

To be published in Part-I Section I of the Gazette of India Extraordinary

**F. No.6/6/2020-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 18th June, 2020

NOTIFICATION

PRELIMINARY FINDINGS

CASE NO. ADD-(OI) 05/2020

Sub: Preliminary Findings in the Anti-dumping investigation concerning imports of "Black Toner in powder form" originating in or exported from China PR, Malaysia and Chinese Taipei.

A. BACKGROUND OF THE CASE

1. M/s Pure Toners and Developers Pvt. Ltd and M/s Indian Toners and Developers Ltd (hereinafter referred to as the "Applicants") have filed an application before the Designated Authority (hereinafter also referred to as the "Authority") on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the "Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the "Rules") for imposition of Anti-dumping Duty concerning imports of " Black Toner in powder form " (hereinafter also referred to as "subject goods" or "product under consideration" or "PUC" or "Black Toner"), originating in or exported from China PR, Malaysia and Chinese Taipei (hereinafter also referred to as the "subject countries").
2. The Authority, on the basis of prima facie evidence, issued a public notice *vide* Notification No. 6/6/2020 - DGTR dated 10th February, 2020, published in the Gazette of India Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine 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 remove the alleged injury to the Domestic Industry.

B. PROCEDURE

- i. The procedure described herein 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 present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
- b) The Authority issued a public notice dated 10th February, 2020 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from the subject countries.
- c) The Authority sent a copy of the initiation notification to the Embassies of the subject countries in India, known producers/exporters from the subject countries and known importers/users as per the addresses made available by the Applicants and requested them to make their views known, in writing, within the prescribed time limit.
- d) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the 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 countries 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 them along with the names and addresses of the known producers/exporters from their countries.
- f) The Authority sent Exporter's questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 - i. Hubei Far East, China PR
 - ii. Wuhan Point Role, China PR
 - iii. Handan Hangguang, China PR
 - iv. wuxi jiatieng, China PR
 - v. Dinglong, China PR
 - vi. Nanjing Teshine, China PR
 - vii. Comet, China PR
 - viii. Wuhan Techwin Toner and Developer Limited, China PR
 - ix. Jadi, Malaysia
 - x. TTI, Chinese Taipei
- g) The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

- i. Vedica Computer Pvt. Ltd.
- ii. Datalink industrial corporation
- iii. Atul Automation Private Ltd
- iv. Cartridgewala.com
- v. Copytron Technology
- vi. Indrayani Sales Pvt. Ltd.
- vii. Best Mega international
- viii. Sumanglam international private limited
- ix. Rank office automation P Ltd.
- x. Image Star Print Solutions Pvt Ltd

- h) The Authority, upon request, granted multiple extensions, to file Exporter Questionnaire Response (EQR), which was placed in the public domain through DGTR's website. The last date to file the questionnaire response is 10th June, 2020. However, while granting extension it was clearly stated the Authority reserves the right to grant interim relief to the domestic industry.
- i) The Authority made available non-confidential version of the application as well as updated data to the interested parties on their request.
- j) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and its analysis after due examination of the transactions.
- k) The Non-Injurious Price (NIP) has been determined based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the Domestic Industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- l) The information/data submitted by the Applicants has been examined to the extent possible for the purpose of preliminary findings. The detailed verification will be carried in due course.
- m) The Period of Investigation for the purpose of the present anti-dumping investigation is from 1st April, 2019 to 31st December, 2019 (9 Months). The injury investigation period has, however, been considered as the period from April 2016 - March 2017, April 2017- March 2018, April 2018 - March 2019 and the POI.

n) '***' in this preliminary finding represents information furnished on confidential basis and so considered by the Authority under the Rules.

o) The exchange rate adopted by the Authority for the subject investigation is US\$= Rs. 71.22.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

- a) The product under consideration is Black Toner in powder form. Toner is used in laser printers, photocopiers, digital multifunction devices (MFD), etc. to form the printed text and images on the paper.
- b) The PUC is classified under the tariff custom classification 37079010. The PUC, however, has been also imported under the code 37079090. The customs classification is only indicative and is not binding on the scope of the product under consideration.
- c) The following Toners are not covered within the scope of the investigation:
 - i. Color Toner
 - ii. MICR Toner (Specialized Toner used for printing in Cheques)
 - iii. Toners imported for the use by Original Equipment Manufacturers of Printing Equipment.
 - iv. Toner in Cartridges
 - v. Toner in liquid form

Submissions made by the Domestic Industry

4. The submissions made by the Domestic Industry with regard to product under consideration and like article are as follows:
 - a) The Product under Consideration in the present application is "Black Toner in powder form". It is used in laser printers, photocopiers, digital multifunction devices (MFD), etc. to form the printed text and images on the paper.
 - b) The following Toners are not covered in the scope of the investigation:
 - i. Color Toner
 - ii. MICR Toner (Specialized Toner used for printing in Cheques)
 - iii. Toners imported for the use by Original Equipment Manufacturers of Printing Equipment.
 - iv. Toner in Cartridges
 - v. Toner in liquid form

- c) The product under consideration is classified under Chapter Heading 37 of the Customs Tariff Act. The classification at the 8-digit level is 37079010. However, it has been also noted from the import data that the subject goods were also imported under 37079090 HS classification.
- d) There is no difference in product produced by the Applicants and that exported from the subject countries.

Submissions made by Other Interested Parties

- 5. No submission has been made by any other interested party with regard to product under consideration.

Examination by the Authority

- 6. The submissions made by the Domestic Industry with regard to the PUC related issues have been examined and addressed hereunder.
 - a) The product under consideration (PUC) in the present investigation is “Black Toner in powder form”.
 - b) The following types of Toners are not covered within the scope of the investigation:
 - i. Color Toner
 - ii. MICR Toner (Specialized Toner used for printing in Cheques)
 - iii. Toners imported for the use by Original Equipment Manufacturers of Printing
 - iv. Equipment.
 - v. Toner in Cartridges
 - vi. Toner in liquid form
 - c) It has been noted from the information available on record that the product under consideration produced by the domestic industry is like article to the goods imported from the subject countries. Product under consideration produced by the domestic industry and imported from the subject countries are comparable in terms of physical & chemical properties, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. It is noted that the imported and the domestically sold products are technically and commercially substitutable, and the consumers are using the two interchangeably.
 - d) PUC is classifiable under Chapter Heading 37 “Photographic or cinematographic goods” of the Customs Tariff Act. The classification at the 8-digit level is 37079010. However, it has also been noted from the import data that the subject goods were also imported under 37079090 HS classification. The customs classification is indicative only and is in no way binding on the scope of the present investigation.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

Submissions made by the Domestic Industry

7. The submissions made by the Domestic Industry during the course of the investigation with regard to scope of Domestic Industry & standing are as follows:
 - a) The Applicants, M/s Pure Toners and Developers Pvt. Ltd and M/s Indian Toners and Developers Ltd., are producers of the subject goods in India. There is no other producer of the subject goods in India.
 - b) The Applicants have not imported the product under consideration from subject countries, and are also not related to any importer in India or any exporter from the subject countries.
 - c) The Applicants account for 100% of the total Indian production of PUC. The Applicants thus hold a major proportion of total Indian production of the PUC and accordingly, satisfy the requirement of standing and constitute 'Domestic Industry' in terms of Rule 2(b) read with Rule 5(3) of the Rules.

Submission of other interested parties

8. No submissions has been made by other interested parties with regard to scope of domestic industry and its standing.

Examination by the Authority

9. Rule 2(b) of the Rules provides as follows:

"domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers".
10. It is noted that the application has been filed by M/s Pure Toners and Developers Pvt. Ltd and M/s Indian Toners and Developers Ltd. The Applicants have informed that currently there is no other producer of the product under consideration in India.
11. The Applicants account for 100% of the total Indian production and constitute a major proportion. It is noted that the Applicants have not imported the product under consideration and are not related to any importer in India or any exporter from the subject countries.
12. Accordingly, the Authority holds that the Applicants satisfy the standing requirement and constitute the Domestic Industry in terms of Rule 2(b) and Rule 5(3) of the Rules.

E. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN

Submissions by the Domestic Industry

13. The following submissions have been made by the Domestic Industry:

Normal Value for China PR

14. China PR has to be presumed to be a non-market economy country in terms of Para 8 of Annexure I of the Anti-dumping Rules, as it has been treated as a non-market economy country for purposes of plethora of anti-dumping investigations by the designated authority or also by other competent authorities of WTO member countries during the preceding three years unless the concerned firms / producers / exporters are able to rebut the said presumption based on the criteria laid down in Para 8(3).
15. The significant extent of continued government intervention in certain important sectors of the Chinese economy warrants maintaining China's designation as a Non-Market Economy country. It is a known fact that China's economy is controlled by the state forces and there is a significant interference and control of the state machinery in the country's economy. The grant of Market Economy status under China's accession to the WTO is not automated but contingent upon China's compliance with the preconditions mentioned in the Accession Protocol.
16. The Authority has rejected the MET claim of the exporters even in the most recent findings [See Final Findings No.14/14/2014-DGAD, dated 8th April, 2017 in the case of Vitriified Tiles from China] on the ground of government-controlled exchange rate.
17. In view of above, the normal value for Chinese firms should be determined as per the provisions of Para 7 of the Annexure I. In terms of Para I, an appropriate third market economy country is required to be selected as the first alternative. However, domestic industry is not in a position to obtain any price details for the subject goods prevalent in any of the market economy third country as this information is not available in the public domain. The domestic industry, therefore, determined the normal value for China PR on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin. This methodology has been considered by the Designated Authority in the earlier investigations against China PR.

Normal Value for Malaysia and Chinese Taipei

18. The Applicant has claimed that they have tried to get the information of the domestic prices in Malaysia and Chinese Taipei. However, the applicants were not in a position to obtain any price details for the subject goods in these countries as this information is not available in the public domain. Therefore, the domestic industry has determined the normal value for Malaysia and Chinese Taipei on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

Export Price for China PR, Malaysia and Chinese Taipei

19. Export price from subject countries has been determined considering volume and value of imports for the proposed period of investigation as per transaction wise data collected from the DGCI&S. Adjustments have been made for ocean freight, marine insurance, port expenses, bank charges, commission, credit cost and inland freight.

Dumping Margin for China PR, Malaysia and Chinese Taipei

20. Considering the normal value and export price as discussed above, the dumping margin has been determined. The dumping margins for the subject countries are above *de minimis* levels and significant.

Submissions by the other interested parties

21. None of the interested parties have responded with regard to Market Economy Claims, Normal Value, Export Price and Dumping Margin of the subject countries.

Examination by the Authority

22. Based on the multiple requests from various interested parties several extensions have been granted by the Authority for filing Questionnaire response. It is however, noted that while granting extensions it has been amply made clear that the Authority reserves the right to grant interim relief to the domestic industry.

Market Economy Status

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

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

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

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

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

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

24. It is noted that while, the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since neither of the responding producer and the exporter from China PR have submitted supplementary questionnaire response, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.
25. Accordingly, the normal value for all the producers / exporters from China PR have been determined as below.

Normal Value for China PR

26. At the stage of initiation, the Authority, after evaluating the options under Para 7 to Annexure I of the Rules, had Constructed Normal Value as Applicants have claimed that they are not in a position to obtain any price details for the subject goods prevalent in any of the market economy third country. Upon initiation, the Authority advised the producers/exporters in China PR to respond to the notice of initiation and provide information relevant to determination of whether their data/information could be adopted for the purpose of normal value determination. The Authority sent copies of supplementary questionnaire to all the known producers/ exporters for providing relevant information in this regard. In absence of rebuttal of non-market economy presumption, so far it is considered appropriate to proceed with Para-7 of Annexure-I to the Rules for determination of Normal Value for China PR. The Authority has,

therefore, constructed Normal Value on the basis of cost of production in India based on the cost of the domestic industry duly adjusted with selling, general and administrative expenses with reasonable profit.

Normal Value for Malaysia and Chinese Taipei

27. On account of non-submission of exporter's questionnaire response from Malaysia & Chinese Taipei, the Authority has construed Normal Value on the basis of the cost of production in India based on the cost of the domestic industry duly adjusted with selling, general and administrative expenses with reasonable profit.

Export Price for China PR, Malaysia and Chinese Taipei

28. Exporter's questionnaire response has not been received from Malaysia & Chinese Taipei. In the questionnaire response filed by Chinese producers/exporters certain discrepancies have been noticed and pointed out. Accordingly, the export price has been determined in respect of the subject countries on the basis of best available information in terms of Rule 6(8) of the Rules. Adjustments have been made for ocean freight, marine insurance, port expenses, bank charges, commission, credit cost and inland freight.

Dumping Margin

29. Considering the normal value as constructed above, and export price as determined, the dumping margin determined for the subject countries are as follows:

Particulars	Unit	China PR	Chinese Taipei	Malaysia
Constructed Normal value	Rs/MT	***	***	***
Net Export Price	Rs/MT	***	***	***
Dumping Margin	Rs/MT	***	***	***
Dumping Margin	USD/MT	***	***	***
Dumping Margin %	%	***	***	***
Dumping Margin % Range	% Range	20-40	0-20	60-80

F. INJURY ASSESSMENT AND CAUSAL LINK

Submissions made by the Domestic Industry

30. The submissions made by Domestic Industry are as follows:
- a) The imports of the subject goods from the subject countries have increased significantly throughout the injury investigation period. The imports of the subject goods from the subject countries increased from 2,203 MT in the base year to 3,107 MT during the POI (A) i.e., there is an increase of 41%. The imports of the subject goods from the subject countries have also increased significantly in the POI (A) as compared to the year 2017-18 and 2018-19.

- b) The share of imports of the subject goods from the subject countries in the total imports is very high to the tune of 88.03% in the POI. It clearly indicates that the imports of the subject goods from the subject countries have been able to capture a significant market share in the domestic market due to aggressive dumping by the exporters from the subject countries. The significant rate of increase of dumped imports into India also indicates the likelihood of substantially increased importation. Therefore, there is also a clear case of threat of material injury to the domestic industry.
- c) The share of the imports of the subject goods from the subject countries in relation to the total demand in India has increased significantly in the POI as compared to the previous years. This clearly indicates that the domestic industry is suffering injury due to excessive dumping of the subject goods from the subject countries. Further, the significant rate of increase of dumped imports into India also indicates the likelihood of substantially increased importation and threat of material injury to the domestic industry.
- d) The share of imports of the subject goods from subject countries in relation to the production has increased significantly in the POI as compared to the preceding years. This clearly indicates that the domestic industry is suffering injury due to excessive dumping of the subject goods from the subject countries. The significant rate of increase of dumped imports into India also indicates the likelihood of substantially increased importation and threat of material injury to the domestic industry.
- e) The imports of the subject goods from subject countries have increased not only in absolute terms but have also increased in relation to total demand and domestic production.
- f) The average landed value of the subject countries declined significantly in the POI as compared to previous years, accordingly, selling price of the domestic industry also declined during the POI. On the contrary, the cost of the domestic industry has increased in the POI as compared to the base year as well as preceding years. The prices of the domestic industry have declined and have been suppressed on account of dumped imports of the subject goods from the subject countries and, therefore, it would likely increase the demand for further imports. Accordingly, along with the current material injury, threat of material injury is also imminent.
- g) The demand in the domestic market has increased substantially in the POI (A). However, market share of the domestic industry in demand has declined in the POI (A). This clearly establishes the fact that imports have caused injury to the domestic industry with respect to market share also.
- h) The domestic industry has increased its capacity on account of increase in demand. The demand has significantly increased in the POI (A). However, the capacity utilization of the domestic industry has declined in the POI (A) on account of increase in dumped imports.

- i) The productivity per employee of the domestic industry declined during the POI (A) as compared to 2017-18 and 2018-19 on account of low value dumped imports of the subject goods from the subject countries.
- j) The domestic sale of the domestic industry has declined significantly in the POI (A) as compared to 2017-18 and 2018-19 despite significant increase in the demand. The domestic industry has suffered adversely on account of significant increase of the dumped imports.
- k) The number of employees engaged by the domestic industry has declined in the POI on account of the decline in production, sales and capacity utilization of the domestic industry due to low value dumped imports. This clearly shows the injurious impact of the dumped imports.
- l) The profitability of the domestic industry has been severely affected in the period of investigation due to intensified dumped imports of the subject goods from the subject countries. The low value dumped imports suppressed and depressed the domestic selling prices of the domestic industry, which would likely further increase its demand. Accordingly, there is current injury as well as also a threat of material injury to the domestic industry.
- m) The return on capital employed (ROCE) of the domestic industry declined significantly in the POI as compared to the previous years. It clearly indicates that the domestic industry has suffered material injury on account of dumped imports of the subject goods from the subject countries.
- n) The inventory of the subject goods has increased significantly due to the increase in the low value dumped imports of the subject goods from the subject countries.
- o) Both price undercutting and price underselling are positive and significant during the period of investigation. This clearly shows the injurious impact of the dumped imports on the domestic industry.
- p) The dumping margin from subject countries is significantly positive, and thus indicative of the aggressive pricing of the subject goods. The domestic industry has suffered injury on account of the same.
- q) The cash flow position of the domestic industry has significantly deteriorated in period of investigation as compared to the base year as well as the preceding years. The injury to the domestic industry on account of dumped imports is imminent.
- r) Decline in capacity utilization, production, domestic sales, domestic market share, profitability, ROCE, cash flow etc. clearly shows the injurious impact of the low value dumped imports of the subject goods from the subject countries. The only reason for the poor financial performance of the domestic industry is that it is not able to raise its prices due to the intensified dumped imports. It is a very unfortunate situation for the domestic industry that despite significant increase in demand, the financial performance continues to suffer.

- s) Future investment in the sector is also marred by the presence of dumped imports from subject countries. The decline in capacity utilization, production, domestic sales, domestic market share, profitability, ROCE, cash flow etc., clearly indicate that the ability of the domestic industry to raise capital investments for the sector is jeopardized by the dumped imports.

Submission by other interested parties

31. None of the interested parties have filed submissions in this regard.

Examination by the Authority

32. *Para (iii) of Annexure II of the Rules states the following:*

“(iii) In cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the designated authority will cumulatively assess the effect of such imports, only when it determines that (a) the margin of dumping established in relation to the imports from each country is more than two per cent expressed as a percentage of export price and the volume of imports from each country is three per cent of the import of like article or where the export of individual countries less than three per cent, the imports collectively accounts for more than seven per cent of the import of the like article, and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.”

33. The Authority notes that:

- a) The product under consideration is being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
- b) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
- c) Cumulative assessment of the effects of imports is thus appropriate as the exports from the subject countries not only directly compete inter se but also with the like articles offered by the domestic industry in the Indian market.

34. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from imports of the product under consideration from the subject countries.

35. The submissions made by the Domestic Industry with regard to the injury assessment and causal link have been examined in light of various parameters in accordance with the Rule 11 of Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the Domestic Industry, ".... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles ". In

considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the Domestic Industry evaluation of all relevant economic factors and indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

Volume Effect of Dumped Imports on the Domestic Industry

(a) Assessment of Demand/Apparent Consumption

36. For the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources has been taken into consideration. The demand so assessed has increased in the POI and preceding years as compared to the base year.

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Imports from Subject Country	MT	2,203	2,569	2,617	2,331	3,107
Imports from Other Countries	MT	225	325	462	317	423
Total Imports	MT	2,428	2,894	3,080	2,648	3,530
Sales of Domestic Industry	MT	***	***	***	***	***
Trend	Indexed	100	108	109	68	91
Sales of Other Domestic Producers	MT	***	***	***	***	***
Trend	Indexed	0	0	0	0	0
Total Domestic Sales	MT	***	***	***	***	***
Trend	Indexed	100	108	109	68	91
Demand	MT	***	***	***	***	***
Trend	Indexed	100	113	117	86	115

37. As can be seen from the above table, the dumped imports from subject countries have increased during the POI as compared to base year and preceding years. The domestic sales of the domestic industry declined on account of increase in the dumped imports.

(b) Import Volumes from the subject countries

38. With regard to the volume of the imports, it is noted that there has been a significant increase in imports from the subject countries, both in absolute terms and relative terms to production or consumption in India.

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Imports from Subject Country	MT	2203	2569	2617	2331	3107
Imports from Other Countries	MT	225	325	462	317	423
Total Imports	MT	2,428	2,894	3,080	2,648	3,530
Total PUC Production	MT	***	***	***	***	***

Demand of Subject goods in India	MT	***	***	***	***	***
Imports from Subject Country in relation to						
Production	%	***	***	***	***	***
Trend	Indexed	100	110	111	164	164
Consumption	%	***	***	***	***	***
Trend	Indexed	100	103	102	122	122

39. It is noted from the above table that imports of the subject goods from the subject country have increased in absolute terms in the POI as compared to the base year and preceding year.

40. It is noted that the imports of PUC from the subject countries, in relation to production and demand, have also increased in the POI as compared to the base year and preceding years.

(c) Market Share in demand

41. It is noted that the market share of the domestic industry has declined in the POI as compared to previous years. The Applicants has lost market share in POI despite increase in demand of the product under consideration.

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Market share in demand						
Domestic Industry	%	***	***	***	***	***
Trend	Indexed	100	96	93	79	79
Subject Countries	%	***	***	***	***	***
Trend	Indexed	100	103	102	122	122

Price Effect of Dumped Imports on the Domestic Industry

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

(a) Price Undercutting

43. For the purpose of price undercutting analysis, the selling price of the Domestic Industry has been compared with the landed value of imports from the subject countries. Accordingly, the undercutting effects of the dumped imports from the subject countries works out as follows:

i. Price Undercutting (Subject Countries)

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Landed price from Subject Countries	Rs/MT	3,58,173	3,41,697	3,49,364	3,18,726	3,18,726
Trend	Indexed	100	95	98	89	89
Net selling price of Domestic Industry	Rs/MT	***	***	***	***	***
Trend	Indexed	100	94	93	91	91
Price undercutting	Rs/MT	***	***	***	***	***
Trend	Indexed	100	86	58	107	107
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	0%-20%	0%-20%	0%-20%	0%-20%	0%-20%

ii. Price Undercutting (China PR)

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Landed price from Subject Countries	Rs/MT	3,70,695	3,40,101	3,42,287	3,14,219	3,14,219
Trend	Indexed	100	92	92	85	85
Net selling price of Domestic Industry	Rs/MT	***	***	***	***	***
Trend	Indexed	100	94	93	91	91
Price undercutting	Rs/MT	***	***	***	***	***
Trend	Indexed	100	120	97	156	156
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	0%-20%	0%-20%	0%-20%	0%-20%	0%-20%

iii. Price Undercutting (Chinese Taipei)

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Landed price from Subject Country	Rs/MT	357766	348658	375237	360785	360785
Trend	Indexed	100	97	105	101	101

Net selling price of Domestic Industry	Rs/MT	***	***	***	***	***
Trend	Indexed	100	94	93	91	91
Price undercutting	Rs/MT	***	***	***	***	***
Trend	Indexed	100	71	6	22	22
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	0%-20%	0%-20%	0%-20%	0%-20%	0%-20%

iv. Price Undercutting (Malaysia)

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Landed price from Subject Country	Rs/MT	324968	323794	380344	241052	241052
Trend	Indexed	100	100	117	74	74
Net selling price of Domestic Industry	Rs/MT	***	***	***	***	***
Trend	Indexed	100	94	93	91	91
Price undercutting	Rs/MT	***	***	***	***	***
Trend	Indexed	100	73	(3)	158	158
Price undercutting	%	***	***	***	***	***
Price undercutting	Range	20%-40%	0%-20%	-20%-0%	40%-60%	40%-60%

44. From the aforesaid table, it can be observed that the imports from the subject countries are coming at prices significantly below the domestic selling price of the Applicants. Thus, price undercutting during the period of investigation is positive for the subject countries.

(b) Price Suppression and Depression

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

Particulars	UOM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Landed value - Subject Countries	Rs/MT	358173	341697	349364	318726	318726
Trend	Indexed	100	95	98	89	89
Domestic selling price Rs/MT	Rs/MT	***	***	***	***	***
Trend	Indexed	100	94	93	91	91
Cost Rs./MT	Rs/MT	***	***	***	***	***
Trend	Indexed	100	91	98	106	106

46. From the above table, it is noted that the imports from the subject countries were coming at prices lower than the cost of sales of the Domestic Industry in the POI. This

has forced Domestic Industry to reduce its prices during POI, and therefore, resulted in significant decline in the profits. It is noted that the cost of sales (Rs/MT) has significantly increased by 6% in POI as compared to base year, whereas the selling price of domestic industry has declined by 9% during the same period. Therefore, there is significant price depression and suppression on account of dumped imports.

Economic Parameters of the Domestic Industry

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

(a) Production, Capacity, Sales and Capacity Utilization

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

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Capacity	MT	***	***	***	***	***
Trend	Indexed	100	117	117	88	117
Production	MT	***	***	***	***	***
Trend	Indexed	100	106	107	64	86
Domestic Sales	MT	***	***	***	***	***
Trend	Indexed	100	108	109	68	91
Capacity Utilization	%	***	***	***	***	***
Trend	Indexed	100	91	91	73	73

50. The production, sales and capacity utilization of the Applicants have declined in POI (A) as compared to previous years. The same appears to be due to the significant volume of dumped imports coming from the subject countries.

(b) Profitability, return on investment and cash profits

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

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Domestic Sales	MT	***	***	***	***	***
Trend	Indexed	100	108	109	68	91
Demand	MT	***	***	***	***	***
Trend	Indexed	100	113	117	86	115
Selling Price	Rs./MT	***	***	***	***	***
Trend	Indexed	100	94	93	91	91
Cost of Sales Price	Rs./MT	***	***	***	***	***
Trend	Indexed	100	91	98	106	106
Profit & Loss	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	117	78	17	22
Profit & Loss	Rs./MT	***	***	***	***	***
Trend	Indexed	100	108	71	25	25
Cash Profit	Rs./MT	***	***	***	***	***
Trend	Indexed	100	108	77	43	43
Return on Capital Employed (ROCE)	%	***	***	***	***	***
Trend	Indexed	100	102	63	19	19

52. From the above table, it is noted that:

- a) In spite of continuous increase in demand of PUC, the Domestic Industry's profitability declined significantly due to following reasons:
 - The cost (Rs./MT) has increased by 6% in the POI as compared to the base year. The cost has increased by 15% in the POI as compared to 2017-18.
 - The domestic selling price declined by 9% in the POI as compared to the base year due to dumped imports.
 - The sales volume has declined in POI (A) by 9% in comparison to the base year on account of aggressive dumping despite significant increase in demand.
- b) Similarly, the cash profits of the Domestic Industry have reduced substantially from 108 indexed points in 2017-18 to 43 indexed points during the POI (A).
- c) Return on capital employed during POI has also reduced significantly to 19 indexed points in POI (A) from 102 indexed points in 2017-18.

(c) Employment, productivity and wages

53. Employment, productivity and wages of Domestic Industry over the injury period is given in the table below:

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Employees	Nos	***	***	***	***	***
Trend	Indexed	100	101	95	86	86
Wages	Rs. Lacs	***	***	***	***	***

Trend	Indexed	100	108	115	89	118
Productivity	Rs. Lac	***	***	***	***	***
Trend	Indexed	100	106	107	64	86
Wages/employee (Rs. per annum)	Rs/Nos	***	***	***	***	***
Trend	Indexed	100	107	121	103	137

54. It is noted that the employment of the Domestic Industry and productivity have declined in the POI whereas wages & wage/employee have registered increase.

(d) Inventories

55. Inventory position with the Domestic Industry over the injury period is given in the table below:

Particulars	UoM	2016-17	2017-18	2018-19	POI	POI (Annualised)
Average Inventory	MT	***	***	***	***	***
Trend	Indexed	100	162	233	409	409

56. It is noted that the inventories with the Domestic Industry have increased to 409 indexed points during POI (A) as compared to 100 indexed points in 2016-17. Due to increased dumped imports, the market share of the Domestic Industry has come down in POI. The increased demand has been captured by dumped imports.

(e) Growth

57. It is noted that growth of the Domestic Industry with regard to market share in demand, production, sales and capacity utilization have declined significantly in the POI as compared to 2017-18 and 2018-19.

(f) Factors affecting domestic prices

58. The examination of the import prices from the subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the Domestic Industry in the domestic market, etc. shows that the landed value of imported material from the subject countries is below the selling price and the cost of production of the Domestic Industry, causing significant price undercutting as well as price suppression in the Indian market. It is also noted that the demand for the subject goods significantly increased during the POI as compared to the previous years. Thus, it can be provisionally concluded that the principal factor affecting the domestic prices is the dumped imports of subject goods from the subject countries.

Magnitude of Injury and Injury Margin

59. The Authority has determined Non-Injurious Price for the Domestic Industry on the basis of principles laid down in Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined based on information/data relating to the cost of production for the period of investigation. The NIP of the Domestic Industry has been worked out and it has been compared with the landed price from the subject countries for calculating injury margin.

Particulars	UOM	China PR	Chinese Taipei	Malaysia
Non-injurious price (NIP)	Rs/MT	***	***	***
Landed price of imports	Rs/MT	314219	360785	241052
Injury Margin	Rs/MT	***	***	***
Injury Margin	USD/MT	***	***	***
Injury Margin	%	***	***	***
Injury Margin	% - Range	10-30	0-20	40-60

60. The injury margins from all the subject countries are positive and significantly high from China PR & Malaysia.

G. NON-ATTRIBUTION ANALYSIS

61. As per the Rules, it is, *inter alia*, required to be examined whether any known factors other than the dumped imports at the same time are injuring the Domestic Industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the Domestic Industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the Domestic Industry.

Volume and price of imports from third countries

62. The share of the imports from countries other than the subject countries is only 12% in the total imports during the POI. The import price from other countries is significantly higher as compared to the prices from the subject countries. Hence, imports from third countries are neither causing nor threatening to cause injury to the Domestic Industry.

Export Performance

63. The data for domestic operations only has been considered for the injury analysis.

Development of Technology

64. None of the interested parties have participated and furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the Domestic Industry.

Performance of other products of the company

65. The domestic industry is majorly engaged in the production and sales of PUC. Only M/s Indian Toners and Developers Ltd has sold meager quantity of other product. Accordingly, performance of other products is neither causing nor threatening to cause injury to the Domestic Industry.

Trade Restrictive Practices and Competition between the Foreign and Domestic Producers

66. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. No evidence has been submitted by any interested party, to suggest that injury has been caused on account of competition between the foreign and the domestic producers.

Contraction in Demand and Changes in pattern of consumption

67. It is noted that the demand of the subject goods has increased consistently over the entire injury period except a marginal decline in the POI (A) as compared to 2018-19, which may be on account of annualisation of numbers of the POI. Thus, it can be provisionally concluded that the injury to the Domestic Industry is not due to contraction in demand.

H. CONCLUSION ON INJURY & CAUSAL LINK

68. In view of above, it has been noted that:
- a) Imports of the subject goods from the subject countries have increased in absolute terms over the entire period of investigation.
 - b) Imports of the subject goods have increased in relation to its production and consumption in India.
 - c) There is price depression and suppression due to low priced dumped imports coming in to India.
 - d) Market share of the Domestic Industry has decreased in POI as compared to previous year even though demand for the subject goods has risen during the same period. This is due to the increase in percentage share of imports in total demand of PUC.
 - e) The Domestic Industry's profits and return on capital employed has been adversely affected in POI as compared to previous years due to increase in imports of the subject goods from the subject countries during the POI.
 - f) The price undercutting and injury margin from the subject countries during the POI is positive.

I. CONCLUSION & RECOMMENDATIONS

69. After examining the submissions made and considering the facts available on record, it is noted that:
- There is substantial increase in imports of subject goods from the subject countries in absolute terms as well as in relation to its production & consumption in India, during the POI as compared to the previous year.
 - The product under consideration has been exported to India from the subject countries below the normal value.
 - The Domestic Industry has suffered material injury.
 - Material injury has been caused by the dumped imports of subject goods from the subject countries.
70. It is noted that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the Domestic Industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, it is felt that imposition of provisional duty is required to offset dumping and injury, pending completion of the investigation. Therefore, imposition of provisional anti-dumping duty on imports of subject goods from the subject countries is required to be considered.
71. In terms of provision contained in Rule 4(d) and 17(b) of the Rules, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the Domestic Industry. Accordingly, the Authority recommends imposition of provisional anti-dumping duty on the imports of subject goods, originating in or exported from subject countries, from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

Duty Table

S.No.	*HS Code	Description of goods	Country of origin	Country of Export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	37079010, 37079090	Black Toner in Powder Form	China PR	Any country including China PR	Any	834	MT	USD

S.No.	*HS Code	Description of goods	Country of origin	Country of Export	Producer	Amount	Unit	Currency
2.	37079010, 37079090	Black Toner in Powder Form	Any country other than China PR, Chinese Taipei & Malaysia	China PR	Any	834	MT	USD
3.	37079010, 37079090	Black Toner in Powder Form	Malaysia	Any country including Malaysia	Any	1686	MT	USD
4.	37079010, 37079090	Black Toner in Powder Form	Any country other than Malaysia, China PR & Chinese Taipei.	Malaysia	Any	1686	MT	USD
5.	37079010, 37079090	Black Toner in Powder Form	Chinese Taipei	Any country including Chinese Taipei	Any	196	MT	USD
6.	37079010, 37079090	Black Toner in Powder Form	Any country other than Chinese Taipei, China PR & Malaysia.	Chinese Taipei	Any	196	MT	USD

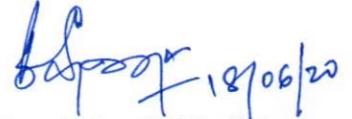
**The customs classification is only for indicative purpose.*

J. FURTHER PROCEDURE

72. The procedure as below would be followed subsequent to notifying the preliminary findings:

- i. Comments on these preliminary findings from all the interested parties will be invited and the same, if considered relevant, would be considered in the final findings.
- ii. Domestic Industry, exporters, importers and other interested parties known to be concerned will be addressed separately, who may make their views known, within thirty days from the date of the publication of these preliminary findings.

- iii. Any other interested party may also make known its views within thirty days from the date of publication of these findings.
- iv. Further verification would be conducted to the extent deemed necessary.
- v. The essential facts, as per the Rules, would be disclosed before the final findings.



(Bhupinder S. Bhalla)
Additional Secretary and Designated Authority