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No.14/36/2016-DGAD

Government of India

Department of Commerce

Ministry of Commerce & Industry

(Directorate General of Anti-Dumping & Allied Duties)

4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi -110001

Dated 28th March,2017

Preliminary Findings

Subject: Anti-dumping investigation concerning imports of 'Toluene Di-Isocyanate (TDI)' originating in or exported from China PR, Japan and Korea RP.

No.14/36/2016-DGAD: - 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, [hereinafter also referred to as the Rules], as amended from time to time, thereof;

2. Whereas M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited (hereinafter referred to as "the petitioner" or "the applicant") have filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and Rule *supra* for initiation of anti-dumping investigation and imposition of anti-dumping duty concerning imports of "Toluene Di- Isocyanate" (TDI in short) (hereinafter also referred to as the subject goods or product under consideration), originating in or exported from China PR, Japan and Korea RP (hereinafter also referred to as the subject countries) alleging dumping of subject goods from subject countries and consequent injury to the domestic industry.
3. And whereas the Authority on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No.14/36/2016-DGAD dated 05.10.2016,published in the Gazette of India, Extraordinary, initiating the subject anti-dumping investigation in accordance with the sub Rule 5 of the AD Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

4. The procedure described herein below has been followed by the Authority with regard to the subject investigation;
- i. Preliminary scrutiny of the application showed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented. The Authority, on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries.
 - ii. The Authority notified the embassy 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*.
 - iii. In addition to the provisions of sub-rule (5) of Rule 5 *supra*, the Government of Korea RP was informed through its Embassy in India about the receipt of the subject application as per provisions of Article 2.14 of Comprehensive Economic Partnership Agreement (CEPA) between India and Korea RP
 - iv. Post initiation, 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, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification as per Rule 6(2) of the AD Rules. Necessary extensions to file such submissions wherever warranted have also been permitted by the Authority.
 - v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject country in India in accordance with Rule 6(3) of the Rules *supra*. A copy of the application was also provided to other interested parties, wherever requested. 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.
 - vi. The Authority sent questionnaires to elicit relevant information to the following known producers/exporters in subject countries in accordance with Rule 6(4) of the AD Rules;
 - a) Yantai Juli Fine Chemical Co., Ltd,
China PR.
 - b) Changzhou Dahua Group Co., Ltd,
China PR.
 - c) Shanghai BASF Polyurethane Co., Ltd,
China PR.
 - d) Bayer Material Science (China) Co., Ltd,
China PR.

- e) Mitsui Chemicals & SKC Polyurethanes,
Japan.
 - f) Nippon Polyurethane Industry Co., Ltd,
Japan.
 - g) Hanwha Fine Chemical Co., Ltd.
Korea RP
 - h) OCI Corporation/OCI Company Ltd.
Korea RP
 - i) BASF Company Ltd.
Korea RP
- vii. In response to the initiation notification and intimation, the following exporters / producers from subject countries have responded to the Authority by filing Exporter Questionnaire Response;
- a) Hanwha Fine Chemical Corporation, Korea RP
 - b) TJ AL Mulook General Trading LLC, UAE
 - c) P & Y International Co. Ltd, Korea RP
 - d) IMS Corporation, Korea RP
 - e) Everlite Korea Co., Ltd, Korea RP
 - f) BASF Company Ltd, Korea RP
- viii. Apart from the above companies, following companies from China PR also shown their interest to participate in the investigation though they claimed not to have exported the subject goods to India during the POI;
- a) Wanhua Chemical Group Co., Ltd
 - b) Cangzhou Dahua Holding Co., Ltd
- ix. Following exporters also filed certain submissions following the initiation;
- a) Covestro (Hong Kong) Limited
 - b) Mitsui Chemicals & SKC Polyurethanes INC
- x. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information;
- 1. Sheela Group Co.,
 - 2. Tirupati Foam
 - 3. Kurlon Ltd.
 - 4. Springwell Mattresses
 - 5. Sunrise Foam Product Pvt Ltd.
 - 6. M H Polymers
 - 7. Pyarelal Foam (South)

8. Jindal Foam
 9. Allied Foam
 10. DuraPuff
 11. Fancy Foam
 12. Hindustan Polyfoam
 13. Shree Malani Foams
 14. Prime Comforts
 15. Springfeel Polyurethanes
 16. Aadi Polymers
- xi. In response, following importers/users have responded by filing Importer Questionnaire responses;
- a) Sheela Foam Ltd
- xii. The Authority made available non-confidential version of the evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xiii. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry or not.
- xiv. Information provided by 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 was directed to provide sufficient non confidential version of the information filed on confidential basis.
- xv. On site verification of the information provided by the domestic industry were conducted at this preliminary stage to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, is relied upon for the purpose of this provisional finding.
- xvi. The Authority has considered 1st April, 2015 to March 31st (12 months) as the POI so as to undertake analysis on the most recent data. Thus, investigation was carried out for the period starting from 1st April 2015 to 31st March 2016(POI). The examination of trends, in the context of injury analysis, however, covered the periods Apr'12-Mar'13, Apr'13-Mar'14, Apr'14-Mar'15 and the period of investigation.
- xvii. Import information as per secondary sources (IBIS) has been provided in the application by the applicant and the same has been relied upon at the initiation stage. However, the Authority has relied upon the transaction wise import data as collected from DGCI&S for the purpose of volume and value of subject goods into the country for the previous years and POI for the purpose of this provisional finding.

- xviii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the present provisional finding on the basis of the facts available.
- xix. ***In this provisional finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xx. Exchange rate for conversion of US\$ to Rupees considered for the POI is Rs 65.91 per 1 US\$ as per customs data.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. The product under consideration (PUC) in the present investigation is "Toluene Di-Isocyanate" (TDI) originating in or exported from China PR, Japan and Korea RP.
6. Toluene di-isocyanate (TDI) is an organic compound with the formula $\text{CH}_3\text{C}_6\text{H}_3(\text{NCO})_2$. Two of the six possible isomers are commercially important: 2,4-TDI (CAS: 584-84-9) and 2,6-TDI (CAS: 91-08-7). 2,4-TDI is produced in the pure state, but TDI is often marketed as 80/20 and 65/35 mixtures of the 2,4 and 2,6 isomers respectively. The PUC in the present investigation concerns TDI having isomer content in the ratio of (80:20) and any other grades are beyond the scope of product under consideration.
7. TDI is a clear liquid and is used for production of Flexible Polyurethane Foam, Furniture cushion, Industrial Gaskets, Protective pads for Sports & Medical use, Automobiles: Seats, Furniture, Lining, Sun visors etc., packing: Electronic items, Frozen Foods, Medicines, Audio-video Computer CD's etc.
8. TDI being an organic chemical is categorised under Chapter 29 of the Customs Tariff Act, 1975 and further under subheading 29291020 which pertains to Toluene di-isocyanate. However, as submitted by the applicant, this heading includes certain grades other than isomers (80:20) hence the classification is indicative only. It has also been claimed by the applicant that the imports of the subject goods have been reported under some other subheadings also such as 29094300, 29291090, 29291010, 38249090 and 39095000. An examination of the import data as per DGCI&S shows that imports during POI were primarily under subheading number 29291020 and there were substantial imports under subheading 29291010 and 29291090 also. Hence, the Customs classification is treated as indicative only and in no way binding on the scope of the PUC in the investigation and any measures to be recommended to be imposed, if any.
9. There have not been any submissions made by any of the responding interested parties vis-à-vis the definition and scope of the PUC, except one exporter, namely Mitsui Chemicals & SKC Polyurethanes Inc (MCNS). MCNS sought clarifications from the Authority whether two products namely "TM" and "MT" are included/excluded in the scope of PUC or not. It has been submitted by MCNS that TM is a mixture of 50% or

more of TDI and polymeric MDI (Polymethylenepolyphenyl/polyisocyanate or PMDI). Further, MT is a mixture of less than 50% of TDI and modified monomeric MDI, 4,4'-(Diphenyl methaneisocyanate). It has also been submitted by MCNS that there exists a vast difference in the chemical composition of TDI and TM/ MT and in fact TDI is used in the production/manufacturing process of TM and MT. After examining the submissions of MCNS, the Authority notes that the definition and scope of PUC is clearly provided in the initiation notification and also in this provisional finding regarding the PUC. Thus, PUC fulfilling the definition herein above alone shall come under the ambit and scope of present investigation and not any other products.

LIKE ARTICLE

10. Rule 2(d) of the AD Rules defines like article as follows:

“an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has the characteristics closely resembling those of the articles under investigation”.

11. The applicant has claimed that there is no known difference between the subject goods exported from subject countries and that produced by the domestic industry. As submitted by the applicant, the product under consideration produced by the domestic industry and imported from subject countries are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable and, hence, should be treated as 'like article' under the Rules.
12. The Authority has examined the claims and notes that there is no known difference in subject goods produced by the domestic industry and exported from subject countries. The subject goods produced by the domestic industry and that imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties has raised any objection in this regard. In view of the above, the Authority provisionally holds that the products manufactured by the Applicant constitute like article to the subject goods being imported into India from the subject countries within the meaning of Rule 2 (d) of the AD Rules.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

13. The Application has been filed by M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited as the domestic industry.
14. The applicant company has claimed that they are the sole producer of subject good in India. As per the evidence available on record, the production of the applicant company

constitutes "a major proportion" of the domestic production; in fact 100% share of total domestic production.

15. Rule 2 (b) of the AD rules defines domestic industry as under;

"(2) (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 relate 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"

16. It is noted that the application based on which the present anti-dumping investigation is initiated has been filed by M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited as the "domestic industry" concerning the subject goods in India. As per the claims of the applicant, M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited is the sole producer of the subject goods in India. It is also noted that there are not any rival submissions on the aspect of domestic industry and standing filed by any of the opposing interested parties.
17. None of the interested parties have made any submission with regard to the scope and standing of the domestic industry. The applicant however submitted that they are the sole producer of the subject goods in India and qualifies to be treated as the "domestic industry" within the meaning of Rule 2 (b) for the purpose of present investigation.
18. Since the production of the applicant accounts for "a major proportion" in the total production of the subject goods in India [in fact 100%], the Authority holds that the applicant satisfies the standing criteria under Rule 5(3) and constitutes domestic Industry within the meaning of Rule 2(b) of the AD Rules.

D. CONFIDENTIALITY

19. There haven't been any submissions made by the producers/exporters/importers/other interested parties with regard to confidentiality aspect.
20. Certain submissions made by the domestic industry with regard to confidentiality and disclosure of information and considered relevant by the Authority are as follows:
- i. Excessive Confidentiality in submissions is adopted by responding producers/exporters and importers. The NCV version of the EQ Responses and IQ Responses do not permit any reasonable understanding of the claims of such parties vis-à-vis dumping and the detail of import that have been made in the country by such responding parties.
 - ii. NCV versions of the documents are provided in a manner restraining the domestic industry from making any evaluation of the same.

- iii. The following basic information provided by the producer/exports/importers respectively cannot be claimed as confidential;
- a. Information on total volume of exports/imports from subject countries,
 - b. Average price of imports from subject countries,
 - c. Holding Company details and also the name of the concerned producers where exporters/traders have filed the response. In fact, none of the exporters/traders participating have disclosed the names of the respective producers name whose materials have been exported by such parties.
- iv. While the rules requires the parties providing information on a confidential basis to furnish non-confidential summary thereof, the responding parties have resorted to a methodology convenient to them and literally restricted the petitioner from gauging the factual position with regard dumped imports made by them. Excessive confidentiality adopted by the responding parties also contravenes the findings of the Appellate Body in European Communities-Anti-Dumping Measures on certain Iron or Steel Fasteners from China (WT/DS 397/AB/R dated 15th July, 2011) wherein the Appellate Body has interpreted Articles 6.5 and 6.5.1 of the Anti-dumping Agreement concerning confidentiality.

EXAMINATION BY THE AUTHORITY

21. It is noted that none of the responding parties have filed any submission to dispute the confidentiality on certain information claimed by the domestic industry. However, there have been certain submissions made by domestic industry on the confidentiality claims of the responding parties. Various submissions made by the domestic industry with regard to confidentiality/disclosure of information and considered relevant by the Authority are examined and addressed as follows:
22. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

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

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not

susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

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

23. 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 was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. Various discussions in this provisional finding are self-explanatory on the other contentions of the domestic industry on confidentiality aspect.

E. **MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN.**

a) **Market Economy Treatment**

24. The present investigation has been initiated on 5.10.2016 and it was open for the producers/exporters from China PR in the present investigation to rebut the NME presumption for the purpose of normal value determination. As per Paragraph 8 of Annexure I of the Anti-dumping Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR (in the present case) provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:
- a. the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
 - b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;

- c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - d. the exchange rate conversions are carried out at the market rate.
25. It is noted that none of the producers/exporters who have exported the subject goods to India during the POI have responded to the Authority in the present investigation by filing the required EQ Response and MET Response. Thus, the presumption of NME vis-à-vis China PR stands un-rebutted in the present investigation by the Chinese producer/exporters.

Submissions made by interested parties on MET

26. It is noted that there has not been any specific submissions concerning market economy, normal value, export price and dumping margin made by the producers/exporters/importers/other interested parties. The submissions concerning market economy, normal value, export price and dumping margin made by the domestic industry are as follows;
- a. China PR should be treated as Non Market Economy country for the purpose of present investigation and Normal Value in case of Chinese producers should be determined as per the provisions of Annexure I Para 7.
 - b. Chinese producers have been denied MET status in several investigations including recently concluded investigations by both Indian Authority and other countries like EU, USA, Australia etc as a part of various anti-dumping investigations by treating China PR an NME country.
 - c. MET status can be given only in the event of fulfilment of all the MET conditions by the responding producers/exporters and not otherwise. Thus, requirements of para 8 (3) of Annexure I of AD rules has to be fulfilled holistically to obtain MET status.
 - d. Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity.
 - e. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values. The expression "substantially reflect market values" has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The fact that such prices are comparable to the price prevailing in China is grossly insufficient.
 - f. Market economy status cannot be given unless the responding exporter establishes that their books are audited in line with international accounting standards. Market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS).

- g. Market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules.
- h. The onus is on the responding Chinese producer/exporters to establish that they are operating under market economy conditions after satisfying all the conditions mentioned in AD Rules.
- i. Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected, irrespective of the fact that the other companies of the group involved in production or sale of the product under consideration have filed the response.
- j. In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been fully transparent and completely established through documentary evidence.
- k. There are not any cooperating producers/exporters in the present investigation who have rebutted the presumption of NME status by filing all relevant information as per MET Questionnaire. China PR should be treated as Non Market Economy country based on this fact alone.
- l. The applicant has submitted normal value and dumping margin as per the available information and methods permissible specified in the AD Rule and relevant annexure to the rule. Details of such calculations are provided in the NCV application which is elaborate and contains all essential specifics. The Authority may rely on such information all practical purposes in this investigation in case the concerned producer/exporters fail to meaningfully cooperate.
- m. The provisions of China Accession Treaty have no implications on the present case since the present case is initiated on 5.10.2016 and the POI selected is April 2015- March 2016.
- n. It is evident from the EQ Response filed by HFCC that the entity namely Hanwha Fine Chemical Corporation (HFCC) merged into a business division of Hanwha Chemical Corporation (HCC) on 29th February, 2016. However, the EQ Response is filed by providing details of HFCC as the entity which has no legal or factual justification.
- o. The questions in the entire EQ Response should have been answered by treating HCC as the entity with the given facts and not HFCC which ceased to exist on 29th February, 2016. In this scenario, the Authority should the entire response by HFCC treating them as incorrect and incomplete and is not of any pursuable legal tenability.
- p. All the questions are answered in the concerned Response by treating HFCC as the relevant entity. For example list of shareholders, details of factories involved

etc of HFCC is provided whereas what is relevant as can be seen from the facts disclosed is replies to these questions by HCC as the entity and not HFCC which ceased to exist on 29.2.2016 well within the POI. The incorrect and inappropriate answers provided cannot be rectified at this juncture and the Response as such should be rejected.

- q. It can be noted that any response by HCC would have to be significantly different from that of HFCC and the examination of EQ Response filed by HFCC instead of HCC would not help the Authority to conduct any examination of dumping. HFCC ceased to exist on 29.2.2016 and the entity relevant to have filed EQ Response in the given scenario is HCC and HCC did not file any EQ Response in effect.
- r. Entire questions in the EQ Response should have been answered by HCC and HCC alone could have sought individual margin and not HFCC. In any case, even if an individual margin is given to HFCC, it is of no use as HFCC is not in existence.
- s. It is submitted by HCC in the NCV repose that there is one channel involved in the export of PUC into India, however, the name of such exporter is not provided. It needs to be seen whether such exporter involved have filed exporter response.
- t. HCC has resorted to excessive confidentiality and did not disclose the name of exporter in the channel. How can a name of the exporter be treated as confidential? Can the Authority treat name of an exporter as confidential in the duty table if at all an individual margin is provided? Thus, basic information is kept as confidential in absolute disrespect to the confidentiality provisions and such claim of confidentiality is absolutely bogus which should be rejected by the Authority.
- u. It is evident from the EQ Response filed TJ AL Mulook that TJ AL Mulook is only an exporter/trader and not a producer of subject goods. However, there is no disclosure in the EQ Response as to who all is the producer/s of the subject goods exported by TJ AL Mulook?
- v. Without cooperation by way of full EQ Response by the corresponding producer, response filed by TJ AL Mulook cannot be considered for individual margin determinations.
- w. It is evident from the EQ Response filed P & Y International Co. Ltd that P & Y International Co. Ltd is only an exporter/trader and not a producer of subject goods. However, there is no disclosure in the EQ Response as to who all is the producer/s of the subject goods exported by P & Y International Co. Ltd?
- x. Without cooperation by way of full EQ Response by the corresponding producer, response filed by P & Y International Co. Ltd cannot be considered for individual margin determinations.

- y. It is evident from the EQ Response filed IMS Corporation that IMS Corporation is only an exporter/trader and not a producer of subject goods. However, there is no disclosure in the EQ Response as to who all is the producer/s of the subject goods exported by IMS Corporation?
- z. Without cooperation by way of full EQ Response by the corresponding producer, response filed by IMS Corporation cannot be considered for individual margin determinations.
- aa. It is evident from the EQ Response filed Everlite Korea Co., Ltd that Everlite Korea Co., Ltd is only an exporter/trader and not a producer of subject goods. However, there is no disclosure in the EQ Response as to who all is the producer/s of the subject goods exported by Everlite Korea Co., Ltd?
- bb. Without cooperation by way of full EQ Response by the corresponding producer, response filed by Everlite Korea Co., Ltd cannot be considered for individual margin determinations.

EXAMINATION BY THE AUTHORITY

27. The Authority notes that the relevant provisions laid down under Annexure I to the Antidumping Rules with regard to "Market Economy Treatment" are as follows;

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

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

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

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

(a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

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

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

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

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

[(4) Notwithstanding, anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti dumping investigations, by a country which is a member of the World Trade Organization].”

28. The Authority also notes that Article 15 of China’s Accession Protocol 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."

29. Article 15 implies that provisions of one of the subparagraphs shall expire in 15 years from the date of China's Accession. The provisions of this paragraph expired on 11th December, 2016. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone is relevant, appropriate and necessary for the purpose of present investigation. The Period of Investigation (POI) for the purpose of the present review is April, 2015 to March, 2016. Since the subparagraph of Article 15 was in existence during the period of investigation, the Authority 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 prevailed in the industry producing the like product with regard to manufacture, production and sale of that product.

30. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules. However, there are not any participation by producers/exporters from China PR who have exported the subject goods to India during the POI, therefore, it is noted that the presumption of NME which was prevalent during the POI is not rebutted as provided in the Rule. It is also noted that since investigation has been initiated on 5.10.2016 and the POI determined for the present investigation is April 2015-March 2016, the provisions of China Accession Treaty which says that WTO Members could use an NME antidumping

methodology till December 11, 2016 in case of an antidumping investigation against Chinese producer/exporters is well applicable in the present investigation vis-à-vis China PR.

31. In view of the same, the Authority has proceeded in this investigation.
32. With regard to the contentions raised by the domestic industry regarding the correctness of EQ Responses, the Authority notes that the issues are addressed at appropriate places in this provisional finding which is self-explanatory.

b) Determination of Normal Value

33. 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 transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Provisions relating to Non-Market Economy countries

34. Paragraph-7 of the Annexure-1 to the Anti-dumping Rules provides as follows:

"In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries,

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

35. According to these Rules, the normal value in NME countries (China in the present case) can be determined on any of the following basis:

- a) On the basis of the price in a market economy third country, or
- b) The constructed value in a market economy third country, or
- c) The price from such a third country to other countries, including India.
- d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

i. **China PR**

36. The Authority notes that none of the producers/exporters from China PR, who have exported the subject goods to India during the POI, have responded in the form and manner prescribed. Thus, none of the producer/exports in the present investigation from China PR could be found to be operating under market economy condition for determination of normal value in terms of Para-6 of Annexure-1 to the Rules. Under this circumstance, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the Chinese producers/exporters and the Authority has to proceed in accordance with Para 7 of Annexure - I to the Rules supra.

37. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. No such information with regard to prices and costs prevalent in these markets have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country at this stage. Therefore, for the purpose of preliminary determination, the Authority proceeds to construct the normal value based on any other reasonable basis.

38. The Authority provisionally determines the Normal Value for China PR on available facts basis in terms of second proviso of Para 7 of Annexure 1 to the AD Rules. Accordingly, the ex-works Normal Value of the product under consideration has been determined based on constructed costs of production, duly adjusted to include selling, general & administrative costs and profits. The normal value so determined is US\$ ***/kg.

ii. Japan

39. The Authority notes that none of the producers/exporters from Japan has responded to the Authority in the present investigation. In view of the same, the Authority has determined provisional weighted average normal value at ex-factory level for the PUC on the basis of best available information as per Rule 6(8) of AD Rules which is **US\$*** /kg.**

iii. Korea RP

40. The Authority notes that EQ Responses has been filed by two producers from Korea RP namely M/s BASF Company Ltd and M/s Hanwha Fine Chemical Corporation.

BASF Company Ltd

41. The authority notes that BASF Company Ltd ("BASF") has submitted the exporters' Questionnaire response claiming to be a producer cum exporter of subject goods and informed that it has exported the subject goods directly to India. The authority notes that BASF has submitted details about domestic sales in Appendix-1.
42. 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 subject goods. If profit making transactions are more than 80%, then the authority has considered all the transactions in the domestic market for the determination of the normal value and in cases, where profitable transactions are less than 80%, only profitable domestic sales have been taken into consideration for the determination of the normal value. It was also noted that the loss making transactions were more than 20% of the total domestic sales. Therefore, the Authority has proceeded to determine the normal value based only on the profitable sales in terms of the provisions of Annexure I of the AD Rules.
43. BASF has claimed adjustment on account of rebate, inland freight and packing cost. The authority has provisionally accepted all the adjustments for the purpose of provisional findings. Accordingly, provisional weighted average normal value at ex-factory level for the PUC produced by BASF is determined as **US\$*** /Kg.**

Hanwha Fine Chemical Corporation

44. The Authority notes that Hanwha Fine Chemical Corporation ("HFCC") has submitted the Exporters' Questionnaire response claiming to be a producer of the subject goods in Korea RP and informed that it has exported the subject goods to India indirectly through unrelated exporters/traders. It has also been submitted by HFCC that the company has exported the PUC to India through three exporters/traders and they have filed EQ Responses along with HFCC.

45. The response filed by HFCC has been examined for the purpose of determination of normal value concerning HFCC. It is noted that HFCC produces main raw material namely TDA and also CDC as intermediates. However, HFCC has not provided the cost sheets for these intermediates captively produced by them. HFCC has provided details of TDA and CDC in Appendix 5 which are claimed to be intermediates produced by them, however details of raw materials to produce these intermediates are not given. It is also noted that in Appendix-4, *** MT of subject goods is shown as Transfer In & Out. In view of deficiencies and gap in various appendixes in the EQ Response filed by HFCC, the Authority is not in a position to determine fair cost of the subject goods produced by HFCC for the purpose of OCT tests at this stage and accordingly the normal value claims of HFCC which requires detailed verification is not considered for the purpose of this preliminary findings. In view of the above, the Authority has determined provisional weighted average normal value at ex-factory level for the PUC on the basis of best available information as per Rule 6(8) of AD Rules which is US\$*** /kg.

Normal Value for other producers and exporters in Korea RP

46. The Authority notes that no other producer/exporter from Korea RP has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Korea RP, the Authority has determined provisional weighted average normal value at ex-factory level for PUC on the basis of best available information as per Rule 6(8) of AD Rules and the same is US\$*** /kg.

c) Determination of Export Price

i. China PR

47. The Authority notes that no producer/exporter from China PR has responded to the Authority in the present investigation. In view of the non-cooperation, the Authority has determined provisional weighted average net export price for all producers/exporters in China PR concerning the PUC on the basis of best available information as per Rule 6(8) of AD Rules and the same is US\$*** /kg.

ii. Japan

48. The Authority notes that no producer/exporter from Japan has responded to the Authority in the present investigation. In view of the non-cooperation, the Authority has determined provisional weighted average net export price for all producers/exporters in Japan concerning the PUC on the basis of best available information as per Rule 6(8) of AD Rules and the same is US\$*** /kg.

iii. Korea RP

49. The Authority notes that EQ Responses has been filed by two producers from Korea RP namely M/s BASF Company Ltd and M/s Hanwha Fine Chemical Corporation. While it

has been submitted by BASF Company Ltd that they have exported the PUC directly to India, however, it has been submitted by Hanwha Fine Chemical Corporation that they have exported the subject goods through unrelated exports/traders' s P & Y International Co. Ltd, M/s IMS Corporation and M/s Everlite Korea Co., Ltd has filed their EQ Responses and are cooperating with the Authority.

50. Exporters namely M/s P & Y International Co. Ltd, M/s IMS Corporation and M/s Everlite Korea Co., Ltd has filed their EQ Response and claimed that they have exported the subject goods produced by M/s Hanwha Fine Chemical Corporation to India during the POI.
51. EQ Response have also been filed by M/s TJ AL Mulook General Trading LLC, a UAE based Trading Company, claiming that they have exported the subject goods produced by M/s Hanwha Fine Chemical Corporation through Korean exporter namely M/s P & Y International Co. Ltd.

a) BASF Company Ltd

52. The Authority notes from the EQ Response filed by BASF Company Ltd that BASF Company Ltd has exported the subject goods to India during the POI directly. BASF have reported a total export of ***MT in their Appendix-2 and claimed adjustments on account of inland freight, ocean freight, insurance and bank charges and same have been allowed provisionally. Accordingly, the provisional weighted average net export price has been determined for BASF Company Ltd concerning the PUC is US\$***MT.

b) M/s Hanwha Fine Chemical Corporation (Producer) and M/s P & Y International Co. Ltd (Exporter)

53. The Authority notes that EQ Response has been filed by M/s P & Y International Co. Ltd claiming themselves as an Exporter of subject goods from Korea RP of the subject goods produced by M/s Hanwha Fine Chemical Corporation. Appendix-2 filed by P & Y International Co. Ltd shows that they have exported ***MT of subject goods produced by Hanwha Fine Chemical Corporation to India during the POI. P & Y International Co. Ltd has claimed adjustments on account of inland freight, ocean freight, insurance and bank charges and same have been allowed provisionally. Accordingly, the provisional weighted average net export price has been determined for P & Y International Co. Ltd concerning the PUC produced by Hanwha Fine Chemical Corporation is US\$***kg.

c) M/s Hanwha Fine Chemical Corporation (Producer) and M/s IMS Corporation (Exporter)

54. The Authority notes that EQ Response has been filed by M/s IMS Corporation claiming themselves as an Exporter of subject goods from Korea RP of the subject goods produced by M/s Hanwha Fine Chemical Corporation. Appendix-2 filed by IMS Corporation shows that they have exported *** MT of subject goods produced by Hanwha Fine Chemical Corporation to India during the POI. IMS Corporation has claimed adjustments on account of inland freight, ocean freight, insurance and bank charges and same have been allowed provisionally. Accordingly, the provisional weighted average net export price has been determined for IMS Corporation concerning the PUC produced by Hanwha Fine Chemical Corporation is US\$***kg.

d) M/s Hanwha Fine Chemical Corporation (Producer) and M/s Everlite Korea Co., Ltd (Exporter)

55. The Authority notes that EQ Response has been filed by M/s Everlite Korea Co., Ltd claiming themselves as an Exporter of subject goods from Korea RP of the subject goods produced by M/s Hanwha Fine Chemical Corporation. Appendix-2 filed by M/s Everlite Korea Co., Ltd shows that they have exported ***MT of subject goods produced by Hanwha Fine Chemical Corporation to India during the POI. M/s Everlite Korea Co., Ltd has claimed adjustments on account of inland freight, ocean freight, insurance and bank charges and same have been allowed provisionally. Accordingly, the provisional weighted average net export price has been determined for M/s Everlite Korea Co., Ltd concerning the PUC produced by Hanwha Fine Chemical Corporation is US\$***kg.

e) M/s Hanwha Fine Chemical Corporation (Producer), M/s P & Y International Co. Ltd (Exporter) and M/s TJ AL Mulook General Trading LLC, UAE (Trader).

56. The Authority notes that EQ Response has been filed by M/s TJ AL Mulook General Trading LLC. M/s TJ AL Mulook General Trading LLC have claimed that they are a trading company based in UAE and have Exported the subject goods produced by M/s Hanwha Fine Chemical Corporation to India during the POI through the exporter from Korea RP namely P & Y International Co. Ltd. Appendix-2 filed by M/s TJ AL Mulook General Trading LLC shows that they have exported ***MT of subject goods produced by Hanwha Fine Chemical Corporation to India during the POI. M/s TJ AL Mulook General Trading LLC has claimed adjustments on account of inland freight, ocean freight, insurance and bank charges and same have been allowed provisionally. Accordingly, the provisional weighted average net export price has been determined for M/s TJ AL Mulook General Trading LLC concerning the PUC produced by Hanwha Fine Chemical Corporation and exported through P & Y International Co. Ltd, is US\$***kg.

f) Export Price for non-cooperating producers and exporters from Korea RP

57. The Authority notes that no other producer/exporter from Korea RP has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Korea RP, the Authority has determined the provisional weighted average net export price for the PUC on the basis of best available information as per Rule 6(8) of AD Rules and the same is US\$***per/MT.

d) Determination Of Dumping Margin

58. Based on normal value and export price determined as above, the dumping margin for producers/exporters from subject countries has been determined by the Authority and the same is as follows;

S.No	Country	Producer	Exporter	Normal Value - US\$/Kg	Export price - US\$/Kg	Dumping Margin - US\$/Kg	Dumping Margin - %	Dumping Margin Range - %
1	China PR	Any	Any	***	***	***	***	15-25
2	Japan	Any	Any	***	***	***	***	5-15
3	Korea RP	Hanwha Fine Chemical Corporation	PP& Y International Co. Ltd	***	***	***	***	10-20
4	Korea RP	Hanwha Fine Chemical Corporation	Everlite Korea Co., Ltd	***	***	***	***	5-15
5	Korea RP	Hanwha Fine Chemical Corporation	IMS Corporation	***	***	***	***	5-15
6	Korea RP	Hanwha Fine Chemical Corporation	P & Y International Co. Ltd and TJ AL Mulook General Trading LLC, UAE	***	***	***	***	5-20
7	Korea RP	BASF Company Ltd	BASF Company Ltd	***	***	***	***	20-30
8	Korea RP	Any other than the producers at S.No 3 to 7 above.	Any other than the exporters at S.No 3 to 7 above.	***	***	***	***	30-40

F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

i. INJURY EXAMINATION

59. The submissions concerning injury made by the producers/exporters/importers/other interested parties and considered relevant by the Authority are as follows;

- i. The pricing of the subject goods in the India market is comparable with other suppliers of the same product such as GNFC, which is the major local player.
- ii. Imposition of duty may lead to monopoly as GNFC is the sole producer and it will restrict the availability of the material to Indian buyers.

- iii. Imposition of duties may lead to demand supply gap India. Indian industry cannot supply to the 100% demand. Local manufacturers of downstream products will suffer if anti-dumping duties are imposed. It would all also eave the industries using PUC uncompetitive.

60. The following are the injury related submissions made by the domestic industry in brief;

- i. The injury information provided in the petition shows that although volume parameters such as capacity, production and sales showed a positive trend in a plain reading, a number of other indicators such as capacity utilization, market share, inventory levels etc showed a situation of injury.
- ii. The Indian market was dominated by dumped imports by holding more than 50% market share in the domestic demand which is very significant and a level enough to render the position of domestic industry seriously vulnerable to such dumped imports.
- iii. Key parameters relating to the financial situation of the domestic industry, namely profitability, cash profit, ROCE etc turned out to be significantly negative during the POI from a positive situation earlier and, in fact, factors such as return on capital employed, growth etc showed a seriously grave material injury situation.
- iv. In fact the domestic industry has faced huge financial losses on account of aggressive dumping adopted by producers/exporter from subject countries in the injury period except two base years.
- v. The domestic industry has been selling the subject goods below its cost of production since the dumped imports were present at a price less than its cost of production seriously injuring the rights of the domestic industry to realize a remunerative price for the subject goods produced by it.
- vi. The dumped imports were suppressing the domestic prices and serious positive price underselling effects were also evident during the POI. Price undercutting may not be a factor showing injury in this case since the prices are already suppressed and the domestic industry has been selling at a price below its cost. Hence, the question of matching the landed by does not arise and are illogical.
- vii. The inventory levels of the domestic industry substantially increased which shows clear signs of injury. The increase in production needs to be seen in light of the increase in inventory which signifies the fact that the domestic industry has been prevented from selling more in the market by the dumped imports.
- viii. An objective and holistic evaluation of various economic parameters clearly demonstrates that dumped imports from subject countries have caused material injury to the domestic industry. The price effect of the dumped imports has

been significant on the basis of price suppression and price underselling and as a result of which profitability of the domestic industry has deteriorated and situation of the domestic turned out to be loss making after two initial years in the injury period, thus, the domestic industry has suffered material injury.

- ix. Even the performance of the domestic industry in terms of volume parameters are also under serious pressure since the capacity utilization have declined and also remained at below par levels while inventory level of the domestic industry have increased and more than 50% of the market share has been held by dumped imports.
 - x. In fact, the marginal growth in production and sale has been negated by the overall losses faced by the domestic industry on account of serious price competition from dumped imports. Domestic industry was forced to sell at a price which has not been remunerative and, in fact, below its cost of production. The domestic industry has, thus, suffered material injury and the injury has been caused on account of dumping from subject countries.
 - xi. It has been submitted by Covestro (Hong Kong) Limited that their pricing is comparable to that of other suppliers including GNFC. The statement has no legal or factual basis and there is no EQ Response filed by Covestro to substantiate their claims.
 - xii. It has been alleged by Covestro that imposition of duty may lead to monopoly as GNFC is the sole producer and it will restrict the availability of the material to Indian buyers. The argument has no legal basis. GNFC is the sole producer of subject goods in India which makes it necessary to protect this company from dumping, else the domestic market will be dominated by foreign players leaving no room for the domestic industry. Also, legally, there is no bar on sole producer to seek protection from dumping. Duties do not ban imports. Imports can be still made but at non dumped prices.
 - xiii. It has been alleged by Covestro that imposition of duties may lead to demand supply gap India. The claim has no basis. AD duties are not against imports per se. It would help to remove the injurious effect of dumping. Demand supply gap, if any, does not disqualify a domestic industry from seeking protection against dumping. This Authority has subjected this issue to examination in plethora of investigations and it was consistently found that demand supply gap, if any, is not a reason to permit dumping.
61. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative

to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

62. As regards the impact of the dumped imports on the domestic industry Rule 11 of AD Rules read with para (iv) of Annexure-II of the AD Rules states as follows.

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

63. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the opposing interested parties and also domestic industry. However, certain specific submissions made by the interested parties are addressed by the Authority are as below;
64. With regard to the contention that the exporters' price is comparable to that of other suppliers including GNFC in the Indian market, it is noted that the statement do not disprove the claims of dumping and injury raised by the domestic industry and is seen as an unsubstantiated statement.
65. With regard to the contention that the applicant is the sole producer in India and any anti-dumping duties on PUC shall lead to monopoly, it is noted that the submission devoid of any merit legally and factually. Anti-dumping duties, if any, are imposed to correct the trade distorting effects of dumping and the Rules do not preclude a sole producer from seeking protection from dumping.
66. With regard to the contention that the imposition of duties may lead to demand supply gap in India since the domestic industry may not be able to cater to 100% demand in India, the Authority notes that though the domestic industry is not legally bound to meet the entire demand in the country while seeking anti-dumping duties on impacted product produced by it, the fact of the present case is that the capacity set up by the domestic industry is in the same level as that of the demand in the country. It is also noted that the AD duties if imposed are only to remove the injurious effect of dumping and do not envisage any protection beyond the lower of injury or dumping margin and it will not prevent imports per se and the consumers can still import but at an un-dumped price from subject countries.
67. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales

realization, the magnitude and margin of dumping etc in accordance with Annexure II (iv) of the Rules supra.

Cumulative Assessment

68. Article 3.3 of WTO agreement and Annexure II para (iii) of the Anti-dumping 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. *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.*

69. The Authority notes in this respect that:

- a) The subject goods are being dumped into India from the 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 the total volume of imports.
- c) Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.

70. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

ii. **VOLUME EFFECT OF THE DUMPED IMPORTS ON THE DOMESTIC INDUSTRY**

a. **Demand and market share**

71. Authority has defined, for the purpose of the present investigation and this provisional finding, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The Authority has considered

imports into India as per DGCI&S on transaction wise to determine the volume and value of imports of PUC into India from all sources. The demand so assessed is given in the table below.

i) Demand

Particulars	Unit	2012-13	2013-14	2014-15	POI
Demand	MT	49,531	51,168	57,121	64,398
Indexed	Trend	100.00	103.30	115.32	130.01
Imports from Subject Countries	MT	30,097	32,171	37,232	32,115
Imports from Other Countries	MT	2,438	1,983	1,319	122
Sales of Domestic Industry	MT	16,997	17,014	18,570	32,161
Sales of other Indian Producers	MT	Nil	Nil	Nil	Nil

ii) Market Share of subject countries in Demand

72. Considering imports of subject goods from various sources and sales of subject goods of the Indian Producer, demand was determined and further market share of subject imports, domestic industry and other imports in such demand in India was also examined and the factual position in this respect is as follows;

Particulars	Unit	2012-13	2013-14	2014-15	POI
Imports from Subject Countries	%	34.32	33.25	32.51	49.94
Imports from Other Country	%	4.92	3.88	2.31	0.19
Sales of Domestic Industry	%	60.76	62.87	65.18	49.87

Sales of other Indian Producers	%	Nil	Nil	Nil	Nil
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73. It is seen from the above tables that demand for the product in the country has shown a positive trend and significant growth over the injury period. Any distortions in demand was, thus, not evident. It is also noted that the imports from subject countries held about 50% of the market share during the POI and such share is noted as significant. At the same time, share of imports from other countries declined further and were at negligible levels during the POI.

b. Import volume and market share of subject countries

74. The Authority has examined the volume of imports of the subject goods as per the transaction wise import data provided by DGCI&S. The Authority has relied upon the same for the purpose of this provisional finding. On the basis of import data on record, the import volume from subject countries is found to be above the de-Minimis levels. Imports volume from subject countries and other countries has been as under: -

Particulars		Unit	2012-13	2013-14	2014-15	POI
Volume	China PR	MT	5,729	6,738	8,572	6,724
	Japan	MT	8,017	9,190	12,322	8,913
	Korea RP	MT	16,351	16,243	16,339	16,479
	Subject Countries Total	MT	30,097	32,171	37,232	32,115
	Other countries	MT	2,438	1,983	1,319	122
	Total imports	MT	32,534	34,154	38,551	32,237

Market Share in Imports	China PR	%	17.61	19.73	22.23	20.86
	Japan	%	24.64	26.91	31.96	27.65
	Korea RP	%	50.26	47.56	42.38	51.12
	Subject Countries	%	92.51	94.19	96.58	99.62
	Other countries	%	7.49	5.81	3.42	0.38

75. It is noted that the imports of the subject goods into India were primarily taking place from subject countries. The share of imports from subject countries increased in absolute terms and it was more than 90% of the total imports into India throughout the injury period including the POI. In fact, imports from subject countries constituted about 99.62% of the total imports into India during the POI. It is also noted that imports from subject countries accounted for very significant proportion of the demand of the product in India. The volume of imports from the subject countries increased in absolute terms and also in proportion to demand in India during the injury period and during the POI. The imports from subject countries which were 30097 MT in the base year increased to 32115 MT during the POI and the same stood at 49.87% in the Indian demand during the POI. The significant share of dumped imports in domestic demand and the growth of the imports from subject countries in absolute terms are very evident.

c. Share of dumped imports in relation to production

76. The Authority notes that the dumped imports from subject countries have increased in relation to the production of the domestic industry also, as is evident from the following table:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Imports from Subject Countries	MT	30,097	32,171	37,232	32,115
Production of domestic industry	MT	17,875	16,317	23,737	45,680
Imports from subject countries in relation to production of domestic industry.	%	168.38%	197.17%	156.85%	70.31%

77. It is observed that imports from subject countries have been much higher than total Indian production in the base year which stood at 70.31% in the POI. Though the production of the domestic industry was not very high in the initial two years, significant capacity additions were carried out during 2014-15 and during the POI. Even with the increased production figures during POI, imports from subject countries in relation to production in India throughout the injury period and also in the POI remained at a very significant level and such significant levels are also visible vis-à-vis demand of the product in the country. Thus, imports from subject countries have increased in absolute terms and remained at significant levels vis-à-vis production and consumption in India.

iii. **PRICE EFFECT OF THE DUMPED IMPORTS ON THE DOMESTIC INDUSTRY**

78. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

79. It has been examined whether there has been a significant price undercutting by the dumped imports of the price of the like product 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. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the weighted average cost of production (COP), weighted average Net Sales Realization (NSR) and the Non-Injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries at the appropriate sections below.

a) **Price Undercutting**

80. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level. The domestic prices and margin of undercutting is shown as per the table below:

Particulars	Unit	China PR	Japan	Korea RP	Subject Countries
Landed Value	Rs./KG	123.92	111.57	110.05	113.37
Net Sales realization	Rs./KG	***	***	***	***
Price Undercutting	Rs./KG	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	Negative	Negative	Negative	Negative

81. The authority notes that the price undercutting has been negative from subject countries. Authority also notes that landed value of imports has both depressing and suppressing effect on price where the domestic industry has been constantly forced to reduce its prices to match with the landed value of imports. If the Domestic Industry does not respond to imports by bringing down its prices, it may lose customers and the injury may be severe. In the facts of the present case the domestic industry has been selling the PUC at a rate less than its cost of production incurring losses.

b) Price Underselling

82. The Authority has also examined the price underselling suffered by the domestic industry on account of dumped imports from the subject countries. For this purpose, the NIP determined for the domestic industry for the POI based on Annexure III has been compared with the landed price of imports. Comparison of weighted average NIP of the domestic industry with weighted average landed price of imports shows as follows:

Particulars	Unit	China PR	Japan	Korea RP
Non-Injurious Price	Rs/KG	***	***	***
Landed price	Rs/KG	123.92	111.57	110.05
Price underselling	Rs/KG	***	***	***
Underselling	%	***	***	***
Underselling	% Range	05-20	20-30	20-30

83. It is seen that the landed price of the subject goods from the subject countries were significantly lower than the NIP determined for the domestic industry showing price underselling effects.

c) Price suppression/depression

84. 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 to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown in the table below:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of production	Rs./KG	***	***	***	***
Trend	Indexed	100.00	111.04	136.86	122.79
Selling Price	Rs./KG	***	***	***	***
Trend	Indexed	100	96	81	60
Landed Value (Subject Countries)	Rs./KG	166.73	162.17	153.64	113.37
Trend	Indexed	100	97.26	92.15	68.00

85. It can be seen from the above table that while the cost of production increased from 100 indexed point in the base year to 122.79 points in the POI, whereas the selling price moved from 100 indexed points in the base year to 60.00 indexed points which shows significant price depression and suppression effect on prices on account of the dumped prices as the domestic industry was not able to increase its prices in proportion to increase in costs. It is evident that the landed price of imports was causing price depression/suppression and causing serious price effects on the sales realization of the domestic industry apart from price underselling.

Economic parameters of the domestic industry

86. The various injury parameters relating to the domestic industry are discussed herein below.

d. Capacity & Capacity Utilization

87. Capacity and capacity utilization of the domestic industry over the injury period is given in the following table:-

Particulars	Unit	2012-13	2013-14	2014-15	POI
Capacity MT	MT	14,000	14,000	64,000	64,000
Production	MT	17,845	16,317	23,737	45,680
Capacity utilization	%	127.68	116.55	37.09	71.38

88. It is observed that the domestic industry undertook capacity additions during 2014-15 and the capacity thereafter remained the same during the POI as well. Though the dip in capacity utilization can be attributed to increase in capacity, what is noteworthy in the above data is the fact that the capacity utilisation remained at 71.38%.
89. Domestic industry claimed that dumped imports prevented them from operating at an optimal level of capacity utilisation and such below par utilisation of capacity was when there was robust growth in demand in the country for the subject goods. Capacities were increased by the domestic industry to cater to the significant domestic demand, however, such increases did not help the domestic industry to achieve overall good performance in terms of both volume and value since there have been significant presence of dumped imports from subject countries. It has been submitted by the domestic industry that had the dumped imports been not holding almost 50% of the market share, the domestic industry would have achieved a much better level of capacity utilisation which shows domestic industry suffered material injury on capacity utilisation.

e. Production

90. Production of the domestic industry is given in the table below:-

Particulars	Unit	2012-13	2013-14	2014-15	POI
Production	MT	17,875	16,317	23,737	45,680
Demand	MT	49,531	51,168	57,121	64,398
Production in relation to Demand	%	36.09	31.89	41.56	70.93

91. It is noted that production of the domestic increased by the POI. Domestic industry claimed that increase in production should not be seen as a standalone parameter since the capacity utilisation remained much lower than the desirable levels at 71.38% during

the POI. The domestic industry could have catered to the entire Indian demand on its own during the POI had there been no dumping.

92. It has also been submitted by the domestic industry that though the capacity and production increased over the base year, the associated price parameters showed sharp declines and financial losses have been suffered by the domestic industry effectively negating the benefits which ought to have been achieved by the domestic industry by virtue of increases in volume parameters such as capacity and production.

f. Sales volume and market share

93. Sales volume of the domestic industry is given in the following table:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Domestic sales	MT	16,997	17,014	18,570	32,161
Demand	MT	49,531	51,168	57,121	64,398
Market Share of domestic industry in Demand	%	34.32	33.25	32.51	49.94

94. It is observed that sales of the domestic industry showed increasing trend. The trend in sales during POI has been similar to the development in capacity and production during the POI. Domestic industry claimed that even though sales volumes increased by POI, the capacity utilisation has been below the desired levels and almost 50% of the market share during the POI has been held by dumped imports which shows the domestic industry had the potential to cater much more to the domestic demand but was prevented from doing so due to the dumped imports. Thus, the situation of sales during the POI in terms of volume also showed signs of injury and stagnant growth. Also, during the same period the associated price parameters showed sharp declines and even financial losses have been suffered by the domestic industry.
95. Also, even though the sales volumes were increased, it was at the best achieved by adjusting the price to match the landed price of imports. In essence, increase in sales volume did not create any bottom line improvement since there was significant volume of dumped imports from the subject countries in the Indian market. It is having also been submitted by the domestic industry with regard to the position of sales that the prudence of increase in volume parameters as such were not reflected in the overall performance of the domestic industry which is reflected in the financial parameters. Increases in volume parameters may at the best have neutralised some effect of fixed costs on performance but the same was not adequate to bring an overall improvement in the performance due to dumped imports from subject countries in the Indian market during the POI.
96. The Authority notes in this respect that the sales volume of the domestic industry among other volume parameters improved over the injury period and the POI. However, as noted herein above, the market share of imports from subject countries have been at significant

levels during the POI and it cannot be denied that the dumped imports have not been causing any adverse effects on the actual and potential sales volumes of the domestic industry during the POI. It is also noted that though the sales volume increased in absolute terms, the domestic industry was having significant unutilised capacity and have been left to reduce the prices further to maintain the sales volume and ease the pressure of increasing stock.

g. Inventories

97. The position of inventories noted as average stock with the domestic industry moved as follows;

	Units	2012-13	2013-14	2014-15	POI
Average Stock	MT	748	776	1,625	2,107

98. It is noted that inventories with the domestic industry has been showing increasing trend and has been at the highest level during the POI. It is further noted that the increase in inventories when the demand and production has been showing increases in the similar period depicts adverse volume effects on the domestic industry. Thus, the adverse effects of dumping on inventory position are visible.

h. Profit/Loss

99. The profitability of the domestic industry is given in the following table;

Particulars	Unit	2012-13	2013-14	2014-15	POI
Profits	Rs./Kg	***	***	***	***
Trend	Indexed	100.00	48.37	(89.46)	(131.64)
Profits	Rs Lacs	***	***	***	***
Trend	Indexed	100.00	48.42	(97.74)	(249.08)

100. It is noted that there have been distortions on the profitability of the domestic industry over the injury period and the domestic industry started incurring significant losses in the POI and the immediate previous year. The domestic industry was earlier earning profits. It is noted herein above that the landed price of imports were creating price depression/suppression and underselling effects on the domestic prices in the same period. The impact of such landed prices is evident in financial loss situation of the domestic industry.

i. Return on capital employed

101. Information regarding return on capital employed is given in the table below;

	Unit	2012-13	2013-14	2014-15	POI
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	51	(6)	(21)

102. The Authority notes that return on capital employed of the domestic industry has deteriorated significantly over the injury period and become seriously negative during the POI and through the two previous years. The trend is comparable to that of profitability. It has been submitted by the domestic industry that significant and severe price pressure from dumped imports is the reason for such significant downfalls in profitability and ROCE that imposition anti-dumping at the earliest are essential to ensure the survival of the domestic industry. It has also been submitted that the growing financial losses can only be arrested by curbs on dumped imports by way of interim measures pending further investigation.

j. Cash Flow

103. Authority has examined the trends in cash profits in order to examine the impact of dumping on cash flow situation of the domestic industry. Information regarding cash profit of the domestic industry is given in the following table;

	Unit	2012-13	2013-14	2014-15	POI
Cash Profits	Rs. Lacs	***	***	***	***
Trend	Indexed	100	59	(53)	(149)

104. It is seen that the cash profits of the domestic industry declined over the injury period and has been negative in the POI in comparison to base year.

k. Factors affecting domestic prices

105. Change in cost structure, competition in the domestic market and prices of competing substitutes, if any, have been examined for analyzing the factors other than dumped imports that might be affecting the prices in the domestic industry. It is noted that the petitioner in the present investigation is the sole producer of the subject goods in India which rules out adverse effects of any unhealthy inter se competition. There has not been any significant change in the cost structure during the POI. However, landed price of subject imports has been below the cost of production and fair selling price of the domestic industry. It could not be concluded that inter-se competition or any such change in cost structure led to decline in the prices of the domestic industry.

l. Productivity

106. Authority notes that productivity of the domestic industry shows same trend as that of production. Productivity per day shows an increasing trend, and it cannot be construed that productivity per day has been a cause any of injury to the domestic industry.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Productivity per employee	MT/Nos	***	***	***	***
Trend	Indexed	100.00	87.40	28.94	55.69
Productivity per day	MT/day	***	***	***	***
Trend	Indexed	100.00	91.28	132.80	255.56

107. It is also noted that the productivity per employee may not be a relevant factor in the facts of this case since there has been additions in capacity and level of employees in the POI. However, productivity per day shows the indicative trend vis-à-vis productivity and has been examined as above.

m. Employment and Wages

108. The employment level has shown similar trend as that of capacity and production. Wages per kg which has shown an increase. It has been submitted by the domestic industry that the wage increases are in line with the statutory requirements and there haven't been any extra ordinary increases in wages paid by the company. Thus, it cannot be said that wages and employment as such had some adverse impact on the domestic industry. It has been submitted by the domestic industry that they have the potential to create more employment provided a fair trade situation by way of imposition of anti-dumping duty on dumped imports of subject goods from subject countries is.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Employment	Nos.	***	***	***	***
Trend	Indexed	100.00	104.44	458.89	458.89
Wages	Rs/Kg	***	***	***	***
Trend	Indexed	100	104	208	185

n. Growth

109. The Authority notes that growth of the domestic industry is negative in a number of parameters. Negative growth of domestic industry in many parameters has been visible when the market demand for the product showed consistent growth which inter alia shows that the domestic industry was prohibited from taking benefits of such positive market

situation due to significant presence of dumped imports with significant adverse price effects.

o. Ability to raise capital investment

110. The Authority notes that given the rising demand of the product in the country, the domestic industry has made additions in capacity. However, despite these investments and additions in capacity, the performance of the domestic industry has deteriorated considerably and further investment may get adversely affected if the dumping of the subject goods is not addressed.

p. Level of dumping & dumping margin

111. It is noted that the imports from the subject countries are entering the Indian market at dumped prices and the margins of dumping are significant.

G. CONCLUSIONS ON INJURY

112. On an examination of various injury parameters, it is noted that there has been a significant increase in the volume of dumped imports from the subject countries in absolute terms. The imports have increased significantly in relation to consumption and production of the PUC in India. Imports have thus increased both in absolute terms and in relation to production and consumption in India.
113. Imports of the product were creating underselling and price depression/suppression effects. Further, whereas cost of production has been increasing over the injury period, the selling price of the domestic industry shown a declining trend and the domestic industry could not even recover the cost of production that the domestic industry suffered financial losses in the POI. The dumped imports were, thus, depressing/suppressing the prices of the domestic industry and preventing the price increase.
114. With regard to consequent impact of the dumped imports on the domestic industry, it is noted that the demand for the product and other volume parameters concerning the domestic industry have improved during the POI, however, domestic industry could not improve its profitability proportionately as dumped imports continued to hold significant share in the market. Resultantly, the domestic industry started incurring huge financial losses. Even though the domestic industry could increase its sales volumes, the same did not create any positive effect on the profitability since such increased sales volumes were achieved by matching the dumped price of subject goods from subject countries.
115. Profitability of the domestic industry declined continuously and the domestic industry has been making financial losses during the POI. Both return on capital employed and cash profits were negative during the POI. Also, growth in respect of most of the parameters such as profits, cash profits, return on capital employed etc remained negative and shows an adverse impact on the domestic industry due to the dumped imports.
116. Thus, after taking all such factors into consideration, the Authority provisionally concludes that the domestic industry has suffered material injury.

H. CAUSAL LINK AND OTHER FACTORS

117. The Authority has examined whether other factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link between dumping from subject countries and material injury to the domestic industry has been done as follows:

(a) Volume and prices of imports from third countries

118. The imports from the countries other than the subject countries are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry. Imports from other countries accounted for less than 0.5% in total. Thus, it cannot be said that imports from other countries are causing injury.

(b) Trade restrictive practices of and competition between the foreign and domestic producers

119. It is noted that there is a single market for the subject goods where dumped imports from the subject countries compete directly with the subject goods supplied by the domestic industry. It is also noted that the imported subject goods and domestically produced goods are like article and are used for similar applications/end uses. There is no evidence of trade restrictive practices and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(c) Contraction of demand or Changes in the pattern of consumption

120. The Authority notes that demand for the product showed increase during the injury period and also during the POI. Thus, it can be concluded that the injury to the domestic industry was not due to contraction in demand.

(d) Development in Technology

121. None of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

(e) Export performance of Domestic Industry;

122. The details of exports by the domestic industry is as follows;

Period	Unit	2012-13	2013-14	2014-15	POI
Exports	MT	120	-	2,714	14,947
Trend	Indexed	-	-	100	429

2. Claimed injury to the domestic industry is not on account of possible significant deterioration in export performance of the domestic industry. In fact, the exports by the domestic industry have increased during the POI. Therefore, any possible decline in export performance is not a cause of any injury.

(f) Productivity of the Domestic Industry

123. The Authority notes that the deterioration in productivity has not caused injury to the domestic industry.

(g) Performance of the domestic industry with respect to other products

124. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

I. FACTORS ESTABLISHING CAUSAL LINK

125. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially injured over the injury period and during the POI. The causal link between dumped imports and the injury to the domestic industry is established on the following grounds:
- a) Imports of the subject goods have increased in absolute terms over the entire period of investigation. Imports of the PUC from the subject countries have increased in absolute terms. Also, the landed price of imports has been declining significantly over the injury period and through the POI.
 - b) Imports of the subject goods have increased relative to production and consumption in India.
 - c) Market share of dumped imports in India remained at about 50% during the POI which is a significant percentage and that too when the demand for the subject goods has been rising in India. This is due to the reason that imports have aggressively captured the robust demand in India.
 - d) The domestic industry has not been able to increase its production and sales commensurate with the increase in demand. The domestic industry had significant unutilised capacity in the POI even though the demand had increased.
 - e) Inventories of the domestic industry have been on the rise, as the domestic industry has not been able to increase its sales despite increase in demand. Imports have been aggressively capturing the demand in India.
 - f) There is significant price suppression and depression due to low priced dumped imports coming in to India.

- g) The domestic industry's profitability and return on capital employed have been drastically affected. This is evident from the fact that the domestic industry was earning decent profits and return on capital employed till 2013-14. However, especially during the POI, the profits and returns have turned into huge losses and negative situations.

126. The above analysis indicates that the domestic industry is suffering material injury due to increasing dumped imports of PUC into India from subject countries. There exists a strong causal relation between the increase in dumped imports of the subject goods originating in or exported from subject countries and the material injury suffered by the domestic industry.

J. MAGNITUDE OF INJURY AND INJURY MARGIN

127. The Authority has determined Non Injurious Price for the domestic industry on the basis of principles laid down in the anti-dumping Rules, as amended. The non-injurious price so determined has been compared with the landed prices of imports from the subject countries as follows;

S. No	Country	Producer	Exporter	Non Injurious Price - US\$/Kg	Landed price - US\$/Kg	Injury Margin - US\$/Kg	Injury Margin - %	Injury Margin Range - %
1	China PR	Any	Any	***	***	***	***	10-20
2	Japan	Any	Any	***	***	***	***	20-30
3	Korea RP	Hanwha Fine Chemical Corporation	P & Y International Co. Ltd	***	***	***	***	30-40
4	Korea RP	Hanwha Fine Chemical Corporation	Everlite Korea Co., Ltd	***	***	***	***	20-30

5	Korea RP	Hanwha Fine Chemical Corporation	IMS Corporatio n	***	***	***	***	20- 30
6	Korea RP	Hanwha Fine Chemical Corporation	P & Y Internation al Co. Ltd and TJ AL Mulook General Trading LLC, UAE	***	***	***	***	30- 40
7	Korea RP	Hanwha Fine Chemical Corporation	a)P & Y Internatio nal Co. Ltd b)Everlite Korea Co., Ltd c)IMS Corporatio n d)TJ AL Mulook General Trading LLC	***	***	***	***	30- 40
8	Korea RP	BASF Company Ltd	BASF Company Ltd	***	***	***	***	30- 40
9	Korea RP	Any other than the producers at	Any other than the exporters					35- 45

		S.No 3 to 8 above.	at S.No 3 to 8 above.	***	***	***	***	
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K. CONCLUSIONS ON INJURY AND CAUSATION

128. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this preliminary finding, the Authority concludes that:

- I. The product under consideration has been exported to India from the subject countries below its normal value, resulting in dumping.
- II. The domestic industry has suffered material injury due to dumping of the product under consideration from the subject countries.
- III. The material injury has been caused by the dumped imports from the subject countries.

L. Indian Industry's Interest & Other Issues:

129. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from Iran in any manner and, therefore, would not affect the availability of the product to the consumers. The consumers could still maintain multiple sources of supply.

M. Recommendation

130. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:

- a. The product under consideration has been exported to India from subject countries below their normal values.
- b. The domestic industry has suffered material injury.
- c. Material injury has been caused by the dumped imports of subject goods from subject countries.

131. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti-dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of the subject goods from subject countries in the form and manner described hereunder.

132. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional 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, provisional antidumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from subject countries.

DUTY TABLE

Sl. No	Sub-heading	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit	Currency
1	29291020	Toluene diisocyanate	China PR	China PR	Any	Any	0.26	Kg	US\$
2	29291020	Toluene diisocyanate	China PR	Any country other than those subject to Anti dumping Duty	Any	Any	0.26	Kg	US\$
3	29291020	Toluene diisocyanate	Any country other than those	China PR	Any	Any	0.26	Kg	US\$

			subject to Anti dumping Duty						
4	29291020	Toluene di- isocyanate	Japan	Japan	Any	Any	0.14	Kg	US\$
5	29291020	Toluene di- isocyanate	Japan	Any country other than those subject to Anti dumping Duty	Any	Any	0.14	Kg	US\$
6	29291020	Toluene di- isocyanate	Any country other than those subject to Anti dumping Duty	Japan	Any	Any	0.14	Kg	US\$
7	29291020	Toluene di- isocyanate	Korea RP.	Korea RP.	Hanwha Fine Chemical Corporation	a)P & Y Internati onal Co. Ltd b) Everlite Korea Co., Ltd c)IMS Corporat ion d)TJ AL Mulook General	0.17	Kg	US\$

						Trading LLC			
8	29291020	Toluene di-isocyanate	Korea RP	Korea RP	BASF Company Ltd	BASF Company Ltd	0.31	Kg	US\$
9	29291020	Toluene di-isocyanate	Korea RP	Korea RP	Any combination other than mentioned in Sl. No.7 &8 above		0.40	Kg	US\$
10	29291020	Toluene di-isocyanate	Any country other than those subject to Anti dumping Duty	Korea RP.	Any	Any	0.40	Kg	US\$
11	29291020	Toluene di-isocyanate	Korea RP.	Any country other than those subject to Anti dumping Duty	Any	Any	0.40	Kg	US\$

N. FURTHER PROCEDURE

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

- a) The Authority invites comments on these provisional findings from all the interested parties and the same, considered relevant by the Authority, would be considered in the final findings.
- b) Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make their views known, within forty days from the date of the publication of these preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings.

- c) The Authority would conduct further verification to the extent deemed necessary.
- d) The Authority may hold oral hearing to hear the interested parties orally before notifying the final findings.
- e) The Authority would disclose the essential facts as per the Anti-dumping Rules before announcing the final findings.


28/3/17
(Inder Jit Singh)

Additional Secretary & Designated Authority