabigh Refining & Petrochemical Company, UAE
  - xxvi. Saudi Ethylene and Polyethylene Company, UAE
  - xxvii. Equistar Chemicals LP, USA
  - xxviii. Westlake Longview Corporation, USA
  - xxix. Westlake Polymers LLC, USA
  - xxx. Renuka Agencies Limited, Hong Kong
  - xxxi. Tetra Pak Global Supply SA, Switzerland
- j. The Authority sent questionnaires to the following known importers and users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
- i. Aculife Healthcare Private Limited
  - ii. Amanta Healthcare Limited
  - iii. Balmer Lawrie-Van Leer Limited
  - iv. Cipla Limited
  - v. Elite Industries
  - vi. Essel Propack Limited
  - vii. Huhtamaki PPL Limited
  - viii. International Packaging Products Private Limited
  - ix. ITC Limited
  - x. Jagriti Plastics Limited
  - xi. Kuloday Technopack Private Limited
  - xii. K V N Impex Private Limited
  - xiii. Lila Polymers Private Limited
  - xiv. Otsuka Pharmaceutical India Private Limited
  - xv. Overseas Polymers Private Limited
  - xvi. Polycab India Limited
  - xvii. P P Products Private Limited
  - xviii. Tetra Pak India Private Limited
  - xix. The Supreme Industries Limited
  - xx. Sterlite Power Transmission Limited
  - xxi. Sumati Plastic Private Limited
  - xxii. Uflex Limited
  - xxiii. Uma Polymers Limited
  - xxiv. Universal Cables Limited
- k. In response to the above notification, the following importers or users have responded and submitted importer/user questionnaire responses/legal submissions and/or registered as interested parties:

- i. **Paharpur 3P Private Limited**
  - ii. **Tetra Pak India Private Limited**
  - iii. **SABIC Research & Technology Private Limited**
  - iv. **Uflex Limited**
  - v. **Ultimate Flexipack Limited**
- l. **The Authority sent a copy of the initiation notification dated 23<sup>rd</sup> October 2020 to the following known Associations of the subject goods in India:**
- i. **All India Federation of Plastics Industries**
  - ii. **All India Plastic Industries Association**
  - iii. **All India Plastic Manufacturers' Association**
  - iv. **Associated Chambers of Commerce and Industry of India (ASSOCHAM)**
  - v. **Chemicals & Petrochemicals Manufacturers Association**
  - vi. **Confederation of Indian Industry (CII)**
  - vii. **Federation of Indian Chamber of Commerce and Industry (FICCI)**
  - viii. **The Southern India Mill's Association (SIMA)**
- m. **The following associations have made legal submissions during the course of the investigations.**
- i. **Telangana And Andhra Plastics Manufacturers Association**
  - ii. **All India Plastics Manufacturers' Association**
  - iii. **Organization of Plastics Processors of India**
- n. **In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held through video conferencing on 19<sup>th</sup> May 2021. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their non-confidential submissions with other interested parties and were advised to offer their rebuttals.**
- o. **In accordance with the provisions of Rule 17(1)(a), the Central Government extended the time period for extension of investigation by two months, till 31<sup>st</sup> January, 2022. Later, the Central Government extended the time period for completing the investigation by another two months i.e. till 31<sup>st</sup> March, 2022.**
- p. **A list of all interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing global pandemic.**
- q. **The period of investigation (POI) for the purpose of the present investigation is 1<sup>st</sup> April 2019 – 30<sup>th</sup> June 2020 (15 months). The injury examination period has been considered as the period from 1<sup>st</sup> April 2016 – 31<sup>st</sup> March 2017, 1<sup>st</sup> April 2017 - 31<sup>st</sup> March 2018, 1<sup>st</sup> April 2018 - 31<sup>st</sup> March 2019, and the period of investigation.**
- r. **The Authority obtained transaction-wise import data from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) for the subject goods for the injury period, including the period of investigation, and analysed the data after due examination of the transactions.**

- s. Further information was sought from the applicant to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the present investigation.
- t. The non-injurious price (hereinafter referred to as "NIP") has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per the information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether an anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- u. The submissions made by the interested parties, arguments raised, and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this final finding.
- v. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- w. A disclosure statement containing the essential facts in this investigation which would form the basis of the final findings was issued to the interested parties on 17.01.2022 and the interested parties were allowed time up to 24.01.2022 to comment on the same. The comments on disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final finding notification.
- x. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- y. '\*\*\*' in these findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- z. The exchange rate adopted by the Authority for the subject investigation is US \$1= Rs. 72.69.

#### **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

- 4. At the stage of initiation, the product under consideration (hereinafter also referred to as "PUC") was defined as-

*"3. The product under consideration is "Low Density Polyethylene (LDPE)" or "high pressure polyethylene", excluding (a) compounded LDPE, and (b) LDPE having density greater than 0.925 GM/cubic CM (hereinafter also referred to as*

*"subject goods" or "product under consideration"). It is, however, clarified that base LDPE imported for the purpose of compounding in India is covered within the scope of product under consideration.*

*4. Polyethylene is a thermoplastic made by polymerisation of monomer ethylene. LDPE is a type of polyethylene, having a density range of 0.910-0.935 grams per cubic centimeter and is often referred to as the "branched" polyethylene. Its molecular structure is characterized by the presence of many asymmetrical branches (some relatively long) on the chain of carbon atoms*

*5. LDPE is produced using high-pressure reactors, either through tubular or stirred autoclaves. In a typical high-pressure process, ethylene feed is mixed with a purified recycle stream. Initiator and chain transfer agents are added to the mixture, which is then compressed to approximately 300 bars. The feed is then further compressed to the polymerization pressure in a hyper-compressor (2,000 to 3,000 bars) and fed to the reaction section. At the outlet, unreacted ethylene is removed and recycled. Polyethylene is then fed to an extruder and the product is pelletized for shipment.*

*6. It is used in applications requiring clarity, inertness, processing ease, sealability, moisture barriers, and good electrical properties. It is also used for producing trash bags, carrier bags, heavy duty bags, agricultural films, automatic packaging films and bags for food and sanitary articles, frozen food packaging, shrink and stretch hood film, surface protection film, lamination film, bubble wrap, adhesive tape backing films, foam for manufacture of mattresses etc*

*7. The product under consideration is classified under chapter 39 of the Customs Tariff Act, 1975 (51 of 1975) under the custom heading 3901. The customs classification is only indicative and is not binding on the scope of the product under consideration."*

#### **C.1. Submissions by the other interested parties**

5. The following submissions have been made by the exporter/ producer/ other interested parties with regard to the product under consideration and like articles:
  - a. The product under consideration was redefined vide letter dated 17<sup>th</sup> September 2020 to include grades not produced by the petitioner. However, the value and volume of imports were not revised post modification in the scope of the product under consideration.
  - b. The product under consideration includes those items which are not manufactured by the domestic industry. RIL does not produce all the film autoclave grades manufactured by Muntajat. For instance, it does not produce a grade similar to FB3003, which has no additives, has a lower melt index and is used in wide width film for agriculture use and shrink hoods as well as seamless multilayer tubes for

- cosmetic packaging. Grades produced by RIL are used mainly in shrink film applications.
- c. Since grade EC4062AA of Westlake has been developed specifically for one Tetra Pak, It is a customised grade having distinct properties, usage and price and it does not compete with the goods produced by the domestic industry or other exporters.
  - d. Extrusion coating grade 1070LA17 manufactured by the domestic industry is not comparable and substitutable with EC4062AA. EC4062AA is used to manufacture 6-layer packaging material consisting of paperboard, aluminium foil and polymer which is used in packaging liquid food products and do not require cold chain. While EC4062AA has melt flow index of 8.5 g/10 min and density of 918-920 g/m<sup>3</sup>, 1070LA17 has melt flow index of 7.0 g/10min and density of 917 g/m<sup>3</sup>. Due to this difference, use of 1070LA17 would reduce the speed of production, cause edge instability, cause problems with high temperature and impact the food safety. EC4062AA is different from other grades in terms of good adhesion properties, ability to run at high-speed lines, ability to melt rapidly and adhere the paper board together, suitable rheological properties for extrusion coating and lamination.
  - e. The Authority has excluded products not manufactured by the domestic industry in various investigations such as those concerning imports of Hot rolled flat products, coated paper, high tenacity polyester yarn, straight length bars, nylon filament yarn, gypsum plaster board and PVC suspension grade resin.
  - f. In Oxo Alcohols Industries' Association V. Designated Authority, CESTAT held that imports of a product not manufactured by domestic industry cannot cause injury to it and such product should be excluded from the scope of the product under consideration.
  - g. Extrusion coating grade PRC L705, produced by Petro Rabigh is not comparable and substitutable with 1070LA17 and is a customized grade having distinct properties and usage. It is used to manufacture food packaging bags and paperware and should be excluded from the scope of the product under consideration. PRC L705 has higher tensile strength, tear strength, bending resistance, punching resistance, hear seal strength and melt temperature than 1070LA17. It is also adequate for use in heavy industrial applications. While PRC L705 has melt flow index of 8.5 g/10 min and density of 0.919 g/cm<sup>3</sup>, 1070LA17 has melt flow index of 7.0 g/10min and density of 0.917 g/cm<sup>3</sup>. Due to this difference, PRC L705 is used in extrusion coating machines with speed below 300m/min.
  - h. Filing of product catalogue does not demonstrate that the applicant has produced and sold the product.
  - i. The applicant has considered certain transactions of compounded LDPE within scope of the subject imports, which casts a doubt on the veracity of the data provided.
  - j. It must be explained how the transaction-wise data has been sorted based on the use of the product.

## **C.2. Submissions by the domestic industry**

6. The submissions made by the domestic industry with regard to the product under consideration and like article are as follows:
- a. The product under consideration is low density polyethylene or high-pressure polyethylene excluding compounded LDPE and LDPE having density greater than 0.925 GM/cubic cm. The scope includes base LDPE imported for the purpose of compounding in India.
  - b. The interested parties have contended that the petition was not updated post modification of the scope of the product under consideration. However, the revised product scope was a simplified version of the product scope given in the petition.
  - c. FB3003 manufactured by Muntajat should not be excluded from the scope of product under consideration as the applicant has produced comparable grade, 22FA002. Both the grades are used for heavy duty film applications and the users are using them interchangeably. The comparability of the product is determined based on usage. Further, the grades produced by the applicant are comparable to the imported goods in terms of melt flow index and density to FB3003. A list of some customers which are using FB3003 and 22FA002 interchangeably has been provided by the applicant.
  - d. Contrary to the claims of the interested parties, EC4062AA should not be excluded from the scope of the product under consideration as there is only a minor difference between EC4062AA and 1070LA17 produced by the applicant. Tetra Pak is importing EC4062AA as its global procurement is managed and controlled from its headquarters in Switzerland and not due to unavailability of domestic alternates. The applicant has sold 1070LA17 to numerous users who have used it for the same purpose, which is, paperboard coating and aluminium foil. The applicant have furnished invoices of sale of 1070LA17 to customers which use the said grade for the same purpose as that of use of EC4062AA by Tetra Pak.
  - e. Contrary to the submissions of the interested parties, the melt flow index of 1070LA17 is 8.5 g/10 min. PRC L705 produced by Petro Rabigh should not be excluded from the scope of the product under consideration as it is comparable to 1070LA17 produced by the applicant. Both are meant for extrusion coating applications and used by the same users interchangeably.
  - f. The applicant has filed invoices of sales of the Grade 1070LA17 manufactured by it.
  - g. The inclusion of compounded LDPE within the scope of imports, as highlighted by the interested parties, was an inadvertent error. The impact of such inclusions is negligible. Correction of data shows that price of imports was lower than claimed.
  - h. The import segregation methodology has been given in the petition. For transactions where product was not specified in the description, product under consideration has been identified based on use. For instance, for transactions where description was not clear and the transactions mentioned the word "lab purpose" were excluded from the scope of the product under consideration as the same pertain to medical grade LDPE.

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

7. The product under consideration is Low Density Polyethylene (LDPE) or high-pressure polyethylene, excluding compounded LDPE, and LDPE having density greater than 0.925 GM/cubic CM. Base LDPE imported for the purpose of compounding in India is covered within the scope of the product under consideration. LDPE is a type of polyethylene, having a density range of 0.910-0.935 grams per cubic centimeter and is referred to as the branched polyethylene.
8. The product under consideration is classified under chapter 39 of the Customs Tariff Act, 1975 (51 of 1975) under the custom heading 3901. The customs classification is only indicative and is not binding on the scope of the product under consideration.
9. Some of the interested parties have claimed that the product under consideration was redefined to include grades not produced by the applicant. The Authority notes that the scope of the product under consideration has remained the same throughout the investigation. Following pre-initiation discussions, the applicant has redefined the language of the product exclusion to make it simpler and easy to understand. However, there was no enlargement in the scope of the product under consideration.
10. Some of the interested parties have claimed that the Grade EC4062AA produced by Westlake Longview Corporation and Westlake Polymers LLC are completely different from the Indian products and should be excluded from the scope of the product under consideration. Further, they have submitted that PRC L705 manufactured by Petro Rabigh should be excluded from the scope of the product under consideration. The Authority notes that there is only a slight difference highlighted by the interested parties in terms of melt flow index and density between the grade 1070LA17 produced by the domestic industry and EC4062AA exported by the interested parties. However, the two grades are used for the same purposes, that is, paperboard coating and aluminium foil. This is evident from the product catalogues of the exporters and the domestic industry. The applicant has furnished data on record relating to sale of grade 1070LA17 to users in India which are using the product for the same purpose. Merely because a user chooses to import the product from a particular supplier does not imply that the product supplied by the domestic industry is not like article to the imported product. A product type can be excluded from the scope only if the domestic industry is not producing and selling like article. Thus, the same cannot be excluded from the scope of the product under consideration. Similarly, grade PRC L705 and 1070LA17 are comparable as both are used interchangeably by users in extrusion coating applications.
11. Some of the interested parties have claimed that grade FB3003 manufactured by Muntajat should be excluded from the product under consideration. However, the Authority notes that the domestic industry has provided evidence of production and sale of 22FA002 which is a comparable grade of FB3003. Both the grades have similar melt flow index and density and are used in application related to heavy duty films. Accordingly, the same

cannot be excluded from the scope of the product under consideration. As per the information on record, the users are using grade FB3003 and 22FA002 interchangeably.

12. In view of the foregoing, the Authority concludes that the product produced by the domestic industry is like article to product under consideration imported from the subject countries. The product produced by the domestic industry is comparable to the goods imported from the subject countries in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably.
13. As regards the concerns regarding appropriateness of segregation of transaction-wise data, the Authority had called for data from DGCI&S. The Authority has considered such data, after due segregation to exclude transactions not relating to the product under consideration. The present Final finding is based on the data called from DGCI&S and analysed by the Authority as well as discussions held with the domestic industry with regards to import segregation methodology adopted by them.

#### **D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING**

##### **D.1. Submissions by the other interested parties**

14. The following submissions have been made by the exporter/ producer/ other interested parties with regard to the scope of the domestic industry and standing:
  - a. The applicant does not constitute domestic industry as it has imported significant quantities of the product under consideration, and has not shown existence of exceptional circumstances as required as per the Manual of Operating Practices.
  - b. The Authority must examine the purpose of imports by the domestic industry, regularity of such imports, whether the imports were made to supplement the product range and whether such imports were made to do some R&D.
  - c. The imported goods by the applicant, in the range of imports (0-10%) in relation to total imports is wide and 10% imports cannot be considered negligible.
  - d. Temporary shutdown of one of the plants is not a valid reason for importing substantial quantity of goods. The petitioner holds 75% market share, has three plants for production of the subject goods, as such imports cannot be for testing / sample purposes and the applicant has benefitted from low-priced imports.
  - e. CPMA has not submitted the documents prescribed for applicant association, including the copy of the minutes of the meeting in which it was resolved that such an application would be filed and list of members who supported, opposed or remained neutral. Therefore, it is unclear if CPMA has the locus to file the petition.

##### **D.2. Submissions by the domestic industry**

15. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing:
- a. The Application has been filed by Chemicals and Petrochemicals Manufacturers Association and the data has been provided by Reliance Industries Limited which is the sole producer of the subject goods in India.
  - b. Regarding the contention that standing is not clear as CPMA has not provided its documents, it was submitted that RIL is the sole producer of the subject goods and even if other members of the association oppose the petition, it still satisfied the requirement of Rule 5(3).
  - c. The applicant has imported the subject goods from a subject country to cater to the demand of its customers during the period when the domestic plant was shut down. The imports were less than 1% as compared to total imports, demand in India as well as production and sales of RIL.
  - d. The order for the imported goods was placed prior to the period of investigation but they were shipped later by the exporter and were received by the applicant producer during the period of investigation.
  - e. The applicant is not related to any exporters in the subject countries or importers of the subject goods in India.

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

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

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

17. The application has been filed by Chemicals and Petrochemicals Manufacturers Association (CPMA) and the data has been provided by Reliance Industries Limited (RIL) which is the sole producer of the subject goods in India. RIL has also sought imposition of antidumping duty. RIL has certified that it is not related to any exporter or producer of PUC in the subject countries or any importer of the product under consideration in India.
18. Reliance Industries Limited has imported the subject goods from Qatar at the time of temporary shutdown of its production. The volume of such imports is negligible in relation to the subject imports, demand in India, and its production and consumption as is evident from the table below. RIL has provided evidence that the order for these imports was placed prior to the period of investigation, but the material was received in

the period of investigation. The fact has been verified by the Authority from the invoices and bills of entry placed on record by the domestic industry.

Particulars	Quantity (MT)	Imports in relation to (%)	Imports in relation to (% Range)
Imports made by RIL	***		
Subject imports	***	***	<1%
Demand in India	***	***	<1%
Production of RIL	***	***	<1%
Domestic sales of RIL	***	***	<1%

The Authority notes that the imports by RIL are negligible in volume and were made during the period when its plant was shut down. In view of the same, the Authority finds it appropriate to consider that RIL is eligible to constitute domestic industry.

19. In view of the above, and after due examination, the Authority holds that the RIL (“applicant producer”) constitutes domestic industry under Rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

## **E. CONFIDENTIALITY**

### **E.1. Submissions by the other interested parties**

20. The following submissions have been made by the other interested parties with regards to confidentiality:
- The applicant has claimed excessive confidentiality as all the injury data in the petition is indexed.
  - Excessive confidentiality has been claimed by the applicant as no information has been disclosed in Section VI of the non-confidential version.
  - Even though the domestic industry disclosed production, capacity utilization and sales in the earlier investigations, it has claimed confidentiality in the present investigation.
  - The applicant has not followed Trade Notice 10/2018, has not shown good cause for excessive confidentiality and should be directed to furnish a revised petition. The non-injurious price has been provided in the range of +/-300%, Imports made by the domestic industry has been provided in the range of +/-10%. Purchase quantity and value of product under consideration, average industry norms for capacity utilisation, productivity per day, inventory, return on investment, R&D expenses, funds raised, export price per unit and sales realisation for SSI units have not been provided.

- e. The applicant has claimed excessive confidentiality with regard to imports made by it, import volumes compared to demand and production, production capacity in India, demand-supply gap, excess imports, cost of ethylene, landed price of imports compared to cost of input, production of the domestic industry, market share, inventory holding days, cost of production, selling price, profit or loss, target return, price undercutting, injury margin, dates of plant shutdown, dates of dispatch of import consignments and data of RIL. No non-confidential summaries were provided.
- f. Since utilities consumption, cost of production, raw material and packing material consumption are required to be provided for over a period, trend thereof should have been provided.
- g. Justification table indicating reasons for confidentiality are not as per the format prescribed by the Authority.
- h. In accordance with the decision of the Tribunal in the case of Exotic Décor Pvt. Ltd. and Ors. v. Designated Authority, transaction-wise import data relied upon by petitioner should be provided in a form and manner as was taken on record by the Authority, so that exporters can offer meaningful comments.
- i. The confidentiality claims made by ADPCL have already been examined by the Authority and no deficiencies have been raised by the Authority in this regard.

## **E.2. Submissions by the domestic industry**

- 21. The following submissions have been made by the domestic industry with regards to confidentiality:
  - a. The applicant has fulfilled its obligation under Trade Notice 07/2018 by providing PDF format of import data. No prejudice has been caused to the interested parties on not obtaining such data from the Authority as the Authority authorizes all the interested parties for obtaining such data from DGCI&S.
  - b. The applicant has not claimed excessive confidentiality as trends of export price has been provided. The applicant has not purchased the product under consideration and the range of imports has been provided.
  - c. The R&D expenses and funds raised are not identifiable separately for the product under consideration and reference has been given to the financial statements which are public documents.
  - d. Disclosure of non-injurious price would allow the customers to benchmark their prices from the domestic industry. The same has been disclosed in a broader range.
  - e. The information for which disclosure has been sought by the interested parties are confidential in nature and cannot be disclosed. The interested parties have themselves not followed the guidelines given in Trade Notice 10/2018.
  - f. The information in Section VI relates to business proprietary information and cannot be disclosed. While the interested parties have contended that such information has not been shared, they have themselves have not provided their own sales process.

- g. Contrary to the claims of the interested parties, the justification table for reasons of confidentiality provided by the applicant is as per the format prescribed by the Authority.
- h. Contrary to the claims of the interested parties, the applicant has claimed confidentiality in line with Trade Notice 10/2018 and the Authority has duly verified its claims.
- i. Since the applicant is not aware of average industry norms for capacity utilisation, productivity per day, inventory and return on investment, the same could not be provided.
- j. As regards the contention that the domestic industry disclosed production, capacity utilization and sales in earlier investigation, it was submitted that there was no earlier investigation for the product under consideration and these parameters have been disclosed as per the requirement of the Trade Notice 10/2018.
- k. Regarding the contention that utilities consumption, cost of production, raw material and packing material consumption should be provided as a trend, it was submitted that the interested parties have themselves not disclosed such information.
- l. The other interested parties have claimed excessive confidentiality. The exporters have not disclosed whether they purchased any raw material from related parties.
- m. Rabigh Refining & Petrochemical Company has claimed its annual report and the fact that it procures ethane and butane from Saudi Aramco confidential in the present investigation, while it has disclosed the same in the anti-dumping investigation on imports of MEG.
- n. While Rabigh Refining & Petrochemical Company has disclosed that it supplied LDPE to Aramco Chemical Company, Aramco Chemical Company claimed the entity from which it purchased LDPE confidential.
- o. SABIC has claimed only Saudi Kayan Petrochemical Company, SABIC Asia Pacific Pte Limited and Al-Jubail Petrochemical as related parties in LDPE. In anti-dumping investigation on imports of MEG, it has claimed Arabian Petrochemical Company, Jubail United Petrochemical Company Yanbu National Petrochemical Company and Saudi Yanbu Petrochemical Company, in addition to the ones named in LDPE as related parties.
- p. While Saudi Kayan Petrochemical Company has disclosed the names of principal shareholders, it has claimed percentage of holding confidential in LDPE. In the anti-dumping investigation on imports of MEG, it has claimed the percentage of holding confidential while disclosing the names of the shareholders.
- q. While Saudi Kayan Petrochemical Company has named 7 related producers in MEG investigation, it has named only 3 in the LDPE investigation.
- r. Al-Jubail Petrochemical Company has not disclosed that it is related to SABIC. While it has not disclosed whether it has captively produced raw material, its related entities have disclosed the same in MEG investigation. Raw material for MEG being the same, the company forming part of the same group have claimed confidentiality arbitrarily.

- s. While Saudi Kayan Petrochemical Company and Al-Jubail Petrochemical Company have disclosed that they sold to SABIC Asia Pacific Pte Limited, SABIC Asia Pacific Pte Limited has claimed the information on producers confidential.
- t. The other interested parties were under an obligation to disclose all the relevant facts. The Supreme Court in Haldor Topsoe held that even if the burden of proof lies on a party, the court may draw an adverse inference if the other party withholds important documents in its possession.
- u. While a lot of facts have been disclosed in the MEG investigation, they have not been disclosed in the present investigation.

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

22. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties for inspection as per Rule 6(7) of the Rules.

23. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

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

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

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

24. The Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claims on confidentiality. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have significant adverse impact upon a person supplying the information or upon a person whom that person acquired the information.), or which is provided on a confidential basis by the parties to an investigation shall, upon good cause shown, should

be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it. 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.

25. The other interested parties have stated that the domestic industry has claimed excessive confidentiality relating to production, capacity utilization, sales, purchase quantity and value of product under consideration, export price per unit, sales realisation, market share, inventory holding days, cost of production, selling price, profit or loss, target return, price undercutting, injury margin, dates of plant shutdown, dates of dispatch of import consignments and data of RIL. The Authority notes that the information referred to by the interested parties is confidential information and the disclosure of such information would adversely impact the domestic industry. Further, it is noted that the domestic industry has provided trends of export price in their petition.
26. With regards the R&D expenses and funds raised, the Authority notes the submission of the domestic industry that such information is not product specific and can easily be accessed from the financial statements of the petitioning domestic producer. It has also been contended that the domestic industry has not shared the average industry norms for productivity, capacity utilization, inventory and return on investment. However, the domestic industry has submitted that it is not aware of such norms and hence the same have not been shared.
27. It has been contended that the domestic industry has shared the non-injurious price in a very broad range. The Authority notes that the domestic industry had submitted its non-injurious price and had disclosed the same in a broader range due to the sensitivity of the information as disclosure of the same would lead to the customers to demand lower prices from the domestic industry. However, the Authority has now determined the non-injurious price for the domestic industry upon verification of all information in consonance with Annexure III of the Rules.
28. With regards the claims of excessive confidentiality relating to imports made by the domestic industry, import volumes compared to demand and production, production capacity in India, demand-supply gap, excess imports, cost of ethylene and landed price of imports compared to cost of input, the Authority notes that such information is confidential by nature and disclosure of such information would be prejudicial to the interests of the domestic industry. With regards the information relating to the imports made by the domestic industry, the Authority notes that the volume of such imports in relation to its production has been provided in range in the petition itself.

29. With regards to disclosure of DGCI&S data, the Authority notes that Trade Notice 07/2018 dated 15<sup>th</sup> March 2018, prescribes the procedure for collecting DGCI&S data for the domestic industry as well as other interested parties. The interested parties, thus, had access to procure DGCI&S data by following the procedure prescribed as per the Trade Notice. The Authority, thus, notes that the procedure now being applied is consistent, uniform across parties and investigations, equitable and provides adequate opportunity to the interested parties to defend their interests. Further, the applicant has provided a complete list of transaction-wise import data, and a soft copy of the sorted import data was made accessible to the interested parties based upon declaration/undertakings as per prescribed formats.
30. The Authority has considered the claims of confidentiality made by the applicant and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. Due to Covid 19 pandemic, the Authority directed all the interested parties to share the non-confidential version of submissions made by each interested party with other interested parties through e-mail.

## **F. MISCELLANEOUS**

### **F.1. Submissions by the other interested parties**

31. The following miscellaneous submissions have been made by the other interested parties:
  - a. Despite a period of one month between the initiation of investigation, and the last iteration of data, the Authority did not instruct the petitioner to file a corrected and updated petition.
  - b. The petitioner first submitted a deficient petition with 12 months of period of investigation instead of 15 months. The revised petition was filed subsequently on the request of the interested parties.
  - c. The Authority did not have the prima facie evidence of dumping or injury for the 15 months period of investigation before initiating the investigation.
  - d. The Authority should explain the approach for choosing 15 months period of investigation which covers the period in which there was a national lockdown in India.
  - e. Injury was claimed on erroneous and outdated data and hence does not constitute “positive evidence”. The claims hold no value in light of updated data.
  - f. There are major discrepancies in the original petition and the updated information, including the data for cost of sales, PBIT per unit, total profits before interest and tax changed, interest/finance charges, return on investment, cash profits, net fixed assets and working capital changes for the injury period in the updated petition. The information provided in the original petition formed the basis for initiation and cannot be changed at a later stage.
  - g. The injury data was updated on at least four occasions, which were not taken into account in presenting the case of material injury on behalf of the petitioner. Due to repeated changes made in the data, without providing any consolidated set of

- information and supporting arguments, the arguments in the petition cannot be said to be made based on adequate, verifiable, and reliable data.
- h. The evidence submitted to DGTR for initiation must be of adequate quality to constitute sufficient, adequate and accurate evidence, as held by the Panel in US – Softwood Lumber and Guatemala – Cement II. However, the Authority has initiated the investigation based on prima facie evidence.
  - i. The initiation is bad in law as some of the relevant economic factors have not been evaluated. Data on price, costs, investments, employment and stocks are not provided and analysed in the narrative of the petition.
  - j. The domestic industry has not demonstrated appropriateness of interim duties. As per the Manual, provisional duties may be imposed where imports have intensified since initiation of the investigation, causing injury to the industry.
  - k. The applicant must clarify the reason for increase in interest and finance cost in the updated data, which might have been done deliberately to show increased injury.

## **F.2. Submissions by the domestic industry**

32. The following miscellaneous submissions have been made by the domestic industry, in response to the contentions of the other interested parties.
- a. There is no provision mandating filing of a revised petition post initiation, and accordingly, the same was not required.
  - b. Submission filed by Telangana and Andhra Plastics Manufacturers Association should be rejected as it is not a registered interested party and has filed submission 3 days post the deadline announced by the Authority.
  - c. Regarding the contention that a deficient petition with 12 months data was filed instead of 15 months, it was submitted that the investigation was initiated based on data for the period of investigation April 2019 – March 2020. Thereafter, the Authority updated the period of investigation to 15 months and the applicant filed the updated data within the time limit prescribed by the Authority.
  - d. There is no change in the selling price and return on investment provided prior to initiation and post initiation. A minor change in cost of sales, profits / loss per unit and cash profits is due to slight change in interest cost. The Authority can undertake the verification of the data as deemed necessary.
  - e. The interested parties have contended that the data of the domestic industry has changed. However, such changes were not significant. Barring minor change in net fixed assets and updation of DGCI&S data, the data was modified as per the instructions of the Authority. The Authority duly satisfied itself with the data provided and asked the domestic industry to change the methodology where it did not agree.
  - f. Contrary to claims of the interested parties, the Authority needs to examine the information for the proposed period of investigation before initiation and can change the period of investigation at the stage of initiation. This has been consistently done by the Authority in multiple investigations.

- g. Contrary to claims of the interested parties, only prima facie evidence is required at the stage of initiation as was held by High Court in Rajasthan Textile Mills Association v. Dir. General of Anti-Dumping and by Tribunal in Huawei Technologies Co. Ltd. V. Designated Authority and Automotive Tyre Manufacturer's Association V. Designated Authority.

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

33. The interested parties have highlighted that the investigation was initiated with 15 months as the period of investigation based on an application having a period of investigation of 12 months. The Authority notes that the application was filed by the applicant on 13<sup>th</sup> July 2020, with a period of investigation of April 2019-March 2020. However, the investigation was initiated on 23<sup>rd</sup> October 2020. In accordance with the explanation introduced to the definition of period of investigation, vide Notification No. 9/2020-Customs (N.T.) dated 2<sup>nd</sup> February 2020, the period of investigation cannot be more than six months old on the date of initiation. Therefore, the Authority included the period up to June 2020 within the period of investigation, in consonance with the said explanation.
34. The interested parties have also contended that the applicant did not file a revised petition for the period of investigation of 15 months. It is noted that the applicant had filed data for the updated period of investigation, post initiation of investigation. The non-confidential version of the same was circulated to all other interested parties.
35. The applicant has provided a duly substantiated application based on which the present investigation was initiated. The investigation was initiated after prime facie satisfaction regarding existence of dumping, injury and causal link based on the period of investigation proposed by the applicant. A non-confidential version of the application was circulated to the other interested parties. The application contained all information relevant for the purpose of initiation of the investigation. Further, subsequent to initiation, further information has been sought from the applicant to the extent deemed necessary and the same has been provided by the applicant.
36. The interested parties have stated that data of the domestic industry has changed on multiple occasions. The Authority has examined the changes made. The Authority notes that on two occasions, on 13<sup>th</sup> August 2020 and on 23<sup>rd</sup> September 2020, the domestic industry has changed the data pursuant to queries raised or instructions issued by the Authority. Further, on 18<sup>th</sup> August 2020, the applicant brought the transaction-wise data released by DGCI&S for the month of March 2020 on record and made consequential changes to the injury parameters as a result of the same. Lastly, the domestic industry has made certain corrections to the interest cost reported for previous years, while filing data for the period of investigation post initiation. The interest cost reported by the applicant has been verified by the Authority in detail. Only such verified interest cost, subject to necessary modifications, has been considered for the present purposes.

37. The interested parties have also contended that there is no justification for imposition of interim duties. Since the Designated Authority has not recommended the imposition of interim duties, such concerns are not required to be addressed at this stage.

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

### **G.1. Submissions by the other interested parties**

38. The following submissions have been made by the other interested parties with regard to the normal value, export price and dumping margin:
- a. Normal value cannot be determined based on published prices as the point of sale or terms of sale for the price cannot be ascertained, nor whether such sales are in the ordinary course of trade.
  - b. Prices published in trade journals cannot be considered, unless such information mentioned is based on public documents, as held in the case of Dye Stuff Manufacturers Association of India vs. Govt. of India. The prices in the journals are based on assumptions and cannot be considered to correctly reflect the actual prices. Though there have been a number of investigations cited by the applicant in which data from journals has been relied upon, but such practice cannot overrule the CESTAT decision in Dye Stuff Manufacturer's Association.
  - c. The normal value determined for Qatar and Saudi Arabia is not appropriate as the selling price can be disregarded only where volume of sales is low, there is a particular market situation or there are no sales in ordinary course of trade as held in EC-Tube or Pipe Fittings.
  - d. The import price relied upon pertains to all GCC members and not to Qatar and Saudi Arabia. It is not permissible to establish normal value based on import price from third country. If out of country data is used for normal value, it needs to be adjusted to ensure it reflects conditions of competition in the subject countries.
  - e. Adjustments made to import price are not based on costs relevant to Qatar, for instance, terminal handling charges have been determined based on port in UAE.
  - f. The normal value determined for USA is not appropriate as the applicant has not provided the source of rail car cost claimed as adjustment and normal value does not take into account several post factory expenses.
  - g. ICIS report, based on which the petitioner has determined normal value, and the basis of adjustment has not been provided. Without the evidence supporting normal value claims, the DGTR could not have examined the accuracy and adequacy of evidence according to Rule 5(3) of the Rules.
  - h. Normal value is not set at an ex-factory level but also includes theoretical expenses to CFR Prices which need to be deducted to determine ex-factory price. Therefore, there is no fair comparison in determination of dumping margin.
  - i. There is no basis for Authority to know whether delivered prices reported in the petition are fair as the applicant has not disclosed the Platts report or the basis for

- adjustment claimed. There are other post factory gate expenses such as commission and credit costs that need to be adjusted to calculate ex-factory normal value.
- j. The information provided with regard to normal value, export price and dumping margin does not qualify as positive evidence as it is not “affirmative, objective, verifiable, and credible”.
  - k. The applicant has not accounted for the factors such as difference in conditions and terms of sales for imports in the subject countries and exports to India, difference in volume of trade and difference in physical and technical characteristics of LDPE, and thus, there is no fair comparison between normal value and export price.
  - l. The dumping margin should be calculated based on data submitted by the exporters.
  - m. The allegation of a particular market situation in respect of Saudi Arabia is not valid as the issue was raised only during the oral hearing and was not considered by the Authority at the time of initiation.
  - n. The table and HSBC report presented by the applicant for ethane prices cannot be considered reliable as the applicant did not provide the source of data in the table for ethane prices in Saudi Arabia and USA. Further, the prices presented were in an indexed form. Even if the table contains prices from some trade journals and articles, the same cannot be relied upon as held by CESTAT in Dye Stuff Manufacturers Association of India V. Government of India.
  - o. The contention of the domestic industry that distortion of prices in Saudi Arabia has resulted in a particular market situation in GCC as the entire GCC region is a single customs territory, cannot be accepted.
  - p. Since the prices of ethane are lower due to natural advantage enjoyed by the country, it cannot be considered as a particular market situation. DGTR has rejected the similar claims in several investigations against UAE, such as that on imports of clear float glass and plain gypsum plaster boards.
  - q. After reforms in 2015-16, the prices of ethane in Saudi Arabia are comparable to prices in other oil rich nations. The feedstock prices in middle east and USA are lower due to oil abundancy and using ethane instead of naphtha for producing ethylene. The cracker plants in Saudi Arabia are located close to the plants which leads to reduction in transportation cost.
  - r. Even if price of ethane is lower due to government regulation, such prices are applicable for both domestic and export sales; and thus, the domestic prices allow a proper comparison with export prices. Reliance was placed on the decision in Australia – A4 Paper.
  - s. Price of ethylene cannot be substituted for market price as the government only regulates price of ethane and not ethylene, which is merely an intermediate product made from ethane. The price of the product which is proved to be distorted due to particular market situation only can be substituted, as held by the Panel in Australia – A4 paper.
  - t. Rejection of actual cost of the exporter due to government control is inconsistent with the WTO Agreement as held by the Panel in EU – Biodiesel (Argentina) and Ukraine – Ammonium Nitrate.

- u. In the investigation concerning Polypropylene from Saudi Arabia, the cost of production was adjusted as domestic price of propane was lower than its export price. However, it is not the situation in the present case as the government of Saudi Arabia regulates domestic prices which are based on international market prices adjusted for certain cost-based and other commercial considerations.
- v. Findings in case of Rubber Chemicals from China PR, Korea PR and USA, Rubber Chemicals from China PR and PX-13 from China PR and Korea RP dealt with procurement of raw material from non-market economy and cannot be applicable to the present case as Saudi Arabia is a market economy country and Sadara has not procured feedstock from any non-market economy country.
- w. Final findings of European Commission in the case of Biodiesel from Argentina and Indonesia, Mixture of Urea and Ammonium Nitrate from Russia, Trinidad and Tobago and USA, Ammonium Nitrate from Russia, Seamless pipes of iron or steel from Russia and Welded tubes and pipes of iron or non-alloy steel from China PR, Belarus and Russia have been held as inconsistent with Article 2 of the Anti-dumping Agreement by the Appellate body in EU-Biodiesel (Argentina), EU – Biodiesel (Indonesia) and EU – Cost Adjustment Methodologies II (Russia) respectively. Thus, such findings cannot be relied upon in the present case.
- x. International feedstock prices cannot be used to substitute cost of ethylene in Saudi Arabia. The Appellate Body in EU – Biodiesel held that the Authority cannot simply substitute the cost from outside the country of origin and whatever information is used, it should ensure that such information is used to arrive at cost of production in the country of origin. It was further held that it is necessary to consider costs reflected in the records of the producer, provided that the records reasonably reflect the costs actually incurred.
- y. The Authority must reject the domestic industry's claim to adopt market price of ethylene since it obtains ethylene from affiliated parties, as such claim lacks factual foundation.
- z. Price of ethane purchased from affiliated cannot be rejected as ADPCL has provided detailed information regarding purchase of ethane at arm's length prices from its affiliated party ADNOC, cost of production of ethylene, the published prices of ethane and all other relevant information during the verification.
- aa. Cost of ethylene submitted by ADPCL already includes depreciation cost and thus, the argument of the domestic industry is baseless.
- bb. Since the prices of raw materials are regulated by the Saudi Arabian Government on a non-discriminatory basis, they cannot be considered as affected by any affiliation.
- cc. The findings of Australian Commission in Ammonium Nitrate from Russia are not applicable to the present case as prices of the subject goods in Saudi Arabia are decided by market forces and not by the government and the price of feedstock is regulated in non-discriminatory manner, which was not the case in the Australian case.
- dd. The Australian Commission in the investigation concerning zinc coated (galvanised) steel and aluminium zinc coated steel determined particular market

- situation for the product under consideration and not raw material, and thus, findings in such case are not applicable.
- ee. Normal value cannot be determined based on domestic sales of other producers.
  - ff. If export prices from Saudi Arabia to third countries are considered for normal value, which is one of the options under Section 9A(1)(c), it would be seen that there is no dumping. In *Ramchandra Keshav Adke v. Govind Joti Chavare*, it was held that when a procedure has been provided in statute for doing a certain thing in a certain manner, it should be done in that manner alone or not at all.
  - gg. The EC in its preliminary findings concerning imports of MEG from Saudi Arabia had adjusted the cost of propane to remove the discount received by the Saudi producers from their affiliate company, Saudi Aramco. However, in the disclosure statement published by the EC, such determinations have been reversed in absence of evidence establishing distortion of input prices due to purchase from affiliated parties and the cost of propane as reported by the producer were used to determine dumping margin.
  - hh. ADPCL has disclosed all relevant information to the Authority and hence, submission of domestic industry regarding existence of related entity in India, Borouge (India) Private Limited must be disregarded. Borouge (India) Private Limited is not engaged in import and resale of the PUC.
  - ii. QAPCO India is not engaged in import and resale of the PUC.

## **G.2. Submissions by the domestic industry**

39. The following submissions have been made by the domestic industry with regard to the normal value, export price and dumping margin:
- a. There is a particular market situation in GCC and particularly in Saudi Arabia, UAE and Qatar leading to suppression of cost of production and prices in the region which do not allow proper comparison to export price. As evident from the Report of the Working Party on the Accession of Kingdom of Saudi Arabia to the WTO, the domestic prices of ethane and propane have been subject to price and profit control. These prices continue to be subject to regulation even after they were increased by Saudi Arabia in 2016.
  - b. As per Platts reports, the price of ethane is fixed at \$1.75/MMBtu, according to the official Saudi Press Agency.
  - c. When Saudi Aramco sells ethane and propane domestically at a price below the corresponding equalization prices, it is entitled to compensation from the Government of an amount equal to the cost of the revenues directly forgone as a result of Saudi Aramco's compliance with the Kingdom's current pricing mandates.
  - d. The interested parties have contended that the prices of ethane and propane are lower due to regional advantages. However, these prices have not been determined by free market forces but have been decided by the government.

- e. Contrary to the claims of the interested parties, the prices of ethane and propane are regulated in Saudi Arabia even now and are lower than prices in North America. The price is not determined as per the market forces.
- f. Riyadh Capital, an investment banking company has reported that the regulated prices are lower than the prices at which Saudi Aramco would otherwise have sold the product. As per annual reports of Saudi Aramco, it has received about 11-12% of revenue as other income, pertaining to compensation arising from equalization scheme.
- g. In the response filed in the anti-dumping investigation concerning MEG, Petro Rabigh Refining & Petrochemical Company has entered into ethane and butane feedstock supply agreement with Saudi Aramco. They have stated that the price charged by Saudi Aramco is price commonly applied to all industrial producers in Saudi Arabia.
- h. Contrary to the submissions of the interested parties, the distortion in raw material prices in Saudi Arabia has suppressed the prices in the entire GCC region as there are no tariff barriers between the countries constituting GCC. While the information is publicly available only for Saudi Arabia, the facts for Qatar and UAE are the same. The producers from Qatar and UAE must establish that they procured inputs at international prices. GCC constitutes one unified market and price prevailing in one country influences the price in other countries. GCC countries undertake trade remedial investigations as a unified market and cannot take a dual stand when it comes to investigations against them.
- i. The price in Qatar and UAE is distorted as the supplier of input and producer of LDPE are government-owned entities. Further, the two are related due to government ownership.
- j. Foreign producers use natural gas, for the production of steam, nitrogen and power, which is distorted due to government decree in Saudi Arabia and supplied by government owned enterprises in Qatar and UAE. Cost of production of ethylene cannot be adopted without eliminating such distortions.
- k. Contrary to the claims of the interested parties, the particular market situation does not affect the domestic sales price and export price equally. The domestic prices are derived by cost of input and competition between the domestic producers while the export prices are determined based on competition with other foreign producers which do not have access to distorted inputs. The prices of imports from Middle East have moved in tandem with the price of imports from other subject countries, when seen on a month-wise basis.
- l. In Australia – Anti-Dumping Measures on A4 Copy Paper, the Panel held that it is required to be examined whether input price distortion impacts domestic and export sales price unequally. In such a situation the costs adopted may be determined based on undistorted input price, which may be based on out of country benchmark, provided such benchmark is adjusted appropriately.
- m. Regarding the contention that international feedstock prices cannot be used to substitute the cost of ethylene in Saudi Arabia, it was submitted that the Government of Saudi Arabia compensates Saudi Aramco for revenue forgone due

- to the regulated price. The compensation depends upon comparison with the equalization price which is determined based on export or import parity. Equalization price is considered as a benchmark for unregulated price in the country and reflects the actual sales realization of Saudi Aramco. It does not amount to out-of-country benchmark. The Authority should call upon Aramco Chemicals Company to furnish information regarding equalization prices prevailing during the period based on records of the holding company and adverse inference should be drawn if it is unable to do it and higher of import or export price of ethane and propane may be considered in such a case.
- n. The Government of Saudi Arabia has not established the absence of input price distortion. The documents provided by the Government of Saudi Arabia does not address the concern raised by the petitioner.
- o. In the MEG investigation, it has also been disclosed that the price at which Saudi Aramco supplies fuel oil to Rabigh Refining & Petrochemical Company is government regulated.
- p. Saudi Aramco supplies gas to Rabigh Refining & Petrochemical Company at prices prevailing in Saudi Arabia as established by the Government.
- q. Saudi Aramco has made available revolving corporate facilities for Rabigh Refining & Petrochemical Company. It has leased land to Rabigh Refining & Petrochemical Company at 1 Saudi Riyal per square meter per annum. It granted exclusive rights to use and operate Rabigh Terminal Facilities.
- r. Saudi Aramco and Sumitomo Chemical depute some personnel and technical support to Rabigh Refining & Petrochemical Company to assist in conducting business and operations.
- s. Raw material, utilities and other inputs provided by Saudi Aramco to Rabigh Refining & Petrochemical Company are applicable to other companies as well in Saudi Arabia.
- t. Since the exporters have not put all relevant information on record, it is infeasible at this stage to correctly assess the cost of production of LDPE. To ensure fair comparison, the cost of production of the subject goods should be adjusted for market price of ethylene.
- u. The price of exports of ethylene from Saudi Arabia and UAE provides the market price of ethylene. Since there are no exports of ethylene from Qatar, the price of exports from Saudi Arabia and UAE may be considered for the same.
- v. If the market price of ethylene is not considered, full cost of ethylene must be considered including interest and depreciation cost. This is necessary as the investment in ethylene cracker is significant as compared to LDPE. The major value addition is converting ethane into ethylene and not LDPE from ethylene.
- w. In anti-dumping investigation on imports of Polypropylene from Oman, Saudi Arabia and Singapore, the Authority modified the cost of production in respect of propane prices in Saudi Arabia due to existence of a particular market situation. In anti-dumping investigation on imports of rubber chemical PX-13 from China PR, Korea RP and USA, the Authority adjusted the prices of raw material as the same was distorted due to procurement from non-market economy.

- x. The WTO members continue to examine the possible existence of input price distortion even after the WTO decision in Copy Paper. In 2020, US DOC in anti-dumping investigation on imports of Forged Steel Fluid End Blocks from Germany has concluded the existence of particular market situation.
- y. The European Commission has rejected input prices due to distortion in investigations on imports of biodiesel from Argentina and Indonesia; mixture of urea and ammonium nitrate from Russia; seamless pipes and tubes of iron or steel from Russia and welded tubes and pipes of iron or non-alloy steel from China PR, Belarus and Russia.
- z. The Australia Anti-Dumping Commission rejected the input prices in investigations on imports of ammonium nitrate from Russia, zinc coated (galvanised) steel and aluminium zinc coated steel from China PR, Korea RP and Taiwan due to market distortions.
- aa. As regards the contention that particular market situation cannot be used to discredit the feedstock cost as it reasonably reflects the cost of production and sales, it was submitted that the applicant has not relied upon the provisions related to “reasonably reflect the cost of production”, but on the provision of particular market situation.
- bb. In response to the contention that the issue of particular market situation was raised at a belated stage, it was submitted that the arguments were raised only after the applicant got questionnaire response after initiation and oral hearing is the first formal opportunity thereafter. There is no bar to raising a contention post initiation.
- cc. The producers in Qatar and UAE are related to suppliers of ethane / propane. The producers in Saudi Arabia are related to Saudi Aramco, supplier of ethane, directly or indirectly. All purchases of raw material and utilities or natural gas for production of utilities are from related parties.
- dd. Saudi Kayan Petrochemical Company and Al-Jubail Petrochemical Company have purchased inputs from Saudi Aramco which is a related entity of SABIC. SABIC has been acquired by Saudi Aramco which is a wholly owned entity of Saudi Government. Even before acquisition, SABIC was a 100% state owned entity, making it related to the government-owned Saudi Aramco. Trade Notice 09/2018 states that person shall be related if under the direct or indirect control of a third person.
- ee. Reliance placed by the other interested parties on disclosure statement issued by the European Commission can only have a persuasive value, while the Trade Notice is binding. The issue involved in the European case is entirely different from the issue in the present case.
- ff. For producers sourcing captive input from affiliates, the input price should be based on market price of the raw material. This is because the prices do not reasonably reflect the costs associated with production and sale of the product under consideration, these need to be rejected and the cost of production needs to be determined based on market price of raw material. In US – OCTG, the Panel held that the authority can reject the price of raw materials purchased from an

- affiliate which are not at arm's length prices and do not reasonably reflect the cost associated with the production.
- gg. In a number of anti-dumping investigation including those on imports of digital versatile discs – recordable, PVC suspension resin and Vitamin AB2D3K, the Authority determined normal value based on facts available as the exporter failed to establish procurement of raw material from related party at arm's length prices.
- hh. As per the US and Canadian law, the authority determines cost of input, when procured from related entity, based on higher of price paid by exporter, cost incurred for production of input or market price of input. In Australia, price paid or payable is not considered as if such prices are influenced by relationship between buyer and seller and are not at arm's length prices.
- ii. A number of authorities including those in Argentina, Brazil, China PR and Korea RP require information regarding purchase of inputs from affiliate and related suppliers in order to check whether the same are at arm's length basis.
- jj. Marubeni ASEAN Pte Limited has filed an incomplete response without any appendices.
- kk. Response filed by Sadara Chemical Company and Abu Dhabi Polymers Company Limited (Borouge) LLC should be rejected as they have misrepresented that they had not purchased raw material from related entities.
- ll. Related entities of Aramco Chemicals Company namely, Aramco Trading Fujairah ATL, UAE and Aramco Trading Singapore ATS, Singapore which are engaged in sales and distribution of the subject goods, have not participated in the investigation.
- mm. Related entity of Saudi Ethylene and Polyethylene Company namely, Sahara Petrochemicals Company which is engaged in production and sales of the subject goods, has not participated in the investigation.
- nn. Related entities of Saudi Kayan Petrochemical Company and Al-Jubail Petrochemical Company namely, Yanbu National Petrochemical Company, Eastern Petrochemical Company and Jubail United Petrochemical which are engaged in production of the subject goods, have not participated in the investigation.
- oo. Related entity of Qatar Petrochemical Company namely, Qatofin Company Limited which is engaged in production of the subject goods, has not participated in the investigation.
- pp. In the absence of participation of related producers involved in production and sales of product under consideration, the dumping margin for the group cannot be determined.
- qq. The response filed by Al-Jubail Petrochemical Company (Kemya) should be rejected as it has exported through Exxon Mobil which has not participated in the present investigation. Since Kemya is related to Saudi Kayan Petrochemical Company, the response filed by it cannot be accepted.
- rr. The value chain for Equistar Chemicals, LP is incomplete as the affiliate producer whose goods are sold in the domestic market, producer whose goods are exported to India, affiliate trading company engaged in selling goods in India and other

- trading companies that exported the goods to India have not participated in the investigation.
- ss. Sadara Chemical Company may not have sufficient domestic sales. The normal value must be determined based on sales of other producers in the same market since it is not producer specific. Section 9(A)(1)(c) and Article 2 of the WTO Agreement does not refer to own price of producer for determination of normal value. In US – Oil Country Tubular Goods Sunset Review, the Panel held that the starting point for normal value is domestic prices. Reliance was placed on the decision of Supreme Court in Designated Authority vs. Haldor Topsoe A/s.
  - tt. Marubeni ASEAN Pte Limited has failed to disclose its related entity in India, Marubeni India Private Limited, which has purchased goods from the exporter as well as received commission and reimbursement of expenses from it.
  - uu. Borouge Pte Limited has not explained the role of Borouge (India) Private Limited in its operations. The Indian entity is providing marketing and support services in India for polyolefins. Its entire revenue is from related parties, and the exporter has reimbursed its expenses totalling to Rs. 14.99 lakhs.
  - vv. While Qatar Petrochemical Company has stated that it does not have an office in India, they have a liaison office in India, namely, Qatar Petrochemical Company Limited (QAPCO India).
  - ww. SABIC has not disclosed their related entities in India, namely, SABIC Innovative Plastics Indian Private Limited and SABIC India Private Limited. These entities have purchased goods from the exporters and provided marketing services to them respectively.
  - xx. Aramco Chemicals Company has not disclosed its related entity in India, namely, Aramco Asia India Private Limited, which provides procurement, logistics, marketing, business support to Saudi Aramco and its affiliates.
  - yy. Basell Trading International FZE has not disclosed its related entity in India, namely, Basell Polyolefins India Private Limited, which has received traded goods, income and raw material from the exporter.
  - zz. Qatar Chemical and Petrochemical Marketing and Distribution Company has a related entity Muntajat India Private Limited, which is providing marketing services. The entire revenue by the company is received from Muntajat BV, which is a subsidiary of the exporter.
  - aaa. Sumitomo Chemical Asia Pte Limited has a related entity in India engaged in sales and distribution of the subject goods namely, SCA South Asia Petrochemicals Pte Limited which has been set up as an agent of the exporter. The entire income of the company is received for services rendered to the exporter. The related party in India has not participated in the investigation.
  - bbb. SCG Group has a related entity in India, namely, SCG International India Private Limited, which is involved in trading activities.
  - ccc. The financials and website of Dow Chemical International Private Limited, a related entity of Dow Chemical Pacific (Singapore) Pte Limited, shows that it purchased goods from the exporter, and is supplying polyethylene in India.

- ddd. Where the existence or role of the related Indian entities has not been disclosed by the exporters, the response filed should be rejected, in accordance with the decision of the Supreme Court in Designated Authority vs. Haldor Topsoe.
- eee. Disclosure of related entities in India is essential so that the Authority is able to assess whether these related entities are involved in any manner in sales of the subject goods.
- fff. PTT Global Chemical Public Company Limited has not disclosed that it has related entities namely, GC Logistics Solutions Company Limited, PL Global Transport Company Limited and GC Marketing Solutions Company Limited which are engaged in distribution of the subject goods. The Authority should examine whether the services provided were at arm's length basis. There is no information on whether such costs are adequately taken in costs or prices.
- ggg. The Authority should verify that the cost of captive inputs or raw material reflect the total cost of input and not merely the direct and factory cost.
- hhh. Sadara Chemical Company has agreements with Dow entities and Abu Dhabi Polymers Company Limited has agreement with Borouge Pte Limited for distribution of the subject goods. The producers pay commission for sales made through these entities. The Authority should verify whether the commission paid is duly reported by calling for supply copy of agreement.
- iii. The dumping margin should not be calculated based on response of the exporters whose responses are grossly deficient.
- jjj. The producers in GCC sell to trading companies, which are involved in exports, at low prices. Since such sales are not meant for consumption in domestic market, such price is de-facto export price. These sales must be excluded from the determination of domestic sales since they suppress normal value and dumping margin.
- kkk. Contrary to the claims of the interested parties, the applicant has submitted ICIS report forming the basis of normal value to the Authority before the initiation and the Authority has verified the same. In reference to adjustments for credit costs and commission, the applicant has provided the information reasonably available to it and it was not aware of any such commission being paid or the difference between the credit cost in domestic and export market. As held by the Panel in Guatemala – Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico, the evidence required for initiation may not be of the same quality and quantity as that required for final findings.
- lll. Regarding the contention that the normal value determined for Qatar and Saudi Arabia is not appropriate, it was submitted that the imports into the country are intended for consumption within the country, the price thereof is the best available information for price of the subject goods for consumption. The Authority has considered import price as the basis of determining normal value in various investigations.
- mmm. As regards the contention the normal value for USA does not take post-factory expenses into account, it was submitted that the interested parties have not identified the post-factory expenses not adjusted. Normal value is based on rail

- car delivered prices reported by Platts and the adjustment has been done for rail car cost based on market agencies information.
- nnn. In response to the contention that the data provided for determining normal value is for GCC as a whole, it was submitted that the Authority has in the past as well, taken prices prevailing in the region for determining normal value for the country. GCC undertakes an anti-dumping investigation collectively and hence, can be treated as one for determining price prevailing in the region for normal value. The applicant is required to only provide information reasonably available to it.
- ooo. As regards the contention that the prices published in the journals cannot be considered as held in Dye Stuff Manufacturers Association of India V. Govt. of India, it was submitted that the normal value in the said case was based on an article in the journal, Chemical Week, which did not publish the prices regularly and its credibility could not be ascertained. The applicant in the present case, has submitted the ICIS and Platts report which are world-renowned market agencies and the Authority has consistently relied on these for the purpose of anti-dumping investigations. In the present case the interested parties have neither disputed the correctness of the normal value nor provided any contrary facts. In Huawei Technologies Company Limited V. Designated Authority, the Tribunal held that in Dye Stuff case, the journal was used for the purpose of the final findings, however, there is no impropriety in a situation where it is used for the purpose of initiation.
- ppp. The prices of market research agencies are reliable which is evident from the fact that even the producers, in the subject countries, in their presentation to the investors have used such prices.
- qqq. As regards the contention that normal value is not set at ex-factory level but included theoretical expenses, it was submitted that the expenses added are appropriate as the applicant was required to add customs duty, insurance, port expenses and inland freight to CFR prices to arrive at price paid by customer. Freight paid was reduced to arrive at ex-factory price in order to compute normal value.
- rrr. Regarding the contention that the proof of adjustments claimed for net export price has not been shared, it was submitted that the applicant has provided the best available information accessible to it. Ocean freight has been provided as per the rates on World Freight Rates and inland freight has been provided based on market intelligence with regard to rates prevailing in Middle East. The other adjustments are in line with consistent practice of the Authority.

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

40. 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);*

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

41. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in this investigation by filing the prescribed questionnaire responses:

- i. Qatar Chemical and Petrochemical Marketing and Distribution Company (Muntajat) Q.P.J.S.C, Qatar
- ii. Qatar Petrochemical Company (QAPCO) Q.P.J.S.C, Qatar
- iii. Al-Jubail Petrochemical Company (KEMYA), Saudi Arabia
- iv. Aramco Chemicals Company, Saudi Arabia
- v. Abu Dhabi Polymers Company Limited (Borouge) L.L.C, UAE
- vi. Dow Saudi Arabia Product Marketing B.V., Saudi Arabia
- vii. Sadara Chemical Company, Saudi Arabia
- viii. Saudi Basic Industries Corporation, Saudi Arabia
- ix. Saudi Kayan Petrochemical Company, Saudi Arabia
- x. Borouge Pte Limited, Singapore
- xi. Dow Chemical Pacific (Singapore) Private Limited, Singapore
- xii. Marubeni Asean Pte Limited, Singapore
- xiii. SABIC Asia Pacific Pte Limited, Singapore
- xiv. Sumitomo Chemical Asia Pte Limited, Singapore
- xv. GC Marketing Solutions Company Limited, Thailand
- xvi. PTT Global Chemical Company Limited, Thailand
- xvii. SCG Performance Company Limited, Thailand
- xviii. SCG Plastics Company Limited, Thailand
- xix. Thai Polyethylene Company Limited, Thailand
- xx. Basell Trading International FZE, UAE
- xxi. Dow Chemical International Private Limited, UAE

- xxii. Dow Chemical Pacific (Singapore) Private Limited, Singapore National Petrochemical Industrialization Marketing Company Limited, Saudi Arabia
  - xxiii. Rabigh Refining & Petrochemical Company, Saudi Arabia
  - xxiv. Saudi Ethylene and Polyethylene Company, Saudi Arabia
  - xxv. Equistar Chemicals LP, USA
  - xxvi. Westlake Longview Corporation, USA
  - xxvii. Westlake Polymers LLC, USA
  - xxviii. Renuka Agencies Limited, Hong Kong
  - xxix. Tetra Pak Global Supply SA, Switzerland
42. The normal value and export price for all producers/exporters from the subject countries have been determined as below.
43. The domestic industry has alleged that there exists a particular market situation with regards to price of ethane, propane, natural gas, butane, etc. in Saudi Arabia, Qatar and UAE, as the price of such inputs are distorted due to government intervention. In this regard, the domestic industry has relied upon price controls in Saudi Arabia over the supply of inputs. As regards Qatar and UAE, the domestic industry has submitted that the sole supplier in each of the countries is a government-owned entity, that is, Qatar Gas and Abu Dhabi National Oil Company (ADNOC) respectively. In view of the particular market situation in the form of distorted costs, the domestic industry has claimed that cost of production of the producers should be adjusted to reflect the undistorted costs.
44. The other interested parties have contended that the factors highlighted by the domestic industry do not permit and warrant any adjustment to the cost of production. It has been emphasized that the inputs are available to all producers on a non-discriminatory basis in Saudi Arabia. The interested parties have further cited the Panel reports in Australia –A4 Copy Paper to claim that particular market situation can be concluded only when the particular market situation is such that it prevents a proper comparison of domestic sales with the export price. Reference has also been made to decisions in the case of European Union – Cost Adjustment Methodologies, European Union – Biodiesel and Ukraine – Ammonium Nitrate to claim that no adjustment can be made to the cost of production, as the records of the responding producers are kept in accordance with the generally accepted accounting principles of the subject countries, and reasonably reflect the cost associated with the production and sale of the subject goods. It has also been highlighted that the Designated Authority is required to arrive at the cost of production in the country of origin.
45. In order to address the issue, the Authority finds it necessary to examine the factual aspects involved having regard to the legal principles governing the issue. The Authority notes that as per the provisions of Section 9A(1)(c) of the Customs Tariff Act, 1975, normal value is required to be determined based on comparable price, in the ordinary course of trade, of the like article, when destined for consumption in the exporting

country. However, when because of a particular market situation, such sales do not permit a proper comparison, the normal value may be determined on alternative basis.

*“(c) “normal value”, in relation to an article, means -*

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

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

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

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

46. The first step is to examine whether a particular market situation exists in a particular country or not and the next step is to examine whether the effect of the particular market situation is such that it does not permit a proper comparison between the domestic selling price and the export price. The Authority notes that in the present case, the evidence on record shows that the prices of inputs such as ethane, propane, butane, natural gas, etc. are fixed by the Government of Saudi Arabia. The supply of these inputs in the country is controlled by Saudi Aramco, a government owned company. Pursuant to a series of Council of Ministers Resolutions, the Kingdom has established regulated prices for domestic sales of certain hydrocarbons, including ethane. The price of ethane has been regulated at USD 1.75 per MMBtu, while the price of natural gas is fixed at USD 1.25 per MMBtu. The prices of propane and butane have been set at a discount of 20% to the FOB Japan price. The other interested parties have also not disputed that the prices of the inputs are set in this manner.
47. With regard to the distortion of input prices, the interested parties have contended that that after reforms in 2015-16, the prices of ethane are comparable to the prices in other oil rich countries. It has also been contended that the prices in Saudi Arabia are lower due to natural advantages. The Authority, however, notes that the very fact that prices of ethane and other inputs are regulated implies that they are not determined by free market forces. The domestic industry has relied on the Trade Policy Review of Saudi Arabia and has stated that Saudi Aramco, a government-owned entity, is entitled to compensation from the Government if it sells crude oil and certain refined products domestically at regulated price, equal to the cost of the revenue forgone by Saudi Aramco by complying with the Government's pricing mandates. The Authority notes that once the prices are

regulated by the Government, it cannot be considered that the prices are lower due to natural advantages or competitively set.

48. Therefore, the Authority concludes that the prices of inputs such as ethane, propane, butane, natural gas etc. in Saudi Arabia are influenced by government intervention and to this extent particular market situation exists in Saudi Arabia. The Authority also notes the decision of the WTO Panel in the case of Australia – Anti-Dumping Measures on A4 Copy Paper. The Panel has specifically considered whether input price distortion can be construed as a particular market situation. The Panel noted that “capable of preventing a proper comparison” is not a necessary qualification for a situation to constitute “particular market situation”.

*“7.27 In our assessment, the phrases “particular market situation” and “permit a proper comparison” function together to establish a condition for disregarding domestic market sales as the basis for normal value. Specifically, that domestic sales “do not permit a proper comparison” must be “because of the particular market situation”. If domestic sales do permit a proper comparison, then they cannot be disregarded as the basis for normal value, regardless of the existence of the particular market situation and its effects, whatever those may be. We find no functional purpose is served by incorporating into the meaning of “particular market situation” part of the function that will necessarily be served by the terms “because of” and “not permit a proper comparison”. Accordingly, we find that “capable of preventing a proper comparison” is not a necessary qualification for a situation to constitute the “particular market situation”. Indeed, incorporating such a meaning into the term “particular market situation” would alter the functioning of this provision. Thus, we find that the term “particular market situation” does not require or contemplate an analysis relating to the capability of causing domestic sales to not permit a proper comparison in the abstract. Rather, the terms “because of” and “not permit a proper comparison” in Article 2.2 already properly and adequately fulfil this function.*

*7.28 Turning to the specific issue posited by Indonesia of a low-priced input used identically to produce merchandise for the domestic and export markets, we are again unpersuaded that a categorical disqualification from constituting the “particular market situation” can be sustained as a matter of interpretation. We understand that Indonesia is arguing that a situation that equally affects the cost of producing merchandise for sale in domestic and export markets will necessarily equally affect the sales prices in both markets and will, therefore, permit a proper comparison between domestic market sales and export sales. First, we find no legitimate interpretative basis for incorporating this proposed meaning into the term “particular market situation”, particularly where such considerations are more appropriately examined in relation to the terms “because of” and “permit a proper comparison” as suggested by the above analysis. Second, we do not accept as a given that an equal impact on cost of merchandise produced for domestic and*

export markets would necessarily affect sales prices in both markets equally such that a proper comparison between domestic sales and export sales would not be prevented. We consider that these assertions are not appropriate elements for an interpretation of the term "particular market situation", but rather are better suited to an analysis of whether domestic sales do not permit a proper comparison because of a particular market situation identified by an investigating authority. We will return to these points in our examination of Indonesia's arguments relating to the meaning of the term "permit a proper comparison".

49. The Authority also notes the decision of the WTO Panel in the case of Australia – Anti-Dumping Measures on A4 Copy Paper on the issue that input price distortion can be considered as a particular market situation, even if it has some effect on the export price. This is evident from the conclusions of the Panel as under.

"7.57 On the basis of the above findings, we determine that Indonesia has not demonstrated that the ADC acted inconsistently with Australia's obligations under Article 2.2 of the Anti-Dumping Agreement when it found that a "particular market situation" existed in the Indonesian domestic market for A4 copy paper. Indonesia's arguments have not persuaded us that a domestic market situation resulting in a lower cost for an input used to produce both exported and domestically sold product is necessarily excluded from constituting "the particular market situation". Nor are we persuaded that, as a general proposition, any situation which has or may have some impact on export sales in addition to domestic market sales is necessarily excluded from constituting "the particular market situation" because we consider that, in at least some cases, differences in the impact on domestic and export sales could prevent a proper comparison. Finally, we are also not persuaded that "the particular market situation" referenced in this provision necessarily excludes any situation that arises from a subsidy or other governmental action."

50. The Authority takes note of the fact that no evidence has been placed on record that raw material prices are fixed or regulated by the Government in Qatar or UAE. Therefore, the Authority concludes that there does not exist a particular market situation in Qatar and UAE.
51. After reaching the conclusion that the prices of inputs such as ethane, propane, butane, natural gas etc. in Saudi Arabia are influenced by government intervention and to this extent particular market situation exists in Saudi Arabia the next issue to be examined is whether the effect of the particular market situation is such that it does not permit a proper comparison between the domestic selling price and the export price.
52. In this regard, the Panel in Australia Copy Paper has also observed as under.

“7.73. Where a “particular market situation” is found to exist, the investigating authority must examine whether “a proper comparison” of the domestic and the export price is permitted or not. We consider that the “proper comparison” language calls for an assessment in respect of the comparison of domestic and export prices.

7.74. The ordinary meaning of the term “proper” is “suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; ... apt, fitting; correct, right”. The term “comparison” can be understood as “the action, or an act, of comparing, or noting the similarities and differences of two or more things”. The function of the “permit a proper comparison” test is to determine whether the domestic price can or cannot be used as a basis for comparison with the export price to identify the existence of dumping. It is implied here in Article 2.2 that the words “a proper comparison” refer to the comparison between the domestic price and the export price. Thus, the purpose of an investigating authority’s examination under the second clause of Article 2.2 of the Anti-Dumping Agreement is to determine whether domestic sales of the like product in the ordinary course of trade do not permit a proper comparison between the export price and the domestic sales price because of the particular market situation or the low volume.

7.75. While the proper comparison in Article 2.2 refers to the comparison between the domestic and export prices, a purely numerical comparison between the two prices may not reveal anything about whether the domestic price can be properly compared with the export price. Rather, it is necessary to conduct a qualitative comparison of the domestic and export prices. The phrase “because of the particular market situation” makes clear that the qualitative assessment of whether the domestic and export prices can be properly compared should focus on how the particular market situation affects that comparison. We therefore consider that the “proper comparison” language calls for an assessment of the relative effect of the particular market situation on domestic and export prices. We understand that, in certain circumstances, as a result of this assessment, the investigating authority may conclude that the particular market situation has no effect on the export prices.

7.76. Turning to the assessment of whether “a proper comparison” is not permitted because of the particular market situation, we note that the focus of the analysis is on whether the effect of the particular market situation is such that a proper comparison between domestic sales prices and export prices under examination is not permitted. In other words, the investigating authority must examine the domestic sales in order to determine whether a proper comparison between the two prices is permitted in spite of the effect of the particular market situation. The point is to determine if there is a comparable domestic price (i.e. if there is “the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country” in the sense of GATT 1994

*Article VI:1(b) and Article 2.1 of the Anti-Dumping Agreement). That determination is fact-specific and should be made on a case-by-case basis by the investigating authority assessing the effect of particular market situation on the domestic price in relation to the effect on the export price, if any. This relative assessment is necessary because, as we explain in the following subsection, while a particular market situation may have an effect on both domestic and export prices, it does not follow that the impact on domestic and export prices will be the same. If the investigating authority finds that because of a particular market situation a proper comparison of the domestic price and the export price is not permitted, it is required to give a reasoned and adequate explanation of its conclusion.”*

53. The Authority has determined existence of particular market situation in Saudi Arabia due to lower price of inputs arising out of government intervention. The Authority has examined all the available evidence on record regarding the cost of the PUC, the domestic selling price and the export price of the PUC and notes that there is no sufficient evidence to conclude that the particular market situation prevailing in Saudi Arabia has specifically impacted domestic selling price of the product under consideration in such a manner that a proper comparison between domestic selling price and export price is not permitted.
54. Thus, the Authority concludes that that there is no sufficient evidence on record to reject actual cost of raw material and domestic selling price of producers/exporters from Saudi Arabia for determining the dumping margin.
55. With regard to the issue of non-participation of related companies of ADPCL and QAPCO in India, namely, Borouge (India) Private Limited and QAPCO India, the Authority notes that based on the information on record, Borouge (India) Private Limited and QAPCO India are not engaged in import and resale of the PUC. The Authority therefore finds no merit in the submission of the domestic industry.
56. The Authority further notes that Equistar Chemicals LP had sold the products produced by an affiliate in the domestic market. Further, it exported goods produced by another producer, through two trading companies. However, neither the producer producing the goods, nor the trading companies have filed a response to provide required information to the Authority. Accordingly, the Authority notes that Equistar Chemicals LP cannot be allowed an individual dumping margin.

### **Saudi Arabia**

***Al-Jubail Petrochemical Company (“Kemya”) (Producer), Saudi Kayan Petrochemical Company (“Saudi Kayan”) (Producer), Saudi Basic Industries Corporation (“SABIC”) (Exporter/Trader), SABIC Asia Pacific Pte. Ltd. (“SAPPL”) (Exporter/Trader) and SABIC Research & Technology Private Limited (“SRTPL”) (related importer)***

### **Normal Value**

57. The Authority notes that Al-Jubail Petrochemical Company (“Kemya”) and Saudi Kayan Petrochemical Company (“Saudi Kayan”) are related producers of the subject goods in Saudi Arabia and have made sales of the subject goods in the domestic market during the POI through a related trader, Saudi Basic Industries Corporation (“SABIC”). SABIC holds \*\*\*% shares in Kemya and \*\*\*% in Saudi Kayan. Further, SABIC is the ultimate shareholder of SABIC Asia Pacific Pte. Ltd (“SAPPL”).
58. The Authority has decided not to accept the response filed by above mentioned producers/exporters and not to determine individual dumping margin for them. The detailed reasoning in this regard is given below.

### **Export Price**

59. From the response filed by the parties, it is noted that Kemya and Saudi Kayan are related producers of the subject goods in Saudi Arabia. It has been submitted by Kemya and Saudi Kayan that the subject goods manufactured by them have been exported to India through their related entities SABIC and SAPPL.
60. Kemya and Saudi Kayan have also submitted that they do not have full visibility on the final destination of the subject goods sold through SABIC. Therefore, Kemya and Saudi Kayan have reported all the sales made to SABIC as domestic sales under Appendix 4A and have requested that the Authority should refer to the appendices of SABIC and SAPPL for complete details of resale on domestic sales and export sales to India.
61. The response filed by both the producers and exporters/traders have been examined. It is noted that M/s Kemya is a Joint Venture between SABIC and ExxonMobil Arabia. In the Exporter Questionnaire Response (“EQR”) filed by Kemya, it has been stated that Kemya sells the subject goods to SABIC and ExxonMobil. Thereafter, SABIC and ExxonMobil export the subject goods to various countries. In the EQR filed by Kemya, it was claimed that SABIC has exported the subject goods manufactured by Kemya to India.
62. During the course of the investigation, while examining the official Indian import data, the Authority noted that significant exports of the subject goods originating in Saudi Arabia were made by ExxonMobil Asia Pacific to India. The Authority issued a letter to Kemya highlighting this gross mis-representation made by them in the EQR and sought clarification from them in this regard. The Authority also invited the attention of exporters to the provision in the para 7 of the Annex-II to WTO Antidumping Agreement, which states that if an interested party does not cooperate and thus relevant information is being withheld from the Authorities, this situation could lead to a result which is less favourable to the party than if the party did cooperate.

63. The Authority also issued letters to some Indian importers seeking clarification from them regarding the name of the producer of the subject goods in Saudi Arabia whose product was imported by them from ExxonMobil Asia Pacific.
64. In reply, Kemya submitted that the company does not have full visibility on the final destination of the subject goods sold through SABIC and ExxonMobil, who is also the joint venture partner. Kemya did not reply to the crucial issue whether the subject goods manufactured by them were exported to India or not by their related party ExxonMobil. The Authority notes that it is the responsibility of the producer to get accurate details regarding the export of goods manufactured by them from their Joint Venture partners and report the correct details to the Indian Authority. It is noted that in each and every investigation being conducted by the Authority, the related producers submit complete details of the domestic sales and exports to India of the goods manufactured by them even if the domestic sales and exports to India are done by related traders.
65. M/s ExxonMobil in the letter dated 13<sup>th</sup> December, 2021, confirmed that the subject goods exported to India by ExxonMobil Chemical Asia Pacific and other ExxonMobil affiliates were actually manufactured by Kemya. However, they have stated that volume of such exports represents less than \*\*\*% of the total estimated volume of LDPE exported from Saudi Arabia to India over the same period. Further, in response to the letter issued by the Authority, some of the Indian importers also confirmed that the subject goods imported by them from ExxonMobil Chemical Asia Pacific and other ExxonMobil affiliates were actually manufactured by Kemya. Thus, it is noted that ExxonMobil & its affiliates engaged in exports of the subject goods to India have failed to cooperate in the present investigation and have not filed any information. Kemya has failed to disclose this crucial fact to the Indian Authority that the goods manufactured by them have been exported to India through ExxonMobil.
66. In view of the above, it is abundantly clear that Kemya has made gross mis-representation of facts in the EQR filed by them. Even after the Authority pointed out this issue to Kemya, they did not come out with clean hands and provide appropriate information and justification to the Authority. In anti-dumping investigations, it is of utmost importance that information relating to all the exports of the subject goods to India manufactured by a producer is provided and accounted for, so that the accurate dumping margin can be determined. In the EQR formats the following instructions have been clearly provided:

*2. This questionnaire is to be filled in by the producer(s) and/ or exporter(s) along with their related entities including importer (s), if any in India. If the related importer is also a user of the subject goods, then such related importer has to fill the user questionnaire. It is in the interest of the producer(s)/ exporter(s) to reply to the questionnaire accurately and adequately and to attach supporting documents, wherever required.*

*8. The duly filled formats are to be filed along with the response whether you are a producer or exporter or producer and exporter. The entities*

*related to you are also required to participate by giving relevant information as mentioned in subsequent paragraphs.*

*9. -In case-you are only a producer-of product under-consideration which is being exported to India directly or indirectly, you are required to submit the questionnaire response in Part I, Part II and Part III. Also, it should be accompanied by following information as applicable:*

*(i) Any other related producer involved in the production of PUC has to separately furnish information in Part I, II, III;*

*(ii) Any other non-producer related entities involved in export of the PUC are required to submit response in part I and part II along with Appendix 5;*

*(iii) Any related importers in India are required to file response in Part-IV. However, if related importer is also a user of the product under consideration, such related user shall be required to fill User Questionnaire instead of Part-IV.;*

67. In addition to above, Authority noted that Kemya and Saudi Kayan have failed to submit information in Appendix-3C relating to exports to India. The Authority issued a letter to Kemya and Saudi Kayan highlighting this deficiency to them. In reply to Authority's letter, Kemya and Saudi Kayan submitted that they do not have full visibility on the final destination of the subject goods sold through SABIC. They submitted that the Authority should refer to the appendices of SABIC and SAPPL for complete details of resale on domestic sales and export sales to India.
68. In order to determine the dumping margin, Authority has to determine the ex-factory export price at producer level and examine the profitability of each trader involved in export chain to India. Authority works out the ex-factory export price based on the information provided by producer in Appendix-3C relating to exports to India. In the absence of Appendix-3C, Authority cannot determine the ex-factory export price for the subject goods exported to India. In all the other investigations being conducted by the Authority involving related producers and exporters, Appendix-3C is being submitted by the producers. It should be noted that it is responsibility of the producer to provide information in Appendix-3C and producer can easily obtain the complete details regarding the final destination from their related trader and also the net price realised by the producers for each and every transaction.
69. On the basis of above, it is noted that Kemya and Saudi Kayan have failed to discharge this responsibility even after the Authority pointed out this deficiency to them. There was no plausible justification given by both the producers that why they cannot obtain the information from their related exporters and provide the same to the Authority.

70. In view of the above, the Authority has decided not to accept the EQR filed by Kemya, Saudi Kayan, SABIC and SAPPL and not to determine an individual dumping margin for them.

**Rabigh Refining and Petrochemical Company (Producer), Aramco Chemicals Company (Exporter), Sumitomo Chemicals Asia Pte Limited (Exporter), Marubeni Asean Pte Ltd., Singapore (Exporter), Renuka Agencies Limited, Hongkong(Exporter)**

Normal Value

71. From the response filed by Petro Rabigh, the Authority notes that the company has sold the PUC directly and through affiliated trader, M/s Aramco Chemical Company (Aramco) in the domestic market during the POI. The company has sold \*\*\* MT of the PUC directly to independent customers and \*\*\* MT through Aramco in the domestic market. The domestic sales are in sufficient volumes when compared with exports to - India. 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 has considered the cost of production after taking into account all submissions and information on record. If profit making percentage of all the transactions is more than 80%, then all the transactions in the domestic sales is considered for determination of the normal value and if the profit-making percentage of all transactions is less than 80%, only the profitable domestic sales are taken into consideration for determination of the normal value. In the present case since more than 80% of domestic sales are profitable, hence all the domestic sales have been considered to determine the normal value for Petro Rabigh after allowing adjustments for inland transport, credit cost, rebate and marketing fee. The normal value so calculated is mentioned in the dumping margin table below.

Export Price

72. Petro Rabigh has filed Exporter questionnaires in the prescribed format for the POI. It has exported \*\*\* MT of the subject goods to India at an average CIF value of \$\*\*\*/MT through its related traders-exporters M/s Sumitomo Chemical Asia Pte. Ltd. (Sumitomo) and M/s Aramco Chemical Company (Aramco) during the POI. Out of the total exports of the PUC to India by Petro Rabigh, Sumitomo has exported \*\*\* MT and Aramco has exported \*\*\* MT. It is also noted that M/s Aramco has exported the subject goods to India through M/s Marubeni, and Renuka, MT, and some of the subject goods have been exported through non cooperative exporters. For working out export price of the producer M/s Rabigh, the Authority has considered the actual export price for chain comprising Rabigh and cooperating traders who have duly participated in the investigation and submitted response in the form and manner prescribed, and export price based on the best available information for the non-cooperating traders of Rabigh who had not filed the information in the form and manner prescribed. Accordingly, the export price for Rabigh

has been determined based on the weighted average export price of all exports' channels to India.

73. The producer/exporter has claimed the adjustment of ocean freight, ocean insurance, inland transportation, port expenses, credit cost and marketing fee which have been examined and accepted by the Authority. Accordingly, the Net Export Price for producer has been worked out and the same is mentioned in the dumping margin table below.

**Sadara Chemical Company (Producer), DOW Saudi Arabia Product Marketing BV (Exporter), Dow Chemical Pacific (Singapore) Private Limited (Exporter), Dow Chemical International Private Limited (Exporter)**

74. Sadara is jointly owned and controlled \*\*\*% by Excellent Performance Chemicals Company, formerly Performance Chemicals Holding company, a wholly owned subsidiary of Saudi Aramco and \*\*\*% by Dow Saudi Arabia Holding B.V. ("DSAH"), an indirectly wholly owned subsidiary of Dow USA.
75. It is noted that Sadara is the producer of the subject goods from Saudi Arabia engaged in domestic sales of the subject goods as well as exports to India through related entities namely Dow Marketing, Dow Singapore, Dow Singapore Dubai Branch and DCIPL Dubai Branch. Sadara is a limited liability company existing under the laws of the Kingdom of Saudi Arabia. The head office of the company is located at Eastern Province at Jubail, Kingdom of Saudi Arabia.

Normal Value:

76. Based on the response filed by Sadara, it is noted that their domestic sales are in sufficient quantity in the domestic market. The cost of sales claimed by M/s Sadara has been suitably adjusted after desk verification. On the basis of cost of sales as adjusted, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of the subject goods. The Authority has considered the cost of production after taking into account all the submissions and information on record. Upon examination of the POI data, the Authority noted that more than twenty percent of domestic sales in volume are at loss. Therefore, the Authority computed the normal value based on profitable domestic sales after allowing adjustments for inland transport, credit costs, and marketing fee. and the same is mentioned in the dumping margin table below.

Export Price:

77. It is noted from exports to India, M/s Sadara sells the entire quantity of the subject goods to Dow Marketing. For exports to India, Dow Marketing raises invoice on Dow Singapore, Dow Singapore – Dubai Branch, DCIPL – Dubai Branch for resale to

unrelated Indian importers. All these related parties have also filed questionnaire responses.

78. During the POI, Dow entities namely Dow Singapore invoiced \*\*\* Kg, Dow Singapore Dubai Branch invoiced \*\*\* Kg, and DCIPL Dubai Branch invoiced \*\*\* Kg subject goods to Indian unrelated customers. On consolidated basis, Dow entities exported \*\*\* kg of the subject goods to India during the POI. Further for arriving at the ex-factory export price, the Authority has considered adjustments on account of post sales expense including freight, insurance, inland transportation, etc. Accordingly, the ex-factory export price is calculated and mentioned in the dumping margin table below.

**Saudi Ethylene and Polyethylene Company (SEPC) (Producer), National Petrochemical Industrialization Marketing Co. Ltd. (Exporter), Basell Trading International FZE (Exporter)**

#### Normal Value

79. From the response filed by SEPC, the Authority notes that SEPC has sold the PUC through its affiliated trader, M/s National Petrochemical Industrialization Marketing Co. Ltd. ('Tasnee Marketing') in the domestic market during the POI. The company has sold \*\*\* MT of the PUC through Tasnee marketing in the domestic market. The domestic sales are in sufficient volumes when compared with exports to India. 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 has considered the cost of production after taking into account the submissions and information on record. If profit making percentage of all the transactions is more than 80%, then all the transactions in the domestic sales are considered for determination of the normal value and if the profit-making percentage of all transactions is less than 80%, only the profitable domestic sales is taken into consideration for determination of the normal value. In the present case since more than 80% of domestic sales are profitable, hence all the domestic sales have been considered to determine the normal value for SEPC after allowing adjustments for inland transport and marketing fee. The normal value so calculated is mentioned in the dumping margin table below.

#### Export Price

80. SEPC has filed Exporter questionnaires in the prescribed format for the POI. It has exported \*\*\* MT of the subject goods to India at an average invoice value of \$\*\*\*/MT through its related traders-exporters M/s National Petrochemical Industrialization Marketing Co. Ltd. ('Tasnee Marketing') and M/s Basell Trading International FZE ("BIT") during the POI. Out of the total exports of PUC to India by SEPC, Tasnee marketing has exported \*\*\* MT and BIT has exported \*\*\* MT. The producer/exporter has claimed the adjustment of ocean freight, inland transportation, port and other related expenses and marketing fee which have been examined and accepted by the Authority. The Authority also noted that Tasnee

Marketing and BIT has resold \*\*\* MT of the subject goods through unrelated traders, who have not filed the EQR. The Authority has taken the best available information for these quantities exported through non-cooperative traders. For working out export price of the producer M/s SEPC, the Authority has considered the actual export price for chain comprising SEPC and cooperating traders who have duly participated in the investigation and submitted response in the form and manner prescribed, and export price based on the best available information for the non-cooperating traders of SEPC who had not filed the information in the form and manner prescribed. Accordingly, the export price for SEPC has been determined based on the weighted average export price of all exports' channels to India.

81. Further the Authority has also made appropriate adjustment for the loss incurred by the trader i.e. M/s Tasnee Marketing, and bank charges. Accordingly, the Net Export Price for this producer/exporter has been worked out and the same is mentioned in the dumping margin table below.

**Normal Value and Export price for Non-Cooperative exporters in Saudi Arabia**

82. The Authority notes that no other exporter/producer from Saudi Arabia has responded to the Authority in present investigation. For all the non-cooperative exporters/producers in Saudi Arabia the Authority determines the normal value and export price on the basis of facts available. The normal value and the export price so determined is given in the dumping margin table below.

**Thailand**

- A. **Thai Polyethylene Company Limited (Producer), SCG Performance Chemicals, (Exporter), SCG Plastic Company (Exporter)**

**Normal Value**

83. The response is based on the data filed by Thai Polyethylene Co., Ltd. ("TPE"), SCG Performance Chemicals Co., Ltd. ("SCG Performance") and SCG Plastics Co., Ltd ("SCG Plastics") (hereinafter referred to as "SCG Group"), a group of cooperating producer and exporters from Thailand. It is noted that during the POI, TPE has sold the PUC to both SCG Performance and SCG Plastics which further sold to unrelated domestic customers. The Authority notes that TPE sold \*\*\* MT of the PUC in the domestic market. The domestic sales were found to be in sufficient volumes when compared with exports to India.
84. To determine the normal value, the Authority conducted the ordinary course of a trade test to determine profit-making domestic sales transactions with reference to the cost of production of the subject goods.

85. The Authority notes that the majority of the Ethylene consumed in the production of the PUC has been purchased from the related parties. Further, the Authority notes that Ethylene purchased from the related parties is in line with the international prices published by reputed publications agencies i.e., ICIS. In view of the same, the Authority notes that the purchases of the raw materials are made at arm's length prices. Accordingly, the Authority has considered the cost of the production of the subject goods as maintained in the records of the company.
86. For the purpose of conducting the ordinary course of trade test, the Authority has considered the price of SCG Performance and SCG Plastics and made adjustments on account of post factory expenses, SGA expenses, and profits/losses as applicable to bring the prices to ex-factory at producer's level. Upon ordinary course of trade test, the Authority notes that \*\*\*% of the sales transactions in the domestic market found to be profitable, therefore, the Authority has considered all the sales made in the domestic market for determination of the normal value.
87. SCG Group claimed adjustments on account of inland freight, packing cost, credit cost, and other expenses. The Authority has accepted all the adjustments claimed by the SCG Group provisionally. The normal value at the ex-factory level for SCG Group has been determined accordingly, and the same is shown in the Dumping Margin Table below.

### **Export Price**

88. The Authority notes that TPE has exported a quantity of \*\*\* MT, directly to Indian customers and through traders, namely M/s Sonata General Trading FZC and Gemini Corporation N.V. The Authority notes that both the traders (i.e., M/s Sonata General Trading FZC and Gemini Corporation N.V.) have not filed a separate questionnaire response, and accounts for exports of \*\*\* MT out of the total exports listed above. The Authority notes that the cooperating entities account for \*\*\*\*% of the total sales made by SCG Group to India. The Authority has taken the best available information for these quantities exported through non-cooperative traders. For working out export price of the producer, the Authority has considered the actual export price for chain comprising producer and cooperating traders who have duly participated in the investigation and submitted response in the form and manner prescribed, and export price based on the best available information for the non-cooperating traders of producer who had not filed the information in the form and manner prescribed. Accordingly, the export price for producer has been determined based on the weighted average export price of all exports' channels to India.
89. TPE claimed adjustments on account of inland freight, shipping cost, ocean insurance, packing cost, credit cost, port, and related expenses, and other expenses. In addition, the Authority also made adjustments on account of SGA expenses of the traders to arrive at the ex-factory price at the producer's level.

90. Accordingly, the export price for TPE has been determined based on the weighted average export price to India, and the same is shown in the dumping margin table below.

**PTT Global Chemical Public Company Limited (Producer), GC Marketing Solutions Company Limited (Exporter)**

**Normal Values: PTT Global Chemical Public Company Limited, Thailand (PTTCG)**

91. During the POI, PTT Global Chemical Public Company Limited, Thailand, has sold the subject goods in the domestic market to related parties only. The domestic sales are in sufficient volumes when compared with exports to India. 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 has considered the cost of production after taking into account all submissions and information on record. If profit making of all transactions is more than 80%, then all the transactions in the domestic sales has been considered for the determination of normal value and in cases, profitable of all transactions is less than 80%, only profitable domestic sales have been taken into consideration for the determination of the normal value. In the present case since \*\*\*% of domestic sales are profitable hence all the domestic sales have been considered to determine normal value.
92. PTT Global Chemical Public Company Limited, Thailand, has claimed adjustment on account of inland transportation and packing expenses and the same have been allowed by the authority. Accordingly, normal value at ex-factory level for PTT Global Chemical Public Company Limited, Thailand, has been determined and the same is shown in the Dumping Margin Table below.

**Export Price:**

93. During the POI: JSC PTT Global Chemical Public Company Limited, Thailand, sold \*\*\* MT of the subject goods to India, through a related exporter namely, GC Marketing Solutions Company Limited, Thailand. It is further noted that GC Marketing Solutions Company Limited, Thailand, has exported the subject goods to India directly to Indian buyers. PTT Global Chemical Public Company Limited, Thailand, has claimed adjustment on account of inland transportation and packing expenses and the same have been allowed. Accordingly, export price at ex-factory level for PTT Global Chemical Public Company Limited, Thailand, has been determined and the same is shown in the Dumping Margin Table below.

**Normal Value and Export price for non-cooperative exporters in Thailand**

94. The Authority notes that no other exporter/producer from Thailand has responded to the Authority in the present investigation. For all the non-cooperative exporters/producers in

Thailand, the Authority determines the normal value and Export Price on the basis of facts available. The normal value and Export Price so determined is given in the dumping margin table below.

### UAE

*Abu Dhabi Polymers Co. Ltd (Borouge) L.L.C. (Producer) and Borouge Pte Ltd (Exporter/Trader)*

### Normal Value

95. Abu Dhabi Polymers Co. Ltd (Borouge) L.L.C. (“ADPCL”) is engaged in the production of the subject goods in UAE. ADPCL is a Joint Venture between Abu Dhabi National Oil Company (“ADNOC”) and Borealis. ADPCL makes domestic sales in UAE and also exports to India through its related company Borouge Pte Ltd. Both ADPCL and Borouge Pte Ltd have provided all the relevant information in the requisite formats. The domestic sales are in sufficient volumes when compared with exports to India.
96. During the course of the investigation, it was noted that ADPCL is captively producing Ethylene, which is used in the production of LDPE. The key raw material used by ADPCL for manufacturing Ethylene during the POI was Ethane. ADPCL procured Ethane from its related party ADNOC during the POI under feedstock supply agreement. The Authority requested ADPCL to provide justification with documentary evidence substantiating that the price at which Ethane is procured by them from ADNOC is an arm’s length price. ADPCL has provided feedstock supply agreement with ADNOC for supply of Ethane. The price between ADNOC and ADPCL is governed by the said agreement. Apart from providing the feedstock supply agreement, ADPCL has provided the published market prices of Ethane (sourced from marketwatch.com).
97. As ADPCL has provided sufficient evidence substantiating that the price at which Ethane is procured by them from ADNOC is an arm’s length price, the Authority has adopted the price of Ethane as claimed by ADPCL. The Authority has also sought justification that utilities are purchased at arm’s length price. ADPCL has provided detailed explanation along with backup documents justifying those utilities are purchased at arm’s length price. Further, the Authority has also examined the other conversion costs. Therefore, Authority has adopted all costs as claimed by ADPCL as amended during the verification exercise and determined the cost of sales for ordinary course of trade test.
98. To determine the normal value, the Authority conducted the ordinary course of trade test using the cost of sales determined as above to determine profit making domestic sales transactions. It was noted that ADPCL has sold\*\*\* MT of the subject goods having total invoice value of USD \*\*\*.

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

### **Export Price**

101. During the POI, ADPCL has exported the subject goods to India through its related trader namely, Borouge Pte Ltd ("Borouge"). ADPCL and Borouge have provided all the relevant information in the requisite formats. It is noted from the response that during the POI, ADPCL has directly exported \*\*\* MT through Borouge having total invoice value of USD \*\*\*. ADPCL has claimed adjustments on account of freight, port and other related expenses, packing expenses and credit cost. All the adjustments have been allowed by the Authority. The ex-factory export price as determined is given in the dumping margin table.

### **Normal Value and Export Price for Non-Cooperative exporters in UAE**

102. The Authority notes that there are no known producer and exporter in UAE, and it is also noted that the applicant has not mentioned any other producer and exporter from UAE in his petition. Accordingly, it has been decided not to determine residual dumping margin for UAE.

- (i) **Qatar Petrochemical Company (QAPCO) Q.P.J.S.C. and Qatar Chemical and Petrochemical Marketing and Distribution Company (Muntajat) Q.P.J.S.C.**

### **Normal Value**

103. Based on the data filed by Qatar Petrochemical Company (QAPCO) Q.P.J.S.C., a producer of the PUC and its related exporter Qatar Chemical and Petrochemical Marketing and Distribution Company (Muntajat) Q.P.J.S.C., it is noted that during the POI, domestic sales have been made to unaffiliated customers. It is noted that Muntajat, being the selling arm of QAPCO, procures the PUC from QAPCO and subsequently sells it to all markets, including the domestic market, in line with the applicable agreement between QAPCO and Muntajat. The Authority notes that Muntajat sold \*\*\* MT of the PUC in the domestic

market during the POI. The domestic sales were found to be in sufficient volumes when compared with exports to India.

104. To determine the normal value, the Authority conducted the ordinary course of a trade test to determine profit-making domestic sales transactions with reference to the cost of production of the subject goods. With regard to the cost reported by QAPCO, the Authority assessed the captive consumption and purchases of ethylene, the primary raw material, as well as other inputs and utilities. The Authority notes that QAPCO has provided evidence to establish that the purchase price of ethylene was in line with the contractual terms with the supplier, which is based on the published prices from reputed journals as ICIS, Dewitts, Argus Media, etc. Further, the feedstock purchased for the captive manufacture of ethylene was also established to be based on relevant contractual terms, whereby the prices were substantially above the published market prices. In view of the same, the Authority notes that the purchases / transfer of the raw materials are made at arm's length prices. Accordingly, the Authority has considered the cost of the production of the subject goods as maintained in the records of the company.
105. For the purpose of calculating the ex-factory price at the producer's level, the Authority has considered the invoice price and made adjustments on account of post-factory expenses, trader's SGA expenses, and Muntajat's marketing fee (as per the applicable agreement) to bring the prices to ex-factory at producer's level. Upon conducting the ordinary course of trade test, the Authority notes that all the transactions in the domestic market are found to be profitable, whereby the Authority has considered all the sales made in the domestic market for determination of the normal value.
106. Muntajat and QAPCO have claimed adjustments on account of discounts, inland freight, inland insurance, bank charges, credit cost, and other adjustments. The Authority has accepted all the adjustments claimed based on the verification documents filed. The normal value at the ex-factory level for QAPCO and Muntajat has been determined accordingly, and the same is shown in the Dumping Margin Table below.

### **Export Price**

107. The Authority notes that QAPCO, through its related exporter Muntajat, has exported a total quantity of \*\*\* MT to Indian customers. The Authority, for calculating the export price has considered the data filed by the Muntajat and QAPCO based on the verification documents filed, thereby allowing adjustments on account of shipping cost, ocean insurance, handling charges, bank charges, and other expenses. In addition, the Authority also made adjustments on account of SGA expenses and marketing fee of the related exporter (Muntajat) as per the applicable agreement to arrive at the ex-factory price at the producer's level.
108. Accordingly, the export price for QAPCO and Muntajat has been determined based on the weighted average export price to India, and the same is shown in the dumping margin table below.

### **Normal Value and Export Price for Non-Cooperative exporters in Qatar**

109. The Authority notes that there are no known producer and exporter in Qatar, and it is also noted that the applicant has not mentioned any other producer and exporter from Qatar in his petition. Accordingly, it has been decided not to determine residual dumping margin for Qatar.

### **USA**

#### **A. Equistar Chemicals LP**

110. The response filed by Equistar Chemicals LP (“Equistar”) shows that it has exported goods through two traders, which have not participated in the investigation. Further, Equistar has supplied goods produced by producers, that have also not participated. Accordingly, the Authority finds that Equistar cannot be allowed an individual dumping margin.

#### **B. Westlake Longview Corporation (Producer), Westlake Polymers LLC (Producer), Tetra Pak Global Supply SA (Exporter)**

##### **(ii) Westlake Longview Corporation and Westlake Polymers LLC**

#### **Normal Value**

111. During the POI, two legal entities i.e. Westlake Longview Corporation and Westlake Polymers LLC (hereinafter collectively referred to as “Westlake”) that are part of the Westlake Chemical Group were involved in the production of PUC. The two aforementioned entities have filed their questionnaire responses.
112. The two entities have sold the PUC to unrelated traders / users in the domestic market and the domestic sales are in sufficient volumes when compared with exports to India.
113. With regard to the claims made against Westlake regarding raw material procurement price from related parties, the Authority notes that Westlake has procured the major raw material Ethylene from its related company. Further, the Authority notes that Ethylene purchased from the related parties are in line with the international prices published by reputed publications agency namely “The PetroChem Wire, part of OPIS by IHS Markit”. In view of the same, the Authority notes that the purchases of the raw materials are made at arm’s length prices. Accordingly, the Authority has considered the cost of the production of the subject goods after taking into account all submissions and information on record.
114. 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. Since the profit-making transactions were more than

80%, the Authority has considered all the transactions in the domestic market for the determination of the normal value.

115. Westlake has claimed adjustments on account of debit note, credit note, inland freight, packing cost, credit costs and other adjustments. The Authority has accepted all the adjustments. The normal value at ex-factory level for the two entities has been determined accordingly, and the same is shown in the Dumping Margin Table below.

### **Export Price**

116. The Authority notes that only one of the aforementioned entities i.e., Westlake Longview Corporation has exported a quantity of \*\*\* MT to India through its unrelated traders (i) Tetra Pak Global Supply SA, who in turn sold the PUC to its related user i.e., Tetra Pak India Private Ltd and (ii) Bamberger Group, who in turn sold the PUC to Indian customers during the POI. Westlake polymers LLC has not exported the subject goods to India
117. Westlake Longview Corporation along with Tetra Pak Global Supply SA and Tetra Pak India Private Ltd have filed their questionnaire responses.
118. The Authority notes that the cooperating entities account for about \*\*\*% of the total sales made by Westlake Longview Corporation to India, whereby the quantity reported by it and its traders has been adopted by the Authority as exports to India by Westlake for determining the dumping and injury margin. The Authority has taken the best available information for these quantities exported through non-cooperative traders. For working out export price of the producer, the Authority has considered the actual export price for chain comprising producer and cooperating traders who have duly participated in the investigation and submitted response in the form and manner prescribed, and export price based on the best available information for the non-cooperating traders of producer who had not filed the information in the form and manner prescribed. Accordingly, the export price for producer has been determined based on the weighted average export price of all exports' channels to India.
119. The Authority, while calculating the export price has considered verified actual data of the producer, Westlake Longview Corporation. Westlake has claimed adjustments on account of debit note, credit note, shipping cost, credit cost and other expenses and the same have been allowed.
120. Accordingly, the Authority has determined weighted average dumping margin for both related producers i.e Westlake Longview Corporation and Westlake Polymers LLC and the same is mentioned in the dumping margin table.

### **Normal value and Export Price for Non-Cooperative exporters in the United States of America**

121. The Authority notes that no other exporter/producer from USA has responded to the Authority in present investigation. For all the non-cooperative exporters/producers in USA, the Authority determines the normal value and Export Price on the basis of facts available. The normal value and Export Price so determined is given in the dumping margin table below.

**G.4. Determination of dumping price**

122. It is noted that in the present investigation many cooperating producers and exporters are related to each other and form a group of related companies. It has been the consistent practice of the Authority to consider related exporting producers and exporters as one single entity for the determination of a dumping margin and, thus, to establish one single dumping margin for them. This is, in particular, because calculating individual dumping margins might encourage circumvention of anti-dumping measures, thus, rendering them ineffective, by enabling related exporting producers to channel their exports to India through the company with the lowest individual dumping margin.

123. It is noted from the examination of the responses filed by M/s Sadara and M/s Rabigh that both the companies are related in the sense that the majority shareholding in Sadara is held by a wholly owned subsidiary of Saudi Aramco, and Saudi Aramco is also related to Petro Rabigh. It is also noted that most of the exports from Petro Rabigh are made to India through Aramco Chemicals Co. (ACC) which is a fully owned subsidiary of Saudi Aramco. In accordance with the above, related producers and exporters i.e Rabigh and Sadara have been regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margin of the cooperating related producers and exporters.

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

Subject Countries	Name of Producer	Net Export Price	Normal Value USD/MT	Dumping Margin	Dumping Margin %	Wt Dumping Margin	Wt average DM %	Range
Qatar	Qatar Petrochemical Company (QAPCO) Q.P.J.S.C	***	***	***	***	***	***	Negative
USA	Westlake Longview Corporation	***	***	***	***	***	***	20-30%

	Westlake Polymers LLC							
	All Others	***	***	***	***	***	***	40-50%
Thailand	Thai Polyethylene Co., Ltd.	***	***	***	***	***	***	20-30%
	PTT Global Chemical Public Company Limited (PTTCG)	***	***	***	***	***	***	10-20%
	All Others	***	***	***	***	***	***	40-50%
Saudi Arabia	Rabigh Refining & Petrochemical Company	***	***	***	***	***	***	0-10%
	Sadara chemical company	***	***	***	***	***	***	0-10%
	Saudi Ethylene and Polyethylene Company (SEPC)	***	***	***	***	***	***	0-10%
	All others	***	***	***	***	***	***	0-10%
UAE	Abu Dhabi Polymers Co. Ltd (Borouge) L.L.C. (ADPCL)	***	***	***	***	***	***	Negative
Singapore	All producers	***	***	***	***	***	***	30-40%

## H. DETERMINATION OF INJURY AND CAUSAL LINK

### H.1. Submissions by the other interested parties

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

- a. Imports from Qatar should not be cumulated with imports from the other subject countries because there is no dumping from Qatar, imports from Qatar have been influenced by different dynamics and face different conditions of competition, the applicant has not produced autoclave grade and there is no competition between such goods. Further, while price of imports from Qatar is higher and the price undercutting is negligible, volume of imports from Qatar has declined in absolute and relative terms.
- b. The prices of imports from Westlake are not undercutting the prices of the domestic industry.

- c. The exports of Borouge cannot cause injury as they are negligible as compared total imports in India.
- d. The petitioner has not provided country-wise market share with an intention to conceal critical information.
- e. There is no injury to the domestic industry as the capacity and production of the domestic industry has increased. In a multi-product plant, trends of production are the best parameter to assess volume effect of the subject imports instead of capacity utilisation. The production of the domestic industry has increased over the injury period. The number of employees and productivity of the domestic industry increased.
- f. The domestic industry has not suffered any injury as the volume of imports has declined in absolute and relative terms, market share of imports has declined and that of the applicant has improved.
- g. There is no correlation between profits and price undercutting as the profits have moved independently of price undercutting. The decline in selling price of the domestic industry is due to other factors as it has moved independently of the cost and import prices.
- h. The landed price, capacity, production, productivity, sales volume and value, number of employees, wages, fixed assets, profits before interest and capacity utilisation have improved in the period of investigation, despite the lockdown due to COVID-19 and the applicant has done well and achieved highest ever polymer production.
- i. Imports have declined while the sales of petitioner increased.
- j. There is no correlation between volume and value of imports and profitability of the domestic industry.
- k. The Appellate Body, in Thailand – H Beams (WT/DS122/AB/R), noted that all the factors listed in Article 3.4 of the Anti-Dumping Agreement must be evaluated by the Authority in examining injury. The Panel in the case noted that when there is a positive movement in a number of factors, a finding on injury would require a compelling explanation from the investigating authorities.
- l. The domestic industry has suffered injury due to increase in capacity leading to high depreciation and interest costs, and initial operational fixed costs.
- m. The petrochemical segment of the domestic industry was impacted in quarter 1 of 2020-21 due to nationwide lockdown and supply chain disruption. The period of investigation should be divided into two, period of lockdown and period during which there was no lockdown in order to ensure that the injury caused due to lockdown is not attributed to the subject imports.
- n. In United States – Anti-Dumping Measures on Certain Hot Rolled Steel Products from Japan, the Appellate Body held that injury caused to the domestic industry by factors other than dumped imports must be segregated from the injury caused due to dumping.
- o. The applicant uses Naptha to produce ethylene which costs more than cost of producing ethylene from ethane. The product is a capital intensive product. In safeguard investigation on Cold Rolled Flat Products of Stainless Steel of 4400

- Series, the Director General held that high depreciation and finance charges were responsible for losses and as a result the causation analysis failed.
- p. Increase in depreciation and amortization expenses shows unusual trend as it is more than the increase in installed capacity. Increase in average capital employed is much more than the increase in installed capacity.
  - q. There is no causal link as the injury is due to unstable global macro-economic environment as mentioned by the applicant in its annual report. Trade barriers, excess capacities, geo-political uncertainties and regulatory pressure had a negative impact on performance of the applicant.
  - r. Increase in cost of ethylene led to increase in losses and not imports.
  - s. The petitioner has suffered due to weak demand in domestic market and diversion of production to exports, which resulted in lower margins.
  - t. The petitioner has suffered injury as a result of the product imported by it. Injury caused due to imports made by the domestic industry cannot be considered and the same should be removed from the volume of the subject imports.
  - u. Increase in inventory cannot be taken in isolation for determining injury. It may be due to increase in capacity and domestic and export sales of the domestic industry and the decline in cash profits is due to fall in oil prices and effect of COVID-19 in the last quarter of 2019-20.
  - v. Impact of Covid-19 restrictions on the operations of the petitioner and its customers should be considered.
  - w. The domestic industry has admitted that it has been forced to resort to unremunerative exports. The Authority should seek information regarding the export obligations that the domestic industry under any advance licenses or if any capital goods have been imported under EPCG.
  - x. Imports of the subject goods is inevitable as there is demand-supply gap in India and the demand is growing. The applicant increased its capacity, and its plant is working at optimum level, hence there is no scope for enhancement of production. The applicant exports the product and maintains limited inventory to fulfil such demand. Due to limited inventory maintenance, it had to import the subject goods during its plant shutdown
  - y. Within the polymer value chain, RIL uses ethylene feedstock for a number of products. Being a profit-oriented organization, RIL would naturally allocate resources towards more profitable products. Therefore, to obtain an accurate picture of the performance of RIL, it is important to assess the overall performance of entire polymer value chain. Such an examination would show that average 5-year margin of the polyester segment has improved.
  - z. A return of 22% should not be allowed as it was introduced as a guideline to Price Control Order 1976-77 and the interest cost has reduced since then. A fixed and pre-determined formula cannot be considered reasonable. In the case of Bridge Stone Tyre Manufacturing & others vs. Designated Authority, CESTAT has observed that the practice of granting a return of 22% on capital employed gave an inflated picture of price underselling.

- aa. Format L indicates that advertisements, other admin overheads, other selling & distribution overheads, commission on sales, discounts / rebates, freight outward and export related expense have been included in non-injurious price, which is not appropriate.
- bb. Claim of the applicant to disregard Annexure – III in computation of non-injurious price should not be considered. As per the Manual, the Authority is bound by the principles laid down in Annexure III, as held in Designated Authority v. Andhra Petrochemicals Limited.

## **H.2. Submissions by the domestic industry**

126. The following submissions have been made by the domestic industry with regard to the injury and causal link:
- a. Cumulative analysis of injury is appropriate as the conditions for cumulation are met.
  - b. Cumulative assessment of injury is appropriate for Qatar, as the prices of imports from Qatar moved in tandem with the prices from the other subject countries.
  - c. The profitability of the domestic industry was lower in 2018-19 due to shutdown of one of the plants. The profitability of the domestic industry has witnessed a decline even if the effect of such shutdown is excluded.
  - d. The imports from the subject countries, in relation to production and consumption, first declined in 2018-19 due to the enhanced domestic capacities, and thereafter, increased significantly in the period of investigation.
  - e. Even post enhancement of capacities, the volume of imports has increased much more than the increase in demand as compared to 2018-19.
  - f. The imports in relation to demand-supply gap have increased over the injury period.
  - g. The landed price of imports has declined over the injury period despite an increase in the price of raw material, ethylene.
  - h. The domestic industry has been forced to sell at low prices as the mark-up of import price over ethylene cost has reduced over the injury period.
  - i. Contrary to the claims of the interested parties, the price of domestic industry has declined during the period.
  - j. Even though the domestic industry is selling at lower prices, the price undercutting is positive and significant.
  - k. The interested parties have argued that the price undercutting has reduced over the injury period. However, the price undercutting for only the period of investigation is relevant as is evident from various findings of the Authority. Even other jurisdictions such as Australia and European Union determine price undercutting only for the period of investigation.
  - l. The decrease in price undercutting shows that the domestic industry was forced to compete with the prices of the subject imports.
  - m. In response to the contention that the imports from Westlake are not undercutting the prices of the domestic industry, it was submitted that price undercutting is seen

- for the subject countries as a whole. Even if price undercutting is negative, it does not imply that the duties cannot be imposed against Westlake as the duties depend upon the dumping margin and injury margin.
- n. The subject imports have suppressed and depressed the prices of the domestic industry.
  - o. Contrary to the claims of the interested parties, the applicant has analysed the parameters of price suppression or depression, employment, stocks and return on investment in the petition. Price, costs and investments are not injury parameters and do not require analysis.
  - p. Despite there being ample demand in the country, the increase in sales is not commensurate with the increase in production.
  - q. The market share of the domestic industry has declined as compared to the previous year.
  - r. The domestic industry has lost its potential market share to the subject imports. The domestic industry had the capacity to cater to much higher share of demand than it held in the period of investigation.
  - s. As regards the contention that country-wise market share was not provided, it was submitted that since cumulative analysis is required, country-wise market share is of no relevance.
  - t. Due to availability of the cheaper imports in India, the domestic industry was forced to export the subject goods.
  - u. Contrary to claims of interested parties, the applicant did not export under advance license or EPCG license and is willing to provide any information in this regard to the Authority.
  - v. Even though the domestic industry exported the subject goods, its average inventories have increased.
  - w. The domestic industry has earned profits much less than the target profits in order to achieve 22% return on investment.
  - x. The profitability, cash profits and return on investment of the domestic industry has declined over the injury period.
  - y. On the contention that increase in average capital employed and depreciation expenses is more than increase in installed capacity, it was submitted that in a capital-intensive product, significant investment is required to expand capacity and it is not necessary that increase in capacity is the same as capital employed. Increase in depreciation is linked with net fixed assets and not increase in capacity.
  - z. The mark-up of landed price over raw material cost has reduced, which shows injury is not due to high finance and depreciation costs. Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) and the mark-up earned over variable cost of the domestic industry has decreased over the injury period.
  - aa. The interested parties have contended that there is no correlation between the imports and profitability of the domestic industry. However, the profitability of the domestic industry has moved in tandem with the mark up of the import price over the raw material cost.

- bb. Regarding the contention that even with decline in ethylene, PBIT per unit has declined, it was submitted that the interested parties have compared the profits in the base year to the period of investigation while ethylene prices have been compared between the period of investigation and the previous year.
- cc. No other known factors have caused injury to the domestic industry, and the injury to the domestic industry is caused due to dumping.
- dd. Regarding the reliance by the interested parties on annual report that injury is due to unstable global macro-economic environment, it was submitted that the statement in the annual report refers to petrochemical as a whole and not the subject goods.
- ee. The applicant has no objection to dividing the period of investigation in two parts which is the period of lockdown and the period during which there was no lockdown. The applicant has submitted data for 2019-20 and April – June 2020. It is evident from the data that in April 2020 – June 2020, the volume of imports in absolute and relative terms has declined, price undercutting has declined, volume parameters of the applicant have improved, and it has earned a reasonable return on investment. Thus, the domestic industry did not suffered injury due to lockdown.
- ff. As regards the contention that the applicant has suffered due to weak demand and diversion to exports, it was submitted that the demand for subject goods has increased and was sufficient for the applicant to utilize its whole capacity. The applicant was forced to export due to unfavourable market conditions.
- gg. There is no impact of COVID-19 restrictions on the applicant or the customers as the applicant has operated its plant at optimum capacity and even the demand for imports has increased.
- hh. No injury has been caused due to imports by the domestic industry as they are negligible in volume, priced higher than price of imports from Qatar and are not at injurious prices.
- ii. Regarding the contention that the injury caused due to imports made by the domestic industry cannot be considered and such volumes should be removed, it was submitted that the applicant has no objection to such approach. The price of its imports is higher than average price of the subject imports and exclusion of the same would substantiate the injury suffered by it.
- jj. Only one of the plants of the domestic industry was shut down for two months. Even if the effect of shutdown is excluded, there would not be a difference in trends of injury.
- kk. Contrary to the claims of the interested parties, the supply by RIL cannot be erratic as the applicant is operating at optimum capacity and supplying 64% market. It has huge inventories, had there been more orders, the applicant would have fulfilled them. The applicant was forced to export as it was not getting orders in the domestic market.
- ll. Regarding the contention that injury is due to high cost of ethylene using naptha, it was submitted that the applicant has been producing the subject goods using naptha throughout the injury period but did not suffer injury in the earlier period. In

European Union – Biodiesel (Argentina) the Appellate Body held that the Authority is not required to conduct a non-attribution analysis with respect to features inherent to the domestic industry and have remained unchanged over the injury period.

- mm. In response to the contention that Borouge cannot cause injury as the exports by it are negligible, it was submitted that the injury determination is made for the subject countries as a whole and not exporter-wise. Negligible quantity of imports may not reflect actual export price and may be influenced by many factors. It should not be considered for determination of individual dumping margin.
- nn. Regarding the contention that overall performance of the entire polymer chain should be evaluated, it was submitted that such analysis is against the legal provisions. The analysis of dumped imports has to be assessed in relation to like article. Further, ethylene has not been diverted to any other product as the domestic industry has increased its capacity utilization for LDPE.
- oo. Regarding the contention that the injury was claimed on outdated data, it was submitted that the applicant has filed post initiation submissions demonstrating injury based on updated data.
- pp. Contrary to the claims of the interested parties, the data for post investigation period is not required as the applicant has established that the injury suffered is not attributable to any of the factors listed by the interested parties.
- qq. Contrary to the claims of the interested parties, the applicant has not requested to disregard the principles of Annexure – III. The applicant has requested for consideration of return on investment on the captive input, ethylene which is recorded at cost. The applicant has invested a significant amount for its cracker plant, and it should be able to earn a return on the cracker to the extent it is utilized for LDPE. The Authority on multiple instances has acknowledged that it allows a return for captive input valued at cost.
- rr. Contrary to the claims of the interested parties, advertisement expenses and other administrative overheads cannot be excluded from determination of non-injurious price as they are not post ex-factory expenses and such exclusion is not provided in the law.
- ss. Contrary to the claims of the interested parties, the Tribunal has taken a consistent view of allowing 22% return unless a need for taking a different return is demonstrated. In Bridge Stone Tyre Manufacturing V. Designated Authority, the interested parties had placed evidence on record that the global return of the industry was lower. Even if the past returns of the domestic industry are considered, it would be higher than 22%.
- tt. In response to the contention that some months in the period of investigation of 15 months was affected by the lockdown in India, it was submitted that there is no requirement that the period of investigation should be unaffected by any other factor. The only requirement is that injurious effect of any other factor should be segregated.

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

127. The submissions made by the domestic industry with regard to the injury and causal link related issues have been examined. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.
128. Annexure-II Para (iii) of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
- a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
  - b. A cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic products.
129. With regards to the argument raised by the other interested parties about decumulation of imports from Qatar, the Authority notes that though the volume of imports from Qatar is more than 3% of the total imports, the imports of the subject goods from known producer and exporter from Qatar i.e QAPCO are un dumped, and since there is no other known producer and exporter from Qatar, and therefore, the entire volume of imports from Qatar are not included in the injury analysis.
130. Similarly, it is noted that exports from UAE are un dumped, and since there are no other known producer and exporter from UAE, the volume of imports from UAE are excluded from the injury analysis.
131. Accordingly, the subject countries would herein after comprise of USA, Saudi Arabia, Singapore, and Thailand.
132. With regards to the rest of the imports of the subject goods from the other subject countries, the Authority notes that:
- a. The subject good are being dumped into India from the subject countries except UAE and Qatar. The margins of dumping from each of these subject countries are more than de minimis limits prescribed under the Rules.
  - b. The volume of imports from each of these subject countries is individually more than 3% of the total volume of imports.
  - c. Cumulative assessments of the effects of imports are appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.

133. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from the subject countries except Qatar and UAE on the domestic industry.
134. The Authority has taken note of the argument and counter arguments of all the interested parties with regard to injury to the domestic industry. The injury analysis so made by the Authority hereinunder addresses the various submissions made by the interested parties.
135. With regards the arguments of individual producers / exporters that imports by such producers / exporters have not caused injury to the domestic industry, the Authority notes that, once the conditions of cumulation are satisfied, the analysis of alleged injurious impact of imports is required to be examined for the subject countries as whole and not for individual countries or individual exporters.
136. With regards the contention that examination of the polyester segment of Reliance Industries would show an improved performance, the Authority notes as per the provisions of para (vi) of Annexure – II to the Anti-Dumping Rules, the effect of imports on parameters of the domestic industry shall be assessed in relation to the like article only.

*“(vi) The effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers’ sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.”*

Therefore, analysis of the effect of dumped imports is required to be undertaken in relation to the domestic production of the like product where the separate data permit such examination. Only in the cases where such examination is not possible due to collective data, the Authority is required to examine the production of narrowest group or range of products which includes the domestic like product. In the present case, separate data for the performance of the domestic industry in terms of production, sale and profitability of the like article has been provided by the domestic industry. Since such separate data is on record, and has been verified by the Authority, it shall form basis of the injury analysis, in accordance with the provisions of para (vii) above. Accordingly, the performance of polymer segment as whole of Reliance Industries Limited is not relevant.

137. Since the period of investigation is not of 12 months, in order to ensure that the actual/indexed figures are directly comparable with preceding years, the actual/indexed data has been annualized and mentioned in this finding.

### **H.3.1 Volume effect of the dumped imports on domestic industry**

#### **a) Assessment of demand/ Apparent consumption**

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

Particulars	Units	2016-17	2017-18	2018-19	POI	POI (A)
Sales of domestic industry	MT	***	***	***	***	***
Trend	Indexed	100	117	225	224	224
Subject imports	MT	1,15,583	1,20,485	92,659	1,44,248	1,15,398
Trend	Indexed	100	104	80	100	100
Other imports	MT	1,79,197	2,20,453	1,43,835	1,66,950	1,33,560
Trend	Indexed	100	123	80	75	75
Demand	MT	***	***	***	***	***
Trend	Indexed	100	116	139	141	141

139. It is seen that the demand for the subject goods increased throughout the injury period and was the highest during the period of investigation. Demand has increased by 41% over the injury period.

#### **b) Import volumes from the subject countries**

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

Particulars	Units	2016-17	2017-18	2018-19	POI	POI (A)
<b>Import volume</b>						
Subject countries	MT	1,15,583	1,20,485	92,659	1,44,248	1,15,398
Saudi Arabia	MT	90,408	83,381	40,134	66,980	53,584
Singapore	MT	980	1,899	18,686	21,584	17,267
Thailand	MT	7,716	20,447	12,996	19,944	15,955
USA	MT	16,479	14,758	20,842	35,741	28,592
Other countries	MT	1,79,197	2,20,453	1,43,835	1,66,950	1,33,560
Total imports	MT	2,94,780	3,40,938	2,36,494	3,11,198	2,48,958

Subject imports in relation to						
Total imports	%	39%	35%	39%	46%	46%
Production	%	***	***	***	***	***
Trend	Indexed	100	66	29	33	33
Consumption	%	***	***	***	***	***
Trend	Indexed	100	90	58	71	71

141. The Authority notes:

- a. The subject imports increased in 2017-18 but declined thereafter, in 2018-19, as the domestic industry increased its capacity. The volume of the subject imports increased during the period of investigation as compared to the previous year.
- b. The subject imports in relation to Indian production have declined over the injury period.
- c. The imports in relation to consumption showed a decline in 2018-19, but increased during the period of investigation. The decline as compared to the base year is a result of increase in the capacity of the domestic industry.

### **H.3.2 Price effect of the dumped imports on the domestic industry**

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

#### **a) Price undercutting**

143. For the purpose of price undercutting analysis, the selling price of the domestic industry has been compared with the weighted average import price from the subject countries. Accordingly, the price undercutting of the dumped imports from the subject country work out as follows:

Price undercutting	Units	2016-17	2017-18	2018-19	POI
Saudi Arabia					
Landed price	Rs/MT	86,969	88,430	84,647	76,116
Trend	Indexed	100	102	97	88
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	94	91	81
Price undercutting	Rs/MT	***	***	***	***
Trend	Indexed	100	51	55	41

Price undercutting	%	***	***	***	***
Price undercutting	Range	15-25%	5-15%	5-15%	5-15%
Singapore					
Landed price	Rs/MT	81,903	77,742	78,756	72,295
Trend	Indexed	100	95	96	88
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	94	91	81
Price undercutting	Rs/MT	***	***	***	***
Trend	Indexed	100	93	71	50
Price undercutting	%	***	***	***	***
Price undercutting	Range	25-35%	20-30%	15-25%	10-20%
Thailand					
Landed price	Rs/MT	90,349	91,482	92,258	78,596
Trend	Indexed	100	101	102	87
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	94	91	81
Price undercutting	Rs/MT	***	***	***	***
Trend	Indexed	100	39	3	31
Price undercutting	%	***	***	***	***
Price undercutting	Range	10-20%	5-15%	0-10%	0-10%
USA					
Landed price	Rs/MT	69,081	80,346	84,090	72,691
Trend	Indexed	100	116	122	105
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	94	91	81
Price undercutting	Rs/MT	***	***	***	***
Trend	Indexed	100	48	26	29
Price undercutting	%	***	***	***	***
Price undercutting	Range	45-55%	15-25%	5-15%	10-20%
Subject countries					
Landed price	Rs/MT	84,601	87,789	84,401	75,039
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	94	91	81
Price undercutting	Rs/MT	***	***	***	***
Trend	Indexed	100	48	49	41
Price undercutting	%	***	***	***	***
Price undercutting	Range	15-25%	5-15%	5-15%	5-15%

144. It is seen that the subject imports are entering the Indian market at a price below the domestic selling price of the domestic industry, resulting in positive price undercutting throughout the injury period

**b) Price suppression/depression**

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

Particulars	Units	2016-17	2017-18	2018-19	POI
Cost of sales	Rs/MT	***	***	***	***
Trend	Indexed	100	108	137	111
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	94	91	81
Landed price	Rs/MT	***	***	***	***
Trend	Indexed	100	104	100	89

146. The Authority notes that the cost of sales of the domestic industry increased till 2018-19, but declined thereafter in the period of investigation as compared to the previous year. The cost of raw material has followed the same trend. In particular, it is noted that over the injury period, the cost of sales has increased by \*\*\*, despite that the landed price of imports has declined by 11%. Since the price of imports was lower, the domestic industry also reduced its price. Therefore, the Authority finds that the imports of the subject goods from the subject countries have suppressed and depressed the prices of the domestic industry.

**c) Evolution of prices**

147. The cost of production of the domestic industry increased by \*\*% from 2016-17 to the period of investigation. One of the factors impacting the cost of production was the increase in the raw material price, namely, ethylene, which is the feedstock for the subject goods. The price of such raw material increased by 5% over the same period. However, despite an increase in the price of raw material, the landed price of the subject imports has declined. As a result, the selling price of the domestic industry has also declined in order to compete with the imports in the market.

**H.3.3 Economic parameters of the domestic industry**

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

149. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties.

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

150. The capacity, production, sales and capacity utilization of the domestic industry over the injury period is given in the table below:

Particulars	Units	2016-17	2017-18	2018-19	POI	POI (A)
Capacity	MT	***	***	***	***	***
Trend	Indexed	100	170	311	311	311
Capacity utilization	%	***	***	***	***	***
Trend	Indexed	100	93	89	97	97
Production	MT	***	***	***	***	***
Trend	Indexed	100	159	275	302	302
Domestic sales	MT	***	***	***	***	***
Trend	Indexed	100	117	225	224	224
Export sales	MT	***	***	***	***	***
Trend	Indexed	-	100	172	201	201

151. The Authority notes that:

- a. The installed capacity and production of the domestic industry has increased over the injury period.
- b. The domestic sales of the domestic industry increased till 2018-19 but declined marginally during the period of investigation.
- c. The capacity utilization declined till 2018-19 but increased thereafter during the period of investigation. The decline in capacity utilization in 2018-19 may be attributable to the plant shutdown witnessed by the domestic industry. However, despite the same, the capacity utilization of the domestic industry remained high throughout the period.

- d. The capacity utilization has been increased slightly in POI over injury period. However, it is observed that export has been increased substantially during POI. This is due to the fact that the dumped imports of subject goods from subject countries have disrupted the domestic market condition and forced the Domestic Industry to export even at a lower price than the domestic price. Although, this has resulted higher capacity utilization but it has eroded the Industry's profitability.

**b) Market share**

152. Market share of the domestic industry is shown in table below:

Particulars	Units	2016-17	2017-18	2018-19	POI	POI (A)
Sales of domestic industry	%	***	***	***	***	***
Trend	Indexed	100	101	162	159	159
Subject imports	%	***	***	***	***	***
Trend	Indexed	100	90	58	71	71
Other imports	%	36%	38%	21%	19%	19%
Trend	Indexed	100	106	58	53	53
Total	%	100%	100%	100%	100%	100%

153. The Authority notes that the market share of the domestic industry increased till 2018-19 and declined marginally during period of investigation. The market share of the subject imports declined till 2018-19 and increased thereafter in the period of investigation. Overall, the market share of domestic industry increased during the injury period.

154. With regards to the claim that individual market share of each subject country should be provided, it is noted that the Authority has considered it appropriate cumulatively analyze the effect of imports from all the subject countries. Accordingly, the market share of each individual subject country is not relevant for the purpose of examination of injury.

**c) Inventories**

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

Particulars	Units	2016-17	2017-18	2018-19	POI
Opening	MT	***	***	***	***
Closing	MT	***	***	***	***
Average	MT	***	***	***	***
Trend	Index	100	534	569	543

156. The Authority notes that the average inventories of the domestic industry have increased the injury period. The piling up of stocks has an adverse effect on its operational financial efficiency of the domestic industry.

**d) Profitability, cash profits and return on capital employed**

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

Particulars	Units	2016-17	2017-18	2018-19	POI	POI (A)
Profit/(Loss) per unit	Rs/MT	***	***	***	***	***
Trend	Indexed	100	70	10	28	28
Profit/Loss	Rs Lacs	***	***	***	***	***
Trend	Indexed	100	82	23	62	62
Cash Profit	Rs Lacs	***	***	***	***	***
Trend	Indexed	100	86	38	75	75
Return on Capital Employed	%	***	***	***	***	***
Trend	Indexed	100	24	5	7	7

158. The Authority notes the following:

- a. The profits per unit of the domestic industry have declined by 72% over the injury period.
- b. The Authority notes that the profitability of the domestic industry has declined over the injury period. However, this decline can be partly attributed to plant shutdown.
- c. Cash profits of the domestic industry have also declined over the injury period.
- d. The return on capital employed declined significantly over the injury period. The return on capital employed achieved during POI is not adequate to serve interest, profit and taxes.

159. Some of the interested parties have submitted that the injury caused to the domestic industry is due to capacity expansion and increase in depreciation and the interest cost. The Authority, in the table below, has analysed the Earnings Before Interest, Taxes, Depreciation, and Amortization (“EBITDA”) per unit of the domestic industry in order to segregate the effect of increase in depreciation and interest cost.

Particulars	Units	2016-17	2017-18	2018-19	POI (A)
EBITDA	Rs./MT	***	***	***	***
Trend	Indexed	100	75	36	54

160. The Authority notes that the EBITDA per unit of the domestic industry has declined over the injury period. Therefore, the injury to the domestic industry is not due to capacity expansion leading to higher depreciation cost or the interest cost.

**e) Employment, wages and productivity**

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

Particulars	Units	2016-17	2017-18	2018-19	POI	POI (A)
Wages	□ Lacs	***	***	***	***	***
Trend	Indexed	100	110	130	252	201
No. of employees	Nos	***	***	***	***	***
Trend	Indexed	100	159	147	127	127
Productivity per day	MT/Day	***	***	***	***	***
Trend	Indexed	100	159	275	302	302

162. The Authority notes that the number of employees, wages and productivity per day have increased over the injury period.

**f) Growth**

163. The growth of the domestic industry in terms of capacity, production, domestic sales, profits, cash profits and return on capital employed is as per the table below:

Particulars	Units	2016-17	2017-18	2018-19	POI(A)
Capacity	%	-	70	82	0
Production	%	-	59	73	9.49
Domestic sales	%	-	17	92	-0.08
Profits/(loss) per unit	%	-	-30	-86	175.19
Cash profits	%	-	-14	-56	97.05
Return on capital employed	%	-	-76	-80	49.33

164. The Authority notes that the capacity and production of the domestic industry has shown a positive growth throughout the injury period. The domestic sales have also shown a positive growth in 2017-18 and 2018-19 but have shown a decline in the period of investigation. On the other hand, the profits per unit, cash profits and return on capital employed has shown a negative growth in 2017-18 and 2018-19. The profitability parameters have, however, shown a positive growth in the period of investigation. However, they continue to be significantly lower than that at the beginning of the injury period.

**g) Magnitude of dumping margin**

165. The subject goods from the subject countries are being imports into India and the dumping margin is positive and significant.

**h) Ability to raise capital investment**

166. The Authority notes that the domestic industry has already increased capacity. However, the profits per unit, cash profits and return on capital employed of the domestic industry has declined significantly in the POI as compared to base year. Nevertheless, since the domestic industry is a multi-product company, having a number of businesses, it cannot be considered that the ability of the domestic industry to raise further capital investment has been hampered.

**i) Factors affecting prices**

167. The landed value of the subject goods from the subject countries are below the cost and selling price of the domestic industry. The domestic industry has been forced to reduce its prices, despite an increase in raw material cost, due to the presence of dumped imports in the country. This shows that the dumped imports are impacting the prices of the domestic industry.

**iii. Price underselling/injury margin**

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

169. In line with the determination of dumping margins, the injury margin has also been determined for the related companies together taking them as one entity.

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

Subject Countries	Name of Producer	Landed Value USD/MT	Non-injurious Price USD/MT	Injury Margin	Injury Margin %	Wt Injury Margin	Wte average IM %	Range
Qatar	Qatar Petrochemical Company	***	***	***	***	***	***	10-20%

	(QAPCO) Q.P.J.S.C							
USA	Westlake Longview Corporation	***	***	***	***	***	***	Negative
	Westlake Polymers LLC							Negative
	All Others	***	***	***	***	***	***	0-10%
Thailand	Thai Polyethylene Co., Ltd.*	***	***	***	***	***	***	0-10%
	PTT Global Chemical Public Company Limited (PTTCG)	***	***	***	***	***	***	10-20%
	All Others	***	***	***	***	***	***	20-30%
Saudi Arabia	Rabigh Refining & Petrochemical Company	***	***	***	***	***	***	10-20%
	Sadara chemical company	***	***	***	***	***	***	10-20%
	Saudi Ethylene and Polyethylene Company (SEPC)	***	***	***	***	***	***	10-20%
	All others	***	***	***	***	***	***	10-20%
UAE	Abu Dhabi Polymers Co. Ltd (Borouge) L.L.C.(ADPC L)	***	***	***	***	***	***	10-20%
Singapore	All producers	***	***	***	***	***	***	10-20%

#### **H.3.4 Non-attribution analysis and casual link**

171. The Authority examined any known factors other than the dumped imports which at the same time might have caused injury to the domestic industry, so that the injury caused by these other factors, if any, is not attributed to the dumped imports. Factors which are relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. The Authority examined whether factors other than dumped imports could have contributed to the injury to the domestic industry.

**a) Volume and value of imports from third countries**

172. Other than the subject countries, there are significant imports from European Union and Korea RP. However, the imports from these countries are priced above the prices of the domestic industry and are not injurious to the domestic industry. Imports from other countries are negligible in volume. Thus, imports from third countries have not caused injury to the domestic industry.

**b) Contraction in demand**

173. As the demand for the subject goods has increased over the injury period, contraction in demand cannot be a reason for injury to the domestic industry. Accordingly, the Authority does not find any merit in the contentions that the domestic industry suffered injury due to weak demand.

**c) Changes in the pattern of consumption**

174. There have been no material changes in the pattern of consumption of the product under consideration.

**d) Trade restrictive practices or conditions of competition**

175. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are not the cause for injury to the domestic industry.

**d) Development in technology**

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

**e) Export performance of the domestic industry**

177. The domestic industry submitted that considering the demand for the product in the country, there is no necessity for the domestic industry to undertake exports, especially when these exports are at a price and profitability much adverse as compared to the domestic market. The only reason for exports by the domestic industry is lack of orders from the domestic market. The domestic industry is faced with a situation where it has continuous production of the product, but the domestic sales are less than its production and demand for its product from the market. Faced with absence of orders from the domestic market, the domestic industry has no option but to undertake exports, even when these orders are far less profitable to the domestic industry. The domestic industry also contended that even when the adverse performance of the domestic industry has been segregated to show the impact of dumped imports on the domestic industry, the adverse performance and profitability of the domestic industry in the export market is because of dumping of these products in the Indian market, leading to insufficient demand for its product from the domestic market. Should the domestic industry get an opportunity to sell the material in the domestic market, it would not only be able to improve its profitability but also its viability. Thus, adverse performance of the domestic industry in export market is a consequence of dumping of the product in the country. The

Authority also notes that the contention of the domestic industry on this account has remained rebutted.

SN	Particulars	Units	2016-17	2017-18	2018-19	POI (A)
1	<b>Sale Volume</b>	<b>MT</b>	***	***	***	***
2	Domestic	MT	***	***	***	***
3	Export	MT	***	***	***	***
4	<b>Sales Value</b>	<b>□ lacs</b>	***	***	***	***
5	Domestic	□ lacs	***	***	***	***
6	Export	□ lacs	***	***	***	***
7	<b>Selling Price</b>	<b>□/MT</b>	***	***	***	***
8	Domestic	□/MT	***	***	***	***
9	Export	□/MT	***	***	***	***
10	<b>Cost</b>	<b>□/MT</b>	***	***	***	***
11	Domestic	□/MT	***	***	***	***
12	Export	□/MT	***	***	***	***
13	<b>Profit</b>	<b>□/MT</b>	***	***	***	***
14	Domestic	□/MT	***	***	***	***
15	Export	□/MT	***	***	***	***
16	<b>PBT Value</b>	<b>□ Lacs</b>	***	***	***	***
17	Domestic	□ Lacs	***	***	***	***
18	Export	□ Lacs	***	***	***	***
19	<b>Interest/ Finance Cost</b>	<b>□ Lacs</b>	***	***	***	***
20	Domestic	□ Lacs	***	***	***	***
21	Export	□ Lacs	***	***	***	***
22	<b>PBIT</b>	<b>□ Lacs</b>	***	***	***	***
23	Domestic	□ Lacs	***	***	***	***
24	Export	□ Lacs	***	***	***	***
25	<b>Capital Employed</b>	<b>□ Lacs</b>	***	***	***	***
26	Domestic	□ Lacs	***	***	***	***
27	Export	□ Lacs	***	***	***	***
28	<b>Return on Investment</b>	<b>%</b>	***	***	***	***
29	Domestic	%	***	***	***	***
30	Export	%	***	***	***	***

SN	Particulars	Units	2016-17	2017-18	2018-19	POI (A)
1	<b>Sale Volume</b>	<b>MT/Indexed</b>	<b>100</b>	<b>154</b>	<b>288</b>	<b>298</b>
2	Domestic	MT/Indexed	100	117	225	224
3	Export	MT/Indexed		100	172	201
4	<b>Sales Value</b>	<b>□ lacs/Indexed</b>	<b>100</b>	<b>138</b>	<b>254</b>	<b>227</b>

5	Domestic	□ lacs/Indexed	100	110	205	181
6	Export	□ lacs/Indexed		100	180	170
7	<b>Selling Price</b>	<b>□/MT/Indexed</b>	<b>100</b>	<b>90</b>	<b>88</b>	<b>76</b>
8	Domestic	□/MT/Indexed	100	94	91	81
9	Export	□/MT/Indexed		100	105	85
10	<b>Cost</b>	<b>□/MT/Indexed</b>				
11	Domestic	□/MT/Indexed	100	112	139	111
12	Export	□/MT/Indexed		100	141	101
13	<b>Profit</b>	<b>□/MT/Indexed</b>				
14	Domestic	□/MT/Indexed	100	63	7	28
15	Export	□/MT/Indexed		100	-61	11
16	<b>PBT Value</b>	<b>□ Lacs/Indexed</b>	<b>100</b>	<b>87</b>	<b>1</b>	<b>65</b>
17	Domestic	□ Lacs/Indexed	100	74	15	62
18	Export	□ Lacs/Indexed		100	-105	21
19	<b>Interest/ Finance Cost</b>	<b>□ Lacs/Indexed</b>	<b>100</b>	<b>2,164</b>	<b>10,925</b>	<b>9,322</b>
20	Domestic	□ Lacs/Indexed	100	1,737	8,825	7,434
21	Export	□ Lacs/Indexed		100	492	442
22	<b>PBIT</b>	<b>□ Lacs/Indexed</b>	<b>100</b>	<b>99</b>	<b>63</b>	<b>118</b>
23	Domestic	□ Lacs/Indexed	100	84	65	104
24	Export	□ Lacs/Indexed		100	-12	87
25	<b>Capital Employed</b>	<b>□ Lacs/Indexed</b>	<b>100</b>	<b>607</b>	<b>2,051</b>	<b>2,303</b>
26	Domestic	□ Lacs/Indexed	100	362	1,388	1,559
27	Export	□ Lacs/Indexed		100	270	303
28	<b>Return on Investment</b>	<b>%/Indexed</b>	<b>100</b>	<b>16</b>	<b>3</b>	<b>5</b>
29	Domestic	%/Indexed	100	23	5	7
30	Export	%/Indexed		100	-5	29

**f) Performance of other products**

178. The Authority has considered segregated data for product under consideration for injury analysis. Thus, performance of other products produced and sold by the applicant is not a possible cause of the injury to the domestic industry.

**g) COVID-19**

179. Some of the interested parties have claimed that the first quarter of 2020-21 was impacted by the COVID-19 pandemic. The Authority notes that there is no significant impact of COVID-19 on the operations of the applicant. The applicant did not face any shut down due to COVID-19. The demand for the product under consideration has consistently increased over the injury period. Further, while the volume parameters have marginally declined in April-June 2020 as compared to 2019-20, the profitability of the domestic industry has been better in this period as compared to 2019-20.

**h) Imports by domestic industry**

180. The interested parties have contended that the domestic industry has suffered injury due to its own imports. However, as noted hereinabove, the volume of imports by the domestic industry is negligible, less than 1% of the subject imports. Further, the price at which the domestic industry has imported the product is significantly higher, by around 20%, than the average price of imports from the subject countries. Such low volume of imports at significantly higher prices cannot be considered as having caused injury to the domestic industry.

**H.3.5 Examination by Authority on causal link and injury**

181. The Authority, has examined whether the domestic industry has suffered injury in the period of investigation due to other factors. The following factors are relevant in this regard:
- a. There is significant dumping of the subject goods in India.
  - b. While the volume parameters of the domestic industry are not affected by the imports, the price and profitability parameters show a significant adverse impact.
  - c. The imports are undercutting the prices of domestic industry and are priced below the cost of the domestic industry in the period of investigation.
  - d. The imports have forced the domestic industry to reduce its prices and have suppressed and depressed the prices of the domestic industry.
  - e. As a result, profits per unit of the domestic industry have declined by 72% over the injury period. Cash profits and the return on capital employed of the domestic industry have also declined over the injury period.
  - f. The imports entered the market at prices below the prices of the domestic industry. The price of imports has declined, despite an increase in the price of ethylene. It is, therefore, evident that while the domestic industry has not suffered injury in terms of its volume parameters, the imports have adversely impacted the profitability of the domestic industry.
  - g. The Authority, thus, concludes that there exists a causal link between the dumping of the subject goods from the subject countries and injury to the domestic industry, and the domestic industry has suffered material injury because of dumped imports of the subject goods from the subject countries.

**I. POST-DISCLOSURE COMMENTS**

**I.1. Submissions by the other interested parties**

182. The interested parties have re-iterated their submissions regarding exclusions of certain grades of LDPE, non-existence of particular market situation, injury to the domestic industry, and causal link. The following additional submissions have been made by the other interested parties post issuance of the disclosure statement.
- i. EC4062AA goes through additional rheological testing parameters. The domestic industry has not sold EC4062AA and the disclosure statement does not clarify that grade 1070LA17 is used for the same purpose as EC4062AA, and the use of 1070LA17 would create an off-flavour and impact food safety. The extruders installed by Tetra Pak are made for melt flow index 8.5 g/min and density of 918-920 g/m<sup>3</sup>.
  - ii. It is not clear whether CPMA provided the relevant documents and had locus standi to file the application.
  - iii. The change in the data of the domestic industry post initiation of the investigation has not been examined.
  - iv. Mere government determination of prices of input is insufficient to conclude a particular market situation. A particular market situation must exist for the product under consideration, and not only for feedstock.
  - v. The feedstock prices in Saudi Arabia, even though regulated, are applied on non-discriminatory basis to all manufacturers of LDPE whether for domestic consumption or exports. As is evident from the report of the Working Party, the price of feedstock is based on commercial standards as it covers the cost of production, and a reasonable margin and price of propane and butane are based on a formula which ensures that NGL prices are based on international market prices.
  - vi. The WTO members have accepted the feedstock prices in Saudi Arabia as commercial price which is evident from the fact that no additional conditions were introduced in the Accession Protocol based on such prices.
  - vii. The prices of feedstock do not affect the price comparability between the domestic and export sales of the product under consideration.
  - viii. Non-existence of particular market situation has been confirmed by the DGTR in a number of previous investigations. The European Commission also did not find a particular market situation in anti-dumping investigation on imports of MEG from USA and Saudi Arabia.
  - ix. The determination of export price for Petro Rabigh based on the weighted average of export price by related and unrelated entities is not appropriate since PetroRabigh should not be punished for non-participation by unrelated traders.
  - x. SEPC cannot be faulted for non-participation of some unrelated traders on whom SEPC and its related marketers do not exercise any control.
  - xi. M/s Saudi Kayan and M/s Kemya has submitted that the questionnaire format applicable during the investigation, required certification by the respective producers. The producer does not have the visibility over the destination. The required information was presented in the questionnaire responses of the entities that performed the respective sales transactions. From the same files submitted

earlier, using only pivot table functionality, separate Appendices 3C and 4A for the two producers have been drawn and now submitted as two separate excel files. The Authority must prefer substance over form. There is no specific instruction that a producer shall collect all the information from its related entities and file it as part of its questionnaire response.

- xii. While the Authority has stated that the loss suffered by Tasnee Marketing has been adjusted, it has earned a profit on sales of the product under consideration to India.
- xiii. The Authority has currently adjusted the export price to the extent of 51% which is much higher than the global practice of adjustment to the tune of 5-8%.
- xiv. While the Authority has noted that there is price undercutting, it has not noted that the price undercutting is “significant” to cause price effect.
- xv. There is no impact of price undercutting as the PBIT of the domestic industry has moved independently of price undercutting throughout the injury period.
- xvi. Imposition of anti-dumping duty will lead to monopolistic behavior of the domestic industry as RIL is the only producer in India and the subject imports are the only competition for the domestic industry.
- xvii. While the Authority has noted that inventories of domestic industry has increased, it is contradictory to the fact that RIL has acknowledged in its annual report that inventory level of products under polymer division has reduced.
- xviii. Any impact on performance of the domestic industry is a result of Covid-19, increase in capacity leading to higher operational cost and startup cost, shut down of plant, increase in interest cost and depreciation, and use of naphtha which has a higher cost.
- xix. The price of raw material for packaging industry has already increased due to logistic challenges, increase in oil prices and other input cost, shortage of material etc. Imposition of anti-dumping duty would further increase the burden on the food industry by 8-10%.
- xx. The Authority should consider the impact of imposition of anti-dumping duty on the downstream industry.
- xxi. Hon’ble CESTAT in the case of Indian Spinners Association vs. Designated Authority reported in 2004 (170) E.L.T. 144 (Tri. – Del.) wherein it was observed that if the selling price of the domestic industry moves independently of the landed value of the imports, it would establish that price suppression and depression, if any, cannot be attributed to imports.
- xxii. Since price underselling is negative for Westlake, there can be no injury due to imports from the said entities.
- xxiii. Exxon Mobil and SABIC are indeed independent entities with no relationship with each other. They source the PUC from one common entity and there ends the relationship, if any.
- xxiv. The import prices of the subject goods by Westlake are not undercutting the prices of the domestic industry.
- xxv. It is requested that fixed form of duty should be considered as the prices for the product under consideration have increased post period of investigation, and ad valorem duty would lead to over protection.

## **I.2. Submissions by the domestic industry**

183. The domestic industry has reiterated its submissions with regard to particular market situation in Qatar and UAE, injury to the domestic industry, and public interest. Additionally, the following submissions have been made by the domestic industry post issuance of the disclosure statement:

- i. The Authority has not disclosed the facts under consideration with regards to certain injury parameters such as price suppression and depression, profitability of domestic industry and growth of domestic industry which shall form the basis of final determination of the Authority. Only verified information with regards to the said parameters have been shared by the Authority.
- ii. The disclosure statement shows that procurement prices of ethylene and ethane by the exporters in Qatar and UAE have been compared to market prices as per information made available by these exporters. The non-confidential version of such information has not been shared with the domestic industry, and no reason has been provided for rejection of the information provided by the domestic industry.
- iii. Since ethylene is used for manufacturing various products including LDPE, MEG, Polyethylene and PVC, any decline in production of LDPE will lead to decline in production of ethylene increasing per unit cost of production of ethylene. This will impact the prices of other products which use ethylene as a raw material and have an adverse impact on the downstream industry of such products.
- iv. The major cost of production of the product under consideration is conversion of ethane into ethylene/naptha. The applicant is able to operate in the market due to its own cracker plant.
- v. The users have not provided any substantial evidence to show that their operations would be adversely impacted due to the imposition of duties.
- vi. The exporters in the subject countries enjoy unfair advantage due to Government control of prices of feedstock and the particular market situation in the GCC countries. The domestic industry is unable to compete due to the distorted cost of production of the exporters in GCC.
- vii. While the main aim of the exporters is to maximize profits and will not hesitate to exit the market, the domestic industry has a long-term commitment to the Indian market, as it is involved in multiple segments in India since 1960s.
- viii. Since the product under consideration is used in food packaging, the quality needs to be maintained. While the domestic industry takes all precautions to achieve the best possible quality, the production process of exporters is not known.
- ix. While the bound rate for the product under consideration is 40%, the importers are enjoying a concessional rate of customs duty on imports of the product under consideration.
- x. It cannot be said that the operations of downstream industry will become unviable in case of imposition of anti-dumping duty and merely because fair conditions of competition are restored in the market.

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

184. The Authority has examined the post disclosure submissions made by the other interested parties and the domestic industry and notes that though most of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant parts of the finding, the Authority has examined the fresh issues raised by the interested parties.
- a. As regards the exclusion of grade EC4062AA, the Authority notes the grade 1070LA17 produced by the domestic industry can be used for food packaging and lamination. The specification sheet provided by the domestic industry shows that it meets the regulatory requirements concerning safe contact with foodstuffs, thereby making it safe for use in food packaging. Tetra Pak has claimed that its extruders can only use goods with melt flow index 8.5 g/min and density of 918-920 g/m<sup>3</sup>. In this regard, it is noted that the product specification sheet of both EC4062AA and 1070LA17 shows a density of 917 g/m<sup>3</sup>. Further, while EC4062AA has a melt flow index of 10 g/min, 1070LA17 has a melt flow index of 8.5 g/min. Therefore, both the grades would satisfy the requirements of the extruders, as explained by Tetra Pak. The Authority, therefore, does not find any merit in the request for exclusion.
  - b. With regards to non-submission of the documents of CPMA, it is noted that M/s Reliance Industries Limited has simultaneously filed application for imposition of the anti-dumping duty, and is the sole producer of the domestic like product in India and it has provided relevant information. Thus, it is clear that there are no other producers producing the domestic like product, and hence it can be said that producer accounting for 100% production of domestic like product in India have supported the filing of the petition, and have submitted information pertaining to the PUC, dumping and injury.
  - c. With regards to the change in data submitted by the domestic industry, it is noted that the Authority has already examined the issue in detail in the relevant headings of this findings. Further, the data filed by the domestic industry has been duly verified and only after such verification, the same has been analyzed in this Final Finding.
  - d. The contentions with regard to the existence of particular market situation in Saudi Arabia have already been dealt with in the relevant parts of this final findings.
  - e. With regard to the submission made by Petro Rabigh that they should not be penalised for non-participation of unrelated traders, the Authority notes that it is required to calculate the export price for the producer taking into account all the exports made by the producer to India, either directly or through traders. Thus, it is required that all traders involved in the export chain should participate in the investigation and provide relevant information regarding the export price. In case of Petro Rabigh, some traders involved in export chain to India have not participated in the investigation and have not provided the necessary details. Accordingly, the Authority has made appropriate adjustment for the exports made through non-cooperative traders as per its consistent practice.

- f. Regarding the submission of Appendix-3C by Kemya and Saudi Kayan after the disclosure statement, the Authority notes that the Appendix-3C was submitted at a belated stage and as noted by the Authority in the relevant portion of the findings, in the absence of non-submission of relevant information in the form and manner required, the Authority cannot determine the ex-factory export price for the subject goods exported to India. Further, the Authority has not granted individual dumping margin to these producers and exporters as per detailed reasons recorded in the relevant parts of the findings.
- g. With regard to the submission of Tasnee Marketing that the adjustment for loss done by the Authority is not appropriate as the company did not suffer any losses, the Authority notes that the audited financial statements provided by Tasnee Marketing clearly show that the company incurred losses during the POI. However, in the questionnaire response filed by Tasnee Marketing, it was claimed that the company did not suffer any losses during the POI. On a closer scrutiny of their questionnaire response, the Authority noted that the allocation methodology adopted by Tasnee Marketing was not appropriate and was also at variance with the allocation methodology adopted by its related entity. The Authority accordingly applied the appropriate allocation methodology and worked out the dumping margin for Tasnee Marketing and its related producer.
- h. Regarding the concerns that the adjustments to export price are high, it is noted that the adjustments made have been duly explained in the relevant portion of the findings. The interested parties have not been able to demonstrate that any undue adjustments have been made in the determination of ex-factory export price.
- i. As regards the contention that there is only one producer and supplier of LDPE in India, the Authority notes that the existence of sole supplier, in fact, underscores the importance of anti-dumping measures. If the operations of the sole producer are hampered and become unviable, the country would become entirely dependent on imports. However, existence of sole supplier does not imply that the producer would be able to enjoy monopoly. To the contrary, the product can also be imported from other countries, and therefore, the users would continue to have access to multiple sources of supply.
- j. As noted by the Authority in the relevant portion of the findings, reference to performance for polymer segment as a whole is not appropriate, having regard to the provisions of para (vi) of Annexure – II of the Anti-Dumping Rules. Therefore, the volume of inventories for the polymer segment are not relevant. The Authority has examined the inventory for the subject goods in its analysis.
- k. With regards to the submission that the performance of the domestic industry has been hampered due to COVID-19, it is noted that there is no significant impact of the pandemic on the operations of the domestic industry, as it did not face shutdowns due to COVID-19. The demand for the product under consideration has increased over the injury period.
- l. With regards to the contention that the injury to the domestic industry is due to use of naptha as a raw material, it is noted that the use of naptha has in fact declined over the injury period in total production of LDPE. Further, the domestic industry

has been using naphtha as a raw material and importing ethane throughout the injury period. Despite the same, the selling price of the domestic industry declined by \*\*\* per MT which could not have been attributed to the use of naphtha. Profitability of the domestic industry has declined due to this price decline over the injury period. Injury to the domestic industry over the injury period cannot be attributed to the raw material as there has been no change in the consumption of raw material over the injury period. The injury to the domestic industry is thus, not due to the use of a particular raw material.

- m. The Authority notes that the downstream industry is a pass-through industry and any increase in the prices of the product under consideration will be eventually passed on to the ultimate consumer. Hence, the downstream industry will be able to maintain its current margins. Further, since the product under consideration forms an insignificant part of cost of the final product, thus the imposition of the anti-dumping duty will not adversely impact the ultimate consumer of the product under consideration.
- n. The interested parties have submitted that profitability of the domestic industry has not followed the trend of the price undercutting. The matter has been examined, and it is noted that it may not be appropriate to compare the profitability trends only with the price undercutting margin during the injury period. There may be cases where the price undercutting may remain in similar region throughout the injury period, but profitability of the domestic industry may decline, due to the trends in cost being different from trends in prices. Trends in profitability are linked to trends in costs and prices, whereas the price undercutting is linked to import price and domestic industry price. Reducing price undercutting is a clear indicator of increasing competition between the domestic and imported product.
- o. The Authority notes that not only are the subject imports significantly undercutting the prices of the domestic industry, but also have suppressed and depressed the prices of the domestic industry. Over the period, the cost of sales of the domestic industry increased by \*\*\*, whereas the raw material price has increased by \*\*\*. Despite that, the landed price of imports has declined by 11% over the period. Since the price of imports was lower, the domestic industry has also reduced its price, despite increase in cost.

Particulars	Units	2016-17	2017-18	2018-19	POI
Landed price	Rs/MT	85,242	87,782	84,690	75,570
Trend	Indexed	100	103	99	89
Price of ethylene	Rs/MT	***	***	***	***
Trend	Indexed	100	118	118	105

- p. As regards the contention that negative injury margin implies absence of injury, the Authority notes that injury margin is only intended for imposition of duty based on lesser duty rule, and does not reflect on the injury suffered by the domestic

industry. No conclusions can be drawn regarding the injury parameters based on the injury margin.

- q. With regard to the submission made by the domestic industry that the Authority has not disclosed facts under consideration with regard to certain injury parameters such as price suppression and depression, profitability of domestic industry and growth of domestic industry which shall form the basis of final determination of the Authority and only verified information with regard to the said parameters have been shared by the Authority, it is noted that the Authority had disclosed all the essential facts to the interested parties in the disclosure statement and no conclusions were derived based on such essential facts in the disclosure statement. The Authority has now given its final conclusion regarding dumping, injury and causal link in the present final findings.
- r. With regard to the submission made by the domestic industry concerning interest of user industry, the Authority notes that it has examined Indian industry's interest in the relevant parts of the final findings.
- s. With regards to the submission made by the domestic industry about comparison of feedstock prices with the market prices for UAE and Qatar, it is noted that same has been dealt in the relevant parts of the findings pertaining to determination of normal value for exporters in both the countries.
- t. Some of the interested parties have submitted that the injury caused to the domestic industry is due to capacity expansion and increase in depreciation and interest cost. The Authority, in the table below, has analysed the EBITDA per unit of the domestic industry in order to segregate the effect of increase in depreciation and interest cost.

Particulars	Units	2016-17	2017-18	2018-19	POI (A)
EBITDA	Rs./MT	***	***	***	***
Trend	Indexed	100	75	36	54

The Authority notes that the EBITDA per unit of the domestic industry has declined over the injury period. Therefore, the injury to the domestic industry is not due to capacity expansion leading to higher depreciation cost or interest cost.

- u. The Authority recognizes that the imposition of the anti-dumping duties might affect the price levels of the product in India. However, the fair competition in the Indian market will not be reduced by imposition of the anti-dumping measures. On the contrary, the imposition of the anti-dumping measures would remove the unfair advantages gained by the dumping practices, prevent the decline in the performance of the domestic industry and help maintain the availability of a wider choice to the consumers of the subject goods. The purpose of the anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The imposition of the anti-dumping duties, therefore, would not affect the

availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict the imports from the subject countries in any way and, therefore, would not affect the availability of the product under consideration to the consumers.

## **J. INDIAN INDUSTRY'S INTEREST**

185. The Authority considered whether imposition of proposed anti-dumping duty shall have adverse public interest. For the same, the Authority examined whether imposition of anti-dumping duty on imports of product under consideration would be against the large public interest. This determination is based on consideration of information on record and interests of various parties, including domestic industry, importers and consumers of the product under consideration.

### **J.1. Submissions by other interested parties**

186. The other interested parties have made the following submissions with regards to public interest:
- a. As the applicant is the sole producer of LDPE in India, there is likelihood that it will dominate the market and create barriers for market entry which will hamper the competitive environment in India.
  - b. In the recent past there has been an unprecedented increase in price of LDPE resulting in loss of business proposition for small-scale downstream manufacturers. The applicant is already dominating the market by inflating the price of LDPE frequently.
  - c. There is a demand-supply gap in the country, as the demand in India is 1100KT, whereas the supply is 600KT. Imposition of anti-dumping duty will stop all imports and result in monopoly of RIL in India.
  - d. Corona Virus has already impacted the world including India adversely and the imposition of duty will further aggravate the situation in terms of loss of livelihood, reduction in export of downstream goods, market asymmetry, undue protection to domestic industry making bumper profits, adverse effect on small end users, demand-supply gap.
  - e. Imposition of anti-dumping duty will be contrary to policy of Government of India and budget 2020-21 on protection of MSME sector post COVID-19. MSME is struggling to survive at present. The unemployment rate in India is at the highest and MSME sector is the main employment generator.
  - f. There are thousands of end users in India who are mostly in MSME sector and cost of LDPE in their final production is 60-70% of total cost. Imposition of anti-dumping duty will adversely affect economies of these end users.
  - g. The purpose of anti-dumping duty is to protect the fair international trade order. Anti-dumping measures should not be used to protect the industry.

- h. Imposition of anti-dumping duty will make the finished goods manufactured by small-scale industries expensive and uncompetitive. It will lead to increase in price of basic commodity material packed in the films manufactured by using LDPE as a raw material.
- i. Increase in prices of downstream products will reduce the consumer preference for such products. This will cause competitive asymmetry in the India market.
- j. Imposition of duty will lead to reduction in export of finished downstream goods, demand-supply gap in downstream products and wastage of food due to unavailability of good packaging material.
- k. Imposition of duty will result in protection to only one company, that is RIL.
- l. LDPE is imported in India as supplies by RIL are erratic and cannot feed continuous process of packaging industry, quality of imported product is better for using on high speed blown films and extrusion coating machines and all grades of LDPE are not produced by RIL.
- m. The applicant cannot meet the demand in India as there is a waiting period of 15 days to 1 month for supply of LDPE.
- n. The value chain of raw material in LDPE is completely inverted as there is only one producer and supplier of LDPE in India. Imposition of anti-dumping duty on LDPE will make the downstream users uncompetitive in the international market.
- o. The applicant has been misusing trade remedy measures as it has applied for various trade remedial investigations on many of its products.

## **J.2. Submissions by the domestic industry**

187. The domestic industry has made the following submissions with regards to public interest:
- a. Contrary to the claims of the interested parties, the users will not be effected by the imposition of anti-dumping duty as the user industry is a pass-through industry which is evident from the fact that the prices of the subject goods were higher in 2017-18 but the operations of users did not become unviable and the demand increased. In any case, the impact of duties on the end product will be negligible.
  - b. As the product under consideration forms a very small part of the price of the eventual product, the impact on the final product to the consumer would be negligible.
  - c. In response to the contention that RIL will create barriers for market entry, it was submitted that imposition of anti-dumping duty will encourage further investment in the product. The subject goods can be imported from other countries such as European Union, Japan, China PR and Korea RP. Imposition of anti-dumping duty does not ban imports but only ensures that they are available at un-dumped prices.
  - d. As regards the contention that imposition of anti-dumping duty will protect only one company, it was submitted that dumping should not be allowed even when there is a single producer. If the investments made by the sole producer in India become unviable, it will close down its operations with regards to product under consideration and India will become totally reliant on the imports. it will also

- discourage further investment in the product which will lead to widening of demand-supply gap.
- e. If the investments in LDPE become unviable, the investment in upstream product, ethylene will become unviable as well.
  - f. The applicant can cater to 87% demand in India based on its current production and the remaining demand can be fulfilled by imports from other countries which currently cater to 10.5% demand. Demand-supply gap is not a ground for non-imposition of duties as held by the Tribunal in DSM Idemitsu Limited V. Designated Authority. The Authority has recommended imposition of anti-dumping duties in numerous investigations even though there was a demand-supply gap.
  - g. Regarding the contention that the purpose of anti-dumping duty is to protect fair international trade order and should not be used to protect the industry, it was submitted that the applicant is seeking redressal of injury caused to it due to dumping and not seeking undue protection.
  - h. Exports of downstream products are not significant. If the downstream industry wants to export, it can import the subject goods duty free under advance authorization or avail RIL's deemed export pricing policy where it sells the foods to customers who have import license. RIL is a renowned brand and is using the same technology as being used globally, hence, the quality cannot be an issue.
  - i. Contrary to the claims of the interested parties, there is no anti-dumping duty at present and the same cannot be a reason of MSME sector being uncompetitive in the international market.
  - j. Regarding the contention that the value chain of LDPE is completely inverted, it was submitted that value chain of most products subject to anti-dumping duty is inverted in the sense claimed by the interested parties as there are more users than the producers. However, this has no relevance on whether duties are in public interest.
  - k. Contrary to the claims of the interested parties, imposition of anti-dumping duty cannot cause competitive asymmetry as the duties will impact all the users equally. The user industry develops products as per the specifications provided by the customers and the threat of imports in such an industry is minimal.
  - l. As against submissions of interested parties, RIL is renowned for its quality and is using the same technology as being used globally.
  - m. The contention of the interested parties that the applicant is misusing trade remedy measures as it has applied for various measures has no relevance in determining whether duties should be levied on LDPE. Globally duties are levied more frequently on chemical and petrochemical products, in which the applicant is involved. Out of 75 products of the applicant only some attract anti-dumping duty. In every case where duties have been imposed, the Authority found dumping and injury.
  - n. In response to the contention that there is a waiting period for supply of LDPE from RIL, it was submitted that there is no waiting time as 90% orders are dispatched by the applicant within 24 hours, while there is a significant transit time involved in

case of imports. Even if, arguendo, RIL takes 1 month to deliver the orders, it will be substantially less than the time taken for orders from the subject countries, which take 45-70 days.

- o. Contrary to the claims of the interested parties, the downstream industry has not been affected by the COVID-19 pandemic as the demand for packaging normalized and increased post lockdown period. This was due to increase in demand for e-commerce, food delivery, pharmaceuticals, frozen food, breads, fresh produce, beverages and squeezable bottles.

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

188. The authority issued gazette notification inviting views from all interested parties, including importers, consumers and other interested parties. Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to 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, impact of imposing the present duty. The authority notes that following consumers filed questionnaire response:

- i. Paharpur 3P Private Limited
- ii. Tetra Pak India Private Limited
- iii. SABIC Research & Technology Private Limited
- iv. Uflex Limited
- v. Ultimate Flexipack Limited

189. Further, the following associations representing users have participated in the present investigation.

- i. Telangana And Andhra Plastics Manufacturers Association
- ii. All India Plastics Manufacturers' Association
- iii. Organization of Plastics Processors of India

190. These consumers also attended the oral hearing and made submissions, which have been taken into account. The Authority notes that these interested parties have not shown with quantified information that imposition of anti-dumping duty shall have significant adverse effect either on these consumers or at public at large.

191. Some interested parties have contended that the imports are inevitable due to the demand-supply gap in India and they would be forced to pay higher price for the imports. The Authority notes that the demand-supply gap is not a justification for dumping in India. Even if there is a demand-supply gap in the country, it is necessary that the product is available at fair prices. The imposition of the anti-dumping duty will not hamper the availability of the product under consideration but will ensure that the same is available

at fair prices. In fact, the re-establishment of fair competition in the market may encourage further investment, which would help further bridge demand-supply gap.

192. The Authority also notes that while there is a demand-supply gap in the country, the imports at present far exceed such gap. that the product under consideration can also be imported from other countries, such as Qatar, UAE, Belgium, Netherlands and Korea RP. The volume of imports historically made from these countries were sufficient to address the demand-supply gap. The imports from the other countries have declined only because of increased imports at cheaper prices from the subject countries. Therefore, in the event of imposition of the duty, users can continue to source the subject goods from other countries.

193. With regard to import from other sources, the Authority has also considered the price of imports from the other countries, versus the price of imports from the subject countries. The volume and price of imports from the other countries and the subject countries are given in the table below. It is seen that the price of imports from the rest of the world is higher than the price of imports from the subject countries. Further, import price of the subject goods from the rest of the world are higher than the selling price of the domestic industry

Particulars	Units	2016-17	2017-18	2018-19	POI	POI (A)
<b>Volume of imports</b>						
Subject countries	MT	204,500	225,212	160,797	219,641	175,713
Other countries	MT	91,978	116,511	76,006	91,557	73,245
<b>Price of imports</b>						
Subject countries	Rs./MT	85,242	87,782	84,690	75,570	75,570
Other countries	Rs./MT	97,403	100,836	114,839	101,763	101,763

194. The Authority further notes that the imposition of the anti-dumping measures would not restrict the imports from the subject countries in any way and, therefore, would not affect the availability of the product under consideration to the consumers.

195. Some of the interested parties have contended that the imposition of anti-dumping duty will make downstream product uncompetitive and lead to reduction in exports. The Authority notes from the information on record that the imposition of antidumping measures would not have any significant impact on the prices of downstream products.

196. Some of the interested parties have contended that they are forced to import due to the inferior quality of the subject goods produced by the applicant and the delay in deliveries. The Authority notes that the applicant has been catering to a large share of the market and has been using its plant at high-capacity utilisation. This would not have been possible if the subject goods produced by the applicant were of the inferior quality. The

Authority further notes that as per the data on record, the applicant has piled up inventories and a delay in delivery is unlikely in such a situation. The domestic industry has also submitted that it takes only 24 hours for delivery of 90% of the orders, whereas the transit time for imports is between 45-60 days for the Middle East, and 70 days for the USA.

197. Some of the interested parties have contended that COVID-19 has impacted the downstream industry. The Authority notes that the effects of COVID-19 are not restricted to the downstream industry but to all entities not just in India, but globally.
198. The interested parties have emphasized that the applicant has sought trade remedial measures on a number of products. In response, the applicant has highlighted that it produces 75 products, of which duties are in force against very few. The Authority notes that the number of products on which duty has been sought cannot be a consideration for the decision concerning imposition of duty. Irrespective of the number of products on which a producer may seek duty, any duty would be imposed only if the Authority finds that there is dumping, injury and causal link. Therefore, any duty that has been imposed on any of the products produced and supplied by the applicant, is only after due examination of the relevant factors, and having regard to the merits of the case.
199. While none of the users have substantiated a significant impact of duties on their operations, the domestic industry has provided details of impact of duties on the downstream products, as below.

Sector	End use	Price of end product	Use of LDPE material (gms) per unit	Cost of LDPE material per unit	Cost escalation of LDPE material	% of cost increment as end product price
LD Foam	4" Mattress (PU+PE)	3,500	1500	116.0	8.2	0.23%
LD Foam	43" TV packing	35000	1000	77.3	5.5	0.02%
LD Foam	250 lts Fridge packing	16000	500	38.7	2.7	0.02%
Milk film	1 ltr Milk pouch	50	2	0.2	0.0	0.02%
Shrink film	Cold drink 12x2.25 ltr	1140	17	1.5	0.1	0.01%
Laminates	Snack Packaging 50 gm	10	1	0.1	0.0	0.05%

LD EC	Tarpaulin (200 GSM, 3X4) sqm	550	528	50.6	2.9	0.53%
LD EC	Pondliner (500-micron,3 x 4) sqm	1200	1200	115.0	6.6	0.55%
LD W&C	185 Sqmm 11KV XLPE Aluminium Cable	1600	400	30.9	0.0	0.00%

200. The Authority notes that there is no significant impact on the downstream industry.

### K. CONCLUSION & RECOMMENDATIONS

201. 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 subject goods produced by the domestic industry is a like article to the product under consideration imported from the subject countries.
- b. While there is a particular market situation in Saudi Arabia, there is no evidence to show that it prevented a proper comparison between the domestic and export sales.
- c. The Authority has determined that dumping margin for exports from Qatar and UAE is negative. Thus, the Authority concludes that imports from Qatar and UAE into India are not dumped imports. Rule 14(c) of the Rules require that the Authority shall terminate an investigation immediately if it determines that the margin of dumping is less than two per cent of the export price. Thus, the investigation is terminated against exports of the subject goods from UAE and Qatar in accordance with Rule 14(c) of the Rules. Accordingly, the subject countries comprise of USA, Saudi Arabia, Singapore, and Thailand only.
- d. The subject goods are being dumped into India from the subject countries i.e USA, Saudi Arabia, Singapore and Thailand. Considering the normal value and the export price of the product under consideration, the dumping margin has been determined for the subject countries. The dumping margin is positive and significant for subject countries.
- e. The volume of imports into India declined in 2018-19, as the domestic industry increased capacity. However, during the period of investigation, the imports have increased, in absolute terms as well as in relation to production and consumption.
- f. The imports of the subject goods from the subject countries are undercutting the prices of the domestic industry.

- g. The imports have suppressed and depressed the prices of the domestic industry, as the landed price and selling price of the domestic industry declined despite an increase in raw material price.
- h. The capacity, production and capacity utilization of the domestic industry increased. The domestic sales of the domestic industry increased till 2018-19, but declined marginally in the period of investigation.
- i. While the market share of domestic industry has declined slightly in the period of investigation, it has increased over the period. By comparison, the market share of imports has reduced over the injury period, though is higher than the preceding year. The domestic industry has maintained its market share by lowering its selling price to match with the dumped imports.
- j. The inventories of the domestic industry have increased over the period.
- k. The profits, the cash profits and the return on capital employed of the domestic industry have declined significantly during the injury period.
- l. The EBITDA per unit of the domestic industry has declined over the injury period. Therefore, the decline in profitability of the domestic industry cannot be attributed to increase in finance and depreciation costs.
- m. While the volume parameters of the domestic industry are not affected by the imports, the price and profitability parameters show a significant adverse impact. This implies that while the domestic industry was able to increase its market share, it was forced to compromise on its profits and reduce its prices to achieve the same. This is because the imports entered the market at prices below the prices of the domestic industry. The price of imports has declined, despite an increase in the price of ethylene. It is, therefore, evident that while the domestic industry has not suffered injury in terms of its volume parameters, the imports have adversely impacted the profitability of the domestic industry. Thus, the domestic industry has suffered material injury.
- n. The domestic industry is engaged in production of a number of polymers. However, injury analysis is required to be conducted with reference to the performance of the like article, or the narrowest range or group of products, which includes the like article. Therefore, the performance of the polymer segment as a whole is not determinative of the performance of the domestic industry for the subject goods.
- o. The injury to the domestic industry has been caused by the dumping of the subject imports in India, and the injury cannot be attributed to other known factors, including Covid-19, shutdown of plant, increase in capacity, imports by the domestic industry or use of naphtha.
- p. The price of imports from other countries is much higher than the price of imports from the subject countries.
- q. The information on record shows that non-imposition of anti-dumping duty will adversely impact the indigenous production, while imposition of anti-dumping duty will not materially impact the consumers or the downstream industry or the public at large.

- r. The imposition of the anti-dumping duty will not hamper the availability of the product under consideration but will ensure that the same is available at fair prices. Further, the product under consideration can also be imported from other sources, such as Qatar, UAE, Belgium, Netherlands, Korea RP.
- s. The impact of duties on the prices of the downstream products would be negligible.
- t. On the basis of the information provided by the interested parties and the investigation conducted, the Authority is of the view that imposition of the anti-dumping duty will not be against public interest.
- u. In view of the foregoing, the Authority concludes that the domestic industry has suffered material injury due to the significant dumping of the product under consideration from the subject countries.

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

203. Having regard to the lesser duty rule followed by the Authority, the Authority recommends the imposition of the anti-dumping duty equal to the lesser of 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 the subject goods, originating in or exported from the subject countries, for a period of five years from the date of the notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below. The landed value of the imports for this purpose shall be the assessable value as determined by the Customs under Customs Act, 1962 and applicable level of the custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

**Duty Table**

SN	Heading	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	3901	Low Density Polyethylene (LDPE) or high-	Saudi Arabia	Any country including	Rabigh Refining and Petrochemical Company	48.73	MT	USD

		pressure polyethylene*		Saudi Arabia				
2	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Saudi Arabia	Any country including Saudi Arabia	Sadara Chemical Company	48.73	MT	USD
3	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Saudi Arabia	Any country including Saudi Arabia	Saudi Ethylene and Polyethylene Company	17.05	MT	USD
4	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Saudi Arabia	Any country including Saudi Arabia	Any producer other than at serial number 1,2 and 3	70.09	MT	USD
5	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Any country other than Saudi Arabia, Thailand, Singapore, and USA	Saudi Arabia	Any	70.09	MT	USD
6	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Singapore	Any country including Singapore	Any	185.17	MT	USD
7	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Any country other than Saudi Arabia, Thailand, Singapore, and USA	Singapore	Any	185.17	MT	USD
8	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Thailand	Any country including Thailand	Thai Polyethylene Company Limited	89.14	MT	USD

9	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Thailand	Any country including Thailand	PTT Global Chemical Public Company Limited	134.47	MT	USD
10	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Thailand	Any country including Thailand	Any producer other than at serial number 8 and 9	216.76	MT	USD
11	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Any country other than Saudi Arabia, Thailand, Singapore, and USA	Thailand	Any	216.76	MT	USD
12	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	USA	Any country including USA	Westlake Polymers LLC	NIL	MT	USD
13	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	USA	Any country including USA	Westlake Longview Corporation	NIL	MT	USD
14	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	USA	Any country including USA	Any producer other than at serial number 12 and 13	74.27	MT	USD
15	3901	Low Density Polyethylene (LDPE) or high-pressure polyethylene*	Any country other than Saudi Arabia, Thailand, Singapore, and USA	USA	Any	74.27	MT	USD

\*The scope of product under consideration excludes compounded LDPE and LDPE having density greater than 0.925 GM/cubic CM.

## L. FURTHER PROCEDURE

204. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

  
(Anant Swarup)  
**Designated Authority**