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**F. No. 6/42/2019-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building,  
5, Parliament Street, New Delhi -110001**

**Date: 12<sup>th</sup> June, 2020**

**Case No. ADD(OI) 33/2019**

**NOTIFICATION**

**PRELIMINARY FINDINGS**

**Subject: Anti-dumping investigation concerning the imports of Aniline  
from China PR**

**A. BACKGROUND OF THE CASE**

1. M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited (hereinafter also referred to as the “Applicant”) filed an application, before the Designated Authority in accordance with the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred as the “Anti-Dumping Rules” or “Rules”) for initiation of anti-dumping investigation concerning imports of Aniline (hereinafter also referred to as the “product under consideration” or “PUC” or “subject goods”) from China PR (hereinafter also referred to as the subject country).
2. The Authority, on the basis of a prima facie evidence submitted by the Applicant, issued a public notice vide Notification No. 33/2019–DGTR dated 24<sup>th</sup> January, 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act, read with Rule 5 of the Rules, to determine the existence, degree and effect of any alleged dumping of the subject goods originating in or exported from subject country and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

**B. PROCEDURE**

3. The procedure described herein below has been followed with regard to the subject investigation: -
  - a. The Authority notified the Embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.

- b. The Authority issued a public notice dated 24<sup>th</sup> January 2020 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning the import of subject goods from the subject country.
- c. The Embassy of subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules. The Authority sent a copy of the initiation notification to the Government of the Subject Country, through its Embassy in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Applicant and requested them to make their views known in writing within the prescribed time limit.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy in India in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
- e. The Authority also forwarded copy of the notice to known producers/ exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the Applicant and requested them to make their views known in writing within time limit given in the initiation notification.
- f. The Embassy of the subject country in India was also requested to advise the exporters/producers from its country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to the Embassy along with the names and addresses of the known producers/exporters from the subject country.
- g. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules: -
  - i. M/s Sinopec Nanjing Chemical Industries Co., Limited
  - ii. M/s Bayer Material Science (Shanghai) Co., Limited
  - iii. M/s Jilin Connell Chemical Industry Co., Limited
  - iv. M/s Shanxi Tianji Coal Chemical Group Co., Limited
  - v. M/s Shandong Jinling Chemical Co., Limited
  - vi. M/s Jiangsu Ruxiang Chemical Co., Limited
  - vii. M/s Henan Kaipu Chemical Co., Limited
  - viii. M/s BASF (China) Co., Limited
  - ix. M/s Yantai Wanhua Polyurethanes Co., Limited
  - x. M/s Hebei Jiheng Chemical Group Co., Limited
  - xi. M/s Shandong Haihua Co., Limited
- h. In response to the above notification, following producers, their related exporters/traders have submitted the exporter questionnaire responses: -
  - i. M/s Wanhua Chemical Group Co., Limited
  - ii. M/s Wanhua Chemical (Hong Kong) Co., Limited
  - iii. M/s Kempar Energy Pte. Limited.
  - iv. M/s Wanhua Chemical (Yantai) Trading Co., Limited
  - v. M/s Wanhua Chemical (Ningbo) Co., Limited
  - vi. M/s Wanhua Chemical (Ningbo) Trading Co., Limited

- i. The Authority sent questionnaires to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules: -
  - i. M/s NOCIL Limited
  - ii. M/s Aarti Industries Limited
  - iii. M/s Bodal Chemicals Limited
  - iv. M/s Bhageria Industries Limited
  - v. M/s Kutch Chemicals Industries Limited
  - vi. M/s Mayur Dyechem Intermediate LLP
  - vii. M/s Industrial Solvents & Chemicals Private Limited
- j. In response to the above notification, following importers/users have submitted importer questionnaire responses:
  - i. M/s Bhageria Industries Limited
  - ii. M/s Bodal Chemicals Limited
  - iii. M/s Kutch Chemicals Industries Limited
  - iv. M/s Colourtex Industries Private Limited
  - v. M/s Mayur Dye Chem Intermediates LLP
- k. Further, the following interested parties have filed legal submissions over the investigation: -
  - i. M/s Jemby Chem Limited
  - ii. M/s Bharat Organics Limited
  - iii. M/s Nutan Dye Chem Private Limited
  - iv. M/s Remik Chemicals Private Limited
  - v. M/s Laxmi Organic Industries Limited
  - vi. The Dyestuffs Manufacturers' Association of India (DMAI)
  - vii. M/s Wanhua Chemical Group Co., Limited, M/s Wanhua Chemical (Hong Kong) Co., Limited, M/s Wanhua Chemical (Yantai) Trading Co., Limited, M/s Wanhua Chemical (Ningbo) Co., Limited., and M/s Wanhua Chemical (Ningbo) Trading Co., Limited collectively.
- l. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of e-file through email for the interested parties.
- m. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which has been received by the Authority. The Authority has relied upon DGCI&S data for computation of the volume and values of imports and its analysis after due examination of the transactions.
- n. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- o. The information/ data submitted by the Applicant has been verified to the extent deemed necessary and relied upon for the purpose of preliminary findings.
- p. The period of investigation for the purpose of present investigation is 1<sup>st</sup> April 2019 to 30<sup>th</sup> September 2019 (6 months). The injury examination period has,

however, been considered as the period from 2016-17, 2017-18, 2018-19 and the period of investigation.

- q. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- r. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the present preliminary findings on the basis of the facts available.
- s. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported with evidence and considered relevant to the present investigation. The Authority will further examine the evidentiary documents submitted by the interested parties subsequent to preliminary findings, which will form the basis for conclusions at the time of final findings.
- t. ‘\*\*\*\*\*’ in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- u. The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs. 70.73.

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

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

*“The product under consideration for the purpose of present investigation is “Aniline” which is also known as “Aniline Oil”. Aniline is a transparent, oily liquid and is a primary amine compound. Its colour transforms to light pale-yellow liquid when freshly distilled. Its colour darkens when exposed to light or air. Aniline is a basic organic chemical, essential for vital industries such as drugs, pharmaceuticals, dyes and dye intermediates.*

*The subject products are classified under Chapter Heading 29 under the code 29214110. The customs classification is indicative only and in no way, binding upon the product scope.”*

### **C.1. Submissions made by the domestic industry**

5. Following submissions have been made by the domestic industry with regard to the product under consideration:
- a. The product under consideration is Aniline, also known as Aniline Oil, which is a transparent oily liquid and is used in drugs, pharmaceuticals, dyes and dye intermediates.

- b. The product is classified under custom heading 2921 41 10 of the Customs Tariff Act, 1975.
- c. The goods produced by the Applicant are like article to the imported goods as they are comparable in terms of physical and chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable. There is no known significant difference in the technology employed by the domestic industry and the producers in subject country

## **C.2. Submissions made by other interested parties**

- 6. No submissions have been made by any other interested party with regard to the scope of product under consideration.

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

- 7. The submissions made by the domestic industry with regard to product under consideration related issues are examined and addressed hereunder.
- 8. The product under consideration in the present investigation is Aniline which is a basic organic chemical for drugs, pharmaceuticals, dyes and dye intermediates. The product is also called Aniline oil.
- 9. The Authority has considered the PUC as under:-

*The product under consideration for the purpose of present investigation is "Aniline" which is also known as "Aniline Oil". Aniline is a transparent, oily liquid and is a primary amine compound. Its colour transforms to light pale-yellow liquid when freshly distilled. Its colour darkens when exposed to light or air. Aniline is a basic organic chemical, essential for vital industries such as drugs, pharmaceuticals, dyes and dye intermediates.*

*The subject products are classified under Chapter Heading 29 under the code 29214110. The customs classification is indicative only and in no way, binding upon the product scope.*

- 10. It has been noted from the information available on record that the product produced by the Domestic Industry is like article to product under consideration imported from subject countries. The product produced by the Domestic Industry, and subject goods imported from subject countries are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The contention of the Applicant has not been disputed by the other interested parties. The Authority provisionally holds that the subject goods produced by the domestic industry are like article to the product imported from subject countries in terms of Rule 2(d) of the AD Rules.

11. The product under consideration is classified under the Chapter Heading 29 under the tariff code 2921 41 10. The customs classification is only indicative and is not binding on the scope of the product under consideration.

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

### **D.1. Submissions made by the domestic industry**

12. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing:
- a. The Applicant is the sole producer of the subject goods in India.
  - b. The Applicant has not imported the subject goods from subject country and is not related to any exporter in the subject country or importer of subject goods in India.
  - c. The Applicant satisfies the requirement of Rule 2(b) and Rule 5(3) of the Rules.

### **D.2. Submissions made by other interested parties**

13. No submissions have been made by other interested parties with regard to the scope and standing of domestic industry.

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

14. Rule 2(b) of the Rules defines domestic industry as under:

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

15. The Application has been filed by M/s Gujarat Narmada Valley Fertilizers & Chemicals Limited. There is no other producer of the subject goods in India. The Applicant has not imported the subject goods from subject country and is not related to any exporter in the subject country or importer in India.
16. Accordingly, the Authority holds that the Applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules and considers that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

## **Confidentiality**

### **Submissions made by domestic Industry**

17. No submissions have been made by domestic industry with regard to confidentiality.

## **Submissions made by other interested parties**

18. Excessive confidentiality has been claimed by the petitioner as it has not provided any information at all in the Section VI of the petition. Since it is a multi-product company, the annual report does not provide information in relation to product under consideration. Though, the capacity and capacity utilization of the subject goods are disclosed in the annual report, the same has also been claimed confidential.

## **Examination by the Authority**

19. Various submissions made by the Applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined and addressed as follows.
20. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

- (i) With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

*“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of 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.”*

- (ii) As regards the contentions with regard to confidentiality of information, it is noted that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever

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

## **E. MISCELLANEOUS SUBMISSIONS**

### **E. 1 Submissions of other interested parties**

21. The other interested parties have made the following submissions on various issues:

- a. The Applicant has not brought any substantive evidence to prove condition for initiation of the investigation and has instead exaggerated imports and invented the injury. There are bare assertions and false statement with inaccurate and insufficient data.
- b. The users of Aniline are primarily small and medium scale units working in price sensitive and competitive market. The imposition of anti-dumping duty will impact it which is already facing slowdown and increased cost of input chemicals.
- c. Period of investigation is a deviation of past practice of Authority. Even in recently initiated investigation of newsprint, Authority adopted a 9-month period of investigation when petitioner requested for 6-month period of investigation. The same is also a deviation from the practice followed by other members.
- d. As per para 5.10 of the SOP, period of investigation should be 12 months. No justification has been provided by the Authority.
- e. 6-month period of investigation has been chosen to hide the effects of shutdown due to maintenance of 27 days by the domestic industry in the year 2018-19. As a result, the period of investigation has been left to only for 5 months.
- f. The present case does not reflect justification to consider a 6-month period of investigation. At least a year period should be taken for considering all cyclic impacts associated with the business to examine injury.
- g. The inappropriateness of POI is also visible from the fluctuating monthly import prices. The petitioner has claimed a decline in import price in the period of investigation, however over the period of investigation the price has increased by 6% which shows inappropriateness of shorter period for injury analysis.
- h. Shortage of raw material would lead to disruption in production of downstream products. Duties may be recommended only if the capacities of local producers are sufficient to cater demand.
- i. Downstream products are also manufactured in China which are being shipped to India and other customers of Indian producers in European Union and Asia.
- j. The effects of Covid-19 pandemic are visible on the dyestuff producers in the SME/MSME sector and any additional duty on the inputs shall lead to permanent closure of many units.



- k. The Applicant cannot cater the demand and therefore the imports will continue to happen. The duty would allow the Applicant to manipulate the price and increase its profits.

## **E. 2 Examination by the Authority**

22. The Authority has considered the views of interested parties, as under:-

- a. Regarding the submission of other interested parties on the selection of POI of 6 months, the Authority notes that the adoption of 6 months as period of investigation is not inconsistent with the Rules. The domestic industry substantiated the need for considering April 2019 to Sept 2019 (6 months) as the period of investigation (POI). The Authority accepted the same, being satisfied with the reasons given by the domestic industry. The Authority considers that 6 months POI in the present case is appropriate as the decline in import prices from subject country is steep in April-Sept, 19. The petition in the present case was filed on 27<sup>th</sup> December, 2019 and therefore data for the period after Sept., 2019 was not available at the stage of initiation. The purpose of an antidumping investigation is to examine whether the product has been dumped and whether such dumping has caused material injury to the domestic industry. Thus, the Authority notes that the POI chosen for the case is consistent with the legal position at the time of initiation and the practice being followed by the Authority. It is further noted that the Rules have been amended vide Customs Notification no. 9/2020- customs dated 2<sup>nd</sup> February 2020 wherein Rule 2(da) and Explanation to Rule 22 have been inserted, incorporating the following provisions:

*“The POI shall :-*

- (i) not be more than six months old as on the date of initiation of investigation.*
- (ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months.”*

It is noted that the above amendment has been carried out after the initiation of the present investigation. Nevertheless, the Authority had duly considered the justification provided by the Applicant for selection of April 2019 to Sept 2019 (6 months) as POI, as mentioned above.

- b. As regards shutdown for around a month reported in the annual report resulting in effectively curtailing the period of investigation to only 5 months, it is noted that the plant maintenance was conducted in the year 2018-19 and not in the period April 2019 to September 2019. Therefore, the period of investigation pertains to clear 6 months and is found to be appropriate in the given circumstances.

- c. The Authority notes that the demand supply gap in the country does not bar a domestic industry from seeking redressal from dumped imports. As held by the CESTAT in the matter of DSMI demitsu Limited vs. Designated Authority, demand-supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at undumped prices. Even after the imposition of antidumping duty, the imports are not restricted in the country. Therefore, there is no basis for the claim that imposition of ADD can lead to shortage of the raw material for the downstream industry. The Authority notes that imposition of anti-dumping duty provides level playing field and does not prevent fair competition in the market. The Authority also notes the submission of the domestic industry that Aniline is produced and exported by many countries. The users are free to import the subject goods from any source.
- d. The Authority notes that the present investigation is for Aniline and not for its downstream product. The import of downstream product of Aniline does not affect the present case.
- e. The Authority notes that the investigation was initiated on the basis of sufficient prima facie evidence submitted by the Applicant.

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

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

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

### **F.1 Submissions of the Domestic industry**

24. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:

- a. Normal value of Chinese producers cannot be accepted unless the producers show that their accounts reasonably reflect the costs associated with the production and sale of the product under consideration, having regard to the provisions of Rule 7 and 8 of the Rules, provisions of Accession Protocol of China, and the practice being followed by the Designated Authority.
- b. The normal value needs to be determined based on the surrogate country.
- c. Barring China and European Union, the number of producers of the subject goods in other countries are very few.
- d. The production capacity in European Union is almost at the same level as in China.
- e. Only exports from European Union are more than 5% of exports to India.
- f. Even on a comparison of GDP and GNI, there is no country except European Union which can be considered as an appropriate surrogate country.
- g. European Union can be considered as an appropriate surrogate country for the purpose of determination of normal value.
- h. Exports from Belgium to Germany constitute evidence of price of Aniline in a market economy third country.
- i. The dumping margin is positive and significant.

## **F.2 Submissions made by other interested parties**

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

- i. Normal value cannot be adopted on the basis of selling price from Belgium to Germany as it does not fulfil the requirement of Rule 7 – second option. An option could have been price from Belgium to countries including India as a basis of normal value.
- ii. Price from Belgium to Germany amounts to intra country price and cannot be seen as price in European Union. Price considered is very high as compared to prices prevailing in European Union.
- iii. It is inappropriate to consider EU as a surrogate country. Petitioner has failed to put proper claims as permissible in law.
- iv. The Authority is requested to reconsider various propositions of the petitioner concerning normal value, presuming that Chinese producers may not be able to satisfy ME conditions.
- v. Authority has issued a separate questionnaire to exporters from China PR seeking voluminous information from exporters with regard to market economy.
- vi. India must fulfil its obligation to WTO and recognize China PR as a market economy status. Surrogate country methodology for China PR expired from 11th December 2016. After the expiry of China's accession to WTO, it must be treated in same way as any other WTO member and regardless of the domestic law of a particular member, imports from China PR must be demonstrated on the basis of Chinese prices and costs.
- vii. In EU, most Aniline producers are also MDI manufacturers. Covestro has Aniline plant in Belgium and Germany and MDI plant in Germany and Spain. Covestro has to transfer Aniline from Belgium to Germany or Spain for MDI manufacturing. Such transfer price shall not be deemed as market price as Aniline

- is transferred within Covestro Group between affiliated parties. Similar situation applies to BASF, DOW, Huntsman and Borsodchem, except for CUF. The normal value cannot be considered on basis of the transactions between related entities.
- viii. CUF is the only producer of Aniline in EU which does not have MDI plant, hence Aniline cannot be transferred within CUF or its related parties which might be located in different countries unlike Covestro, BASF, DOW, Huntsman and Borsodchem do. CUF plant is located in Portugal only. For the purpose of normal value, sales of CUF (producer) by Portugal to Germany can be relied upon at best.
  - ix. Para 13.18.2 of the Manual of SOP states that appropriate surrogate country may be relied after considering level of development of country and product under consideration.
  - x. There is significant difference in the GDP - per capita income, GDP, GDP per person, consumer spending, GDP real growth rate, economy growth rate, economy growth, world trade growth and population between the two countries and hence they are not comparable.
  - xi. On the basis of data presented in the petition, there is significant difference between the quantity and price of imports from China PR and European Union in India.
  - xii. If the Authority does not agree with the submissions that Portugal to Germany prices should be considered as normal value, it is requested then that normal value for China PR can be constructed as per Para 7 of Annexure 1 of Rules. For this purpose, international prices of Benzene can be considered, consumption factor of raw material can be considered for participating producer, utilities cost can be worked out with the prevailing prices in China and interest rate as prevailing in the international market including China may be considered. Reasonable profit may also be added for the product under consideration exported to India from China.

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

#### **F.3.1 Determination of normal value and export price.**

##### **Market Economy Status for Chinese Producers**

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

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

*(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the*

*importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*

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

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

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

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

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

**Normal Value for all Producers in China PR.**

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

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

30. The Authority had also sought comments from the other interested parties on European Union as a surrogate country for China. The extract of initiation notification is as under-

*9. All interested parties are advised to offer their comments on this issue within 30 days from the date of issuance of initiation notification. Pending detailed examination of the Page 3 of 6 claim of EU as a surrogate country for China for this investigation, the Authority, for the purpose of initiation of the present investigation, has taken the selling price from Belgium to Germany for determining the normal value of China PR.*

31. With regard to comments from the other interested parties on European Union as a surrogate country for China, it is noted that within the time line of 30 days given by the Authority in the initiation notification, none of the interested party gave their comments on the proposition of considering EU as a surrogate country for China. However, the Dyestuffs Manufacturers' Association of India (DMAI) and Wanhua Group have raised concerns over the proposed methodology, after the given time period.
32. One of the interested parties has contended that the normal value in the instant case should be determined on the basis of price paid or payable in India, duly adjusted.
33. Since there are rival submissions with regard to consideration of EU as an appropriate market economy third country, for the purpose of the preliminary findings, normal value has been determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The normal value so determined is given below in dumping margin table.

#### **Determination of Export Price**

**For M/s Wanhua Chemical Group Co., Limited, M/s Wanhua Chemical (Hong Kong) Co. and M/s Kempar Energy Pte. Limited, Singapore.**

34. The Authority notes that following producers/exporters have filed questionnaire responses:

- i. M/s Wanhua Chemical Group Co., Limited (Wanhua)
  - ii. M/s Wanhua Chemical (Hong Kong) Co., Limited, Hong Kong.
  - iii. M/s Kempar Energy Pte. Limited, Singapore.
  - iv. M/s Wanhua Chemical (Yantai) Trading Co., Limited
  - v. M/s Wanhua Chemical (Ningbo) Co., Limited
  - vi. M/s Wanhua Chemical (Ningbo) Trading Co., Limited
35. It is noted that during POI, M/s Wanhua Chemical Group Co., Ltd., (producer/exporter) is a producer of the subject goods in China PR, and has exported the subject goods through related and unrelated traders to customers in India. The responding producer/exporter has given details of the exports of subject goods to India in Appendix 3C of the exporters' questionnaire response. The responding producer/exporter has also clarified that Appendix 3A is not applicable in their case because there are no direct sales to Indian customers. It is noted from the response that M/s Wanhua Chemical Group Co., Ltd., has exported \*\*\*\* MT subject goods to India through M/s Wanhua Chemical (Hong Kong) Co., Ltd., Hong Kong (Trader). M/s Wanhua Chemical (Hong Kong) Co., Ltd., Hong Kong, has in-turn exported the same to India through M/s Kempar Energy Pte. Ltd., Singapore. The other related producer M/s Wanhua Chemical (Ningbo) Co., Limited has not exported the subject goods to India during POI directly or through its related traders. It is further noted that M/s Wanhua Chemical (Ningbo) Co., Ltd., M/s Wanhua Chemical (Yantai) Trading Co., Ltd., and M/s Wanhua Chemical (Ningbo) Trading Co., Limited, are not involved in exports to India.
36. For the exports to India, the producer/exporter has claimed adjustments on account of port and other related expenses, transportation via ship and Non-Refundable VAT. Further, bank charges and credit expenses claimed by the related exporter M/s Wanhua Chemical (Hong Kong) Co., Ltd., Hong Kong have also been provisionally considered to arrive at ex-factory export price. The Authority has relied upon the details of the exports given in the questionnaire response filed by the producer/exporter for the purpose of Preliminary findings subject to verification of information. The adjustments towards port and other related expenses, transportation via ship and Non-Refundable VAT, bank charges and credit expenses of the trader have been provisionally accepted for the purpose of preliminary findings. Accordingly, the Authority has provisionally determined the net export price, as mentioned in the dumping margin table below.

**For all other producers/exporters from China PR**

37. The export price for all other producers and exporters who has not participated in the present investigation has been determined as per facts available considering after allowing due adjustments for ocean freight, marine insurance, credit cost, inland & port charges and VAT refund and the same has been mentioned in the dumping margin table.

**F.3.2 Dumping Margin**

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

Country	Name of Producer	Normal Value/ CNV (US\$/MT)	Export Price (US\$/MT)	Dumping Margin US\$/MT	Dumping Margin %	Dumping Margin Range
China PR	Wanhua Chemical Group Co., Limited	****	****	****	****	20-40
	Other Producers	****	****	****	****	40-60

## **G. INJURY AND CAUSAL LINK**

### **G.1 Submissions made by the Domestic Industry**

39. Following submissions have been made by the domestic industry with regard to injury and causal link:
- The demand of the subject goods has declined in the period of investigation. However, the demand is still more than the capacity and hence fall cannot cause injury to the domestic industry.
  - The imports of the subject goods have increased significantly from the subject country in absolute terms and in relation to production and consumption.
  - The import prices have steeply declined in the period of investigation.
  - The subject imports are undercutting the prices of the domestic industry.
  - The selling price of the domestic industry has declined whereas the cost of sales of the domestic industry has increased.
  - The imports have depressed the prices of the domestic industry.
  - The capacity utilization of the domestic industry is low.
  - The production and the sales of the domestic industry have seen a fall of more than 51% and 43% as compared to the base year.
  - The profitability of the domestic industry has been severely impacted in the period of investigation as it is running in losses.
  - Cash profits and the return on investment of the domestic industry have turned negative in the period of investigation.
  - The domestic industry has lost its market share of around 28% over the injury period. The market share of the subject country imports has taken an increase from around 46% to 78%.
  - The average inventories with the domestic industry are significant representing around \*\*\*\*% of the annual sales value.
  - The domestic industry has recorded a negative growth in all the parameters.
  - The subject imports have increased at an alarming rate threatening to cause further injury.
  - There are significant capacities with the producers in the subject country.
  - The imports have had a depressing effect on the prices of the domestic industry and are likely to make way for increase in demand of subject imports

### **G.2 Submissions made by other interested parties**

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



- a. When price undercutting was at highest level, the domestic industry was earning very good profits. However, when the price undercutting at lowest level, it has suffered losses.
- b. Around 70,000-75,000 MT of subject goods is imported because production capacity in India is lower than demand in India.
- c. Imports are made from China as they are most competitively priced because of economies of scale.
- d. The fact that domestic industry was making high profits when undercutting was 10-20% in the base year and made losses when it was 0-10% in the period of investigation shows the distortion on account less than 12 months of period of investigation.
- e. Price undercutting was negative for at least 2 months in the period of investigation which shows that landed price of imports is not a factor of injury and losses cannot be on account of pressure of imports.
- f. Domestic industry was operating at capacity utilization around 108% in 2018-19 and 119% in the period of investigation. Even after a dip, it would have been at a very reasonable level. Further, slight correction from past high numbers is not a situation suggesting injury.
- g. Temporary movements in prices due to economic slowdown, fluctuations in input cost based on crude, etc. cannot be termed as injury to impose anti-dumping duty for another 5 years.
- h. Injury could be self-inflicted and could be caused due to shut down by domestic industry.
- i. Sudden decline in the economic trend during the period of investigation raises serious question about data as everything was normal in the injury period between 2016-17 to 2018-19
- j. There is a decline in both the domestic sales (43%) and the export sales (33%) in the period of investigation as compared to the base year which shows that injury may be due to some other reason.
- k. The increase in cost of sales and decrease in selling price is due to low production and capacity utilization, not due to imports from subject country.
- l. Article 3.5 of the Agreement requires the Authority to examine factors other than dumping causing injury.
- m. Appellate body in US-Hot Rolled Steel, ruled that the examination by panel in US-Norwegian Salmon AD was erroneous (Panel in US Atlantic had held that there is no need to isolate the injury due to the other factors)
- n. Petition fails to address a number of issues which have an impact on the performance of the domestic industry.

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

41. Rule 11 of Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the Domestic Industry, "*.... taking into account all relevant facts, including the volume of dumped imports, their effects on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....*". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of

the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

### G.3.1. Volume Effect of Dumped Imports on Domestic Industry

#### a. Assessment of Demand / Apparent Consumption

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualized
1	Sales of Domestic Industry	MT	41,604	41,339	34,813	11,952	23,904
2	Trend	Indexed	100	99	84	57	57
3	Subject Imports	MT	40,523	48,918	66,748	46,767	93,534
4	Trend	Indexed	100	121	165	231	231
5	Other countries imports	MT	4,127	16,441	21,370	823	1,645
6	Trend	Indexed	100	398	518	40	40
7	Total demand	MT	86,253	1,06,697	1,22,931	59,542	1,19,083
8	Trend	Indexed	100	124	143	138	138

43. The demand for the subject goods has increased over the injury period with marginal decline in period of investigation.

#### b. Increase in imports from the subject country in absolute and relative terms

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualised
1	Imports from China PR	MT	40,523	48,918	66,748	46,767	93,534
2	Import from Other Countries	MT	4,127	16,441	21,370	823	1,645
3	Total imports	MT	44,650	65,358	88,118	47,590	95,179

4	<b>Subject Imports in relation to</b>						
A	Total imports	%	91%	75%	76%	98%	98%
B	Indian Production	%	****	****	****	****	****
C	Trend	Indexed	100	119	180	472	472
D	Indian Demand	%	47%	46%	54%	79%	79%
E	Trend	Indexed	100	98	116	167	167

45. It is noted that the subject imports have increased significantly in absolute terms over the injury period. The subject imports have also increased in relative terms. The imports have increased in relation to total imports, production and consumption in India. Further, imports show increase as compared to both base year and immediate previous year. It is further noted that the subject import have shown massive growth in relation to the Indian production as compared to both base year and immediate previous year.

### G.3.2 Price Effect of the Dumped Imports on the Domestic Industry

46. With regard to the effect of the dumped on the prices of the domestic industry, it is required to be examined whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject country has been examined with reference to price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, cost of production, net sales realization (NSR) and non-injurious price (NIP) of the domestic industry have been compared with landed price of imports of the subject goods from the subject country.

#### a. Price Undercutting

47. For the purpose of price undercutting analysis, net selling price of the domestic industry has been compared with the landed value of imports from the subject country. Accordingly, the undercutting effects of the imports from the subject country work out as follows:

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualised
1	Net Sales Realisation	₹/MT	****	****	****	****	****
2	Trend	Indexed	100	125	121	91	91
3	Landed Price	₹/MT	69,424	95,464	94,632	69,255	69,255
4	Trend	Indexed	100	138	136	100	100
5	Price undercutting	₹/MT	****	****	****	****	****
6	Trend	Indexed	****	****	****	****	****
7	Price undercutting	%	****	****	****	****	****
8	Price undercutting	Range	10-20%	0-10%	0-10%	0-10%	0-10%

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

**b. Price Suppression and Depression**

49. In order to determine whether the imports are depressing the domestic prices or whether the effect of such imports was to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared alongwith import prices. The Table below shows factual position:

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualised
1	Cost of Sales	₹/MT	****	****	****	****	****
2	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>109</i>	<i>118</i>	<i>113</i>	<i>113</i>
3	Selling price	₹/MT	****	****	****	****	****
4	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>125</i>	<i>121</i>	<i>91</i>	<i>91</i>
5	Landed Value	₹/MT	69,424	95,464	94,632	69,255	69,255
6	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>138</i>	<i>136</i>	<i>100</i>	<i>100</i>

50. It is seen that

- Imports from the subject country were earlier at a price above cost of sales of the domestic industry upto 2018-19. However, imports were at a price below cost of sales of the domestic industry in the POI. It is also noted that from 2017-18, there has been a significant decline in the selling prices of subject goods while cost of sales increased.
- Whereas cost of sales, selling price and import price declined in POI, the decline in landed price of imports was far higher and significant as compared to cost of sales. The domestic industry was also forced to reduce the prices far beyond the decline in cost of sales.
- Thus, the imports of subject goods from subject country has prevented price increases which otherwise would have occurred due to increase in cost of production. The domestic industry has suffered price suppression on account of import of subject goods from subject country. Further, the subject imports have depressed the prices of the domestic industry to a very significant extent.

**Price underselling**

51. The non-injurious price (NIP) of the Domestic Industry has been determined and compared with the landed value of the subject goods to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation on the basis of principles mentioned in Annexure III of the Rules. The analysis shows that during the period of investigation, the landed value of subject imports was below the non-injurious price of the Domestic Industry, as can be seen from the table below, demonstrating positive price underselling effect:

SN	Particulars	Unit	POI
1	Landed Price	Rs/MT	69,255
2	NIP	Rs/MT	****
3	Price underselling	Rs/MT	****
4	Price underselling	%	****
5	Price underselling	Range	0-20

52. It is seen that the landed price of the subject goods from the subject country was lower than the NIP determined for the domestic industry. The price underselling for China PR is positive and significant.

### G.3.3. Economic Parameters of the Domestic Industry

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

#### a. Production, Capacity, Capacity utilization and Sale

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualised
1	Capacity	MT	****	****	****	****	****
2	Trend	Indexed	100	100	100	100	100
3	Production	MT	****	****	****	****	****
4	Trend	Indexed	100	101	91	49	49
5	Capacity utilization	%	****	****	****	****	****
6	Trend	Indexed	100	101	91	49	49
7	Domestic Sales	MT	41,604	41,339	34,813	11,952	23,904
8	Trend	Indexed	100	99	84	57	57

55. It is seen that
- The capacity of the domestic industry has remained constant over the injury period.
  - The production and capacity utilization of the domestic industry marginally increased in 2017-18, but declined thereafter, with a significant decline in the POI.

- c. The sales of the domestic industry declined throughout the injury period, with a significant decline in the Period of investigation (POI)

56. It is thus seen that production, capacity utilization and sales of the domestic industry declined in 2018-19 and thereafter in the POI. The decline in these parameters is quite significant and the same appears to be a consequence of increase in imports from subject country.

**b. Market Share**

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualised
1	Domestic Industry	%	48%	39%	28%	20%	20%
2	Trend	Indexed	100	80	59	42	42
3	Subject Imports	%	47%	46%	54%	79%	79%
4	Trend	Indexed	100	98	116	167	167
5	Other countries	%	5%	15%	17%	1%	1%
6	Trend	Indexed	100	322	363	29	29
7	Total	%	100	100	100	100	100

58. It is seen that the market share of the domestic industry has consistently declined over the injury period. The market share of the domestic industry declined by 58 basis points over the injury period, when the share of subject imports in demand increased by 67 basis points over the injury period. The market share of all other countries also declined over the period.

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

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualised
1	Cost of sales	₹/MT	****	****	****	****	****
2	Trend	Indexed	100	109	118	113	113
3	Selling price	₹/MT	****	****	****	****	****
4	Trend	Indexed	100	125	121	91	91
5	Profit per unit	₹/MT	****	****	****	****	****
6	Trend	Indexed	100	205	132	(26)	(26)
7	Total Profit/(Loss)	Rs. Lacs	****	****	****	****	****
8	Trend	Indexed	100	203	111	(15)	(15)

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualised
9	Cash Profit	Rs. Lacs	****	****	****	****	****
10	Trend	Indexed	100	202	110	(14)	(14)
11	Profit before Interest	Rs. Lacs	****	****	****	****	****
12	Trend	Indexed	100	198	107	(14)	(14)
13	Return on Capital Employed	%	****	****	****	****	****
14	Trend	Indexed	100	204	106	(18)	(18)

60. It is seen that

- The domestic industry was earning profits till 2018-19. While profit per unit increased in 2017-18, the same declined in 2018-19, and thereafter in POI. Profitability of the domestic industry declined so significantly in the POI that the domestic industry suffered financial losses in the POI.
- The cash flow and return on investment followed the same trend as that of profits. The cash profits and return on investment increased in 2017-18 and declined thereafter till the POI so significantly that the domestic industry suffered cash losses and negative return on investment in the POI.

**d. Employment, Wages and Productivity**

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Annualized
1	No of Employees	Nos	****	****	****	****	****
2	Trend	Indexed	100	100	104	103	103
3	Salary and Wages	Rs. Lacs	****	****	****	****	****
4	Trend	Indexed	100	102	129	52	104
5	Productivity per day	MT/Day	****	****	****	****	****
6	Trend	Indexed	100	101	91	49	49

62. It is seen that performance of the domestic industry has not changed significantly in respect of employment and wages. The productivity per day has declined in the POI because of decline in production.

**e. Inventories**

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	POI (A)
1	Average Inventory	MT	****	****	****	****	****
2	Trend	Indexed	100	26	380	479	479

64. It is seen that the average inventories with the domestic industry have increased significantly in last two periods including the period of investigation as compared to the first two periods of the injury period.

**f. Growth**

65. The growth of the domestic industry in terms of production, capacity utilization domestic sales volume, inventories, profits, cash profits and return on investment is as per below table-

SN	Particulars	Unit	2017-18	2018-19	POI Annualized
1	Production	Y/Y	1%	-10%	-46%
2	Domestic Sales	Y/Y	-1%	-16%	-31%
3	Capacity Utilization	Y/Y	1%	-10%	-46%
4	Average Inventory	Y/Y	-74%	1362%	26%
5	Market Share of DI	Y/Y	-20%	-27%	-29%
6	Profit/(Loss)	Y/Y	103%	-46%	-113%
7	Cash Profit	Y/Y	102%	-45%	-112%
8	PBIT	Y/Y	98%	-46%	-113%
9	Return on Capital Employed	Y/Y	104%	-48%	-117%

**g. Magnitude of Dumping Margin**

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

**h. Ability to Raise Capital Investment**

67. The domestic industry is suffering financial losses in the period of investigation. With the competition being faced by the domestic industry because of the imports, the operations of the industry have been impacted which has affected the ability to raise capital investment. However, it may be added that the domestic industry is a multi-product company and therefore ability to raise capital investment is not governed based on the performance of the product under consideration (PUC) alone.

**i. Factors affecting domestic prices**

68. The import prices are directly affecting the prices of the domestic industry in the market. It is noted that the landed value of the subject goods from subject country is not



only below its net selling price but also the non-injurious price of the domestic industry. Further the landed prices of subject imports have depressed the prices of the domestic industry leading to financial losses. The imports of subject goods from third countries are negligible in volumes and not injuring to the domestic industry. Demand for the product under consideration is far higher than the capacities in the country and cannot be the reason of injury to the domestic industry. Dumped imports are impacting the prices of the product in the market. Thus, it can be provisionally concluded that the principal factor affecting the domestic prices is the dumped imports of subject goods from the subject country.

69. The Authority has taken note of various submissions made by the Domestic Industry and other Interested parties on injury and causal link, and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the preceding paras ipso facto addresses submissions made by the domestic industry and other interested parties.
70. It is seen that the growth of the domestic industry in terms of production, capacity utilization, domestic sales volume, inventories, profits, cash profits and return on investment was adverse and negative in the POI.
71. As regards the contention that there is no co-relation between price undercutting and profits, the Authority notes that positive price undercutting does not always mean that the domestic industry performance should always decline. Further, high price undercutting implies that the selling price of the domestic industry was higher than the import price. It is noted that during the POI, because of steep decline in the import price, the domestic industry has been forced to reduce its selling prices significantly. Further, despite reducing prices, the domestic industry has lost significant sales volumes. Decline in sales volumes despite reduction in selling price because of price undercutting and consequent increase in import volumes shows that the domestic industry reduced its prices, and still lost volumes, while subject imports were undercutting domestic industry prices and their import volumes also increased.
72. As regards the contention that Chinese imports are due to economies of scale leading to competitively priced, the Authority notes that the dumping margin is positive considering the normal value as proposed by the Applicant, and the constructed normal value (CNV) as determined by the Authority for the purpose of provisional findings. This fact shows that subject imports have entered into this country at dumped prices.
73. As regards negative price undercutting in at least two months of the POI, the authority notes that the price undercutting is required to be determined for the investigation period. It is quite possible that price undercutting is positive in some import transactions or months and negative in some other import transactions or months. The Authority is however required to determine weighted average price undercutting for the entire investigation period.
74. As regards arguments about lower production capacity of domestic industry, it is noted that the capacity utilisation of the domestic industry declined by about 50% over the injury period which is quite significant.

75. As regards fluctuations in input cost based on crude etc., the Authority notes that no verifiable information has been provided showing that such factors affected export price and did not affect normal value.
76. As regards alleged plant shut down, it is seen that production and capacity utilisation of the domestic industry declined by about 50%. Further, the Authority examined the trend of inventories with the domestic industry. It is seen that the domestic industry invariably had inventories throughout the period thus clearly showing that the decline in sales is not due to possible absence of production.
77. As regard the contention that the deterioration is only in the POI, the Authority notes that the performance of the domestic industry deteriorated even in 2018-19 in respect of production, capacity utilisation, domestic sales, market share, profit per unit, total profit, cash profit, inventories. The deterioration that started in 2018-19 continued further and intensified in POI.

## **H. INJURY MARGIN**

78. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.
79. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.
80. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below:

Country	Name of Producer	Non-Injurious Price (US\$/MT)	Landed Value (US\$/MT)	Injury Margin US\$/MT	Injury Margin (%)	Injury Margin % (Range)
China PR	Wanhua Chemical Group Co., Limited	****	****	****	****	0-20
	Others	****	****	****	****	0-20

**j. Conclusions on Injury**

81. The examination of the imports of the subject product and performance of domestic industry shows that the volume of imports has increased in absolute terms as well as in relation to production and demand in India. The imports are undercutting the prices of the domestic industry, and the price underselling is also positive. The imports of subject goods from subject country has prevented price increases which otherwise would have occurred due to increase in cost of production. The domestic industry has suffered price suppression on account of import of subject goods from subject country. Further, the subject imports have depressed the prices of the domestic industry to a very significant extent.
82. It is also noted that Production, capacity utilization and domestic sales of the domestic industry declined over the injury period, with significant decline in the POI. The market share of the domestic industry has declined over the injury period with significant decline in the POI. At the same time, market share of subject imports from subject country has increased significantly. It is also noted that the domestic industry is faced with significant inventories.
83. The profitability of the domestic industry declined significantly over the injury period, and the domestic industry suffered financial losses in the period of investigation. The performance of the domestic industry deteriorated in respect of cash flow, PBIT and return on investment. The domestic industry suffered cash losses and negative return on investment in the period of investigation. Further, growth of the domestic industry became negative in the POI in respect of a number of injury parameters.
84. In view of above, the Authority provisionally concludes that the domestic industry has suffered material injury.

**I. NON-ATTRIBUTION ANALYSIS**

85. As per the Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry.
86. The other interested parties have submitted that the injury suffered by the Applicant is due to other reasons and not due to the imports from the subject country. The Authority notes that the interested parties have not presented any verifiable evidence establishing that the domestic industry has suffered injury due to factors other than dumped imports. Even though the claims made by the opposing interested parties are mere assertions, the same have been examined based on information available on record.

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

87. Imports from subject country account for around 98% share in the imports. Thus, it cannot be said that imports from other countries are causing injury.

**b. Demand for the product**

88. Demand of the subject goods has increased over the injury period with marginal decline in the period of investigation when compared to the preceding year. However, demand in the POI was significantly higher than the demand in base year. The decline in demand cannot be a reason for the injury suffered by the domestic industry.

**c. Export performance**

89. The injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

**d. Development in technology**

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

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

91. The Authority has only considered data relating only to the performance of the subject goods. Therefore, performance of other products produced and sold are not a possible cause of the injury to the domestic industry.

**f. Changes in the pattern of consumption**

92. There have been no material changes in the pattern of consumption of the product under consideration. Hence, changes in the pattern of consumption have not caused injury to the domestic industry.

**g. Trade restrictive practices**

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

**J. CONCLUSION ON CAUSAL LINK**

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

- a. Imports of the subject goods from subject country have increased in absolute terms as well as in relation to production and consumption.
- b. The market share of subject imports has increased, while the share of domestic industry has declined over the same period. While the demand has also reduced, the fall in market share of the domestic industry is more than the fall in demand.

- c. There is price depression due to low priced dumped imports coming into India.
- d. The dumped imports are undercutting the prices of the domestic industry. The Price underselling is significant and positive.
- e. As a result, the production and sales of the domestic industry have declined over the period.
- f. The profits, cash profits and return on capital employed of the domestic industry have turned negative in the period of investigation.

**K. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES**

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

**L. CONCLUSION & RECOMMENDATIONS**

96. After examining the submissions made by the interested parties and issues raised and considering the facts on record, it is noted that:
- a. The product under consideration that has been exported to India from the subject country at dumped prices.
  - b. The domestic industry has suffered material injury.
  - c. The injury to the domestic industry has been caused by the dumped imports from subject country.
97. 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 aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury, pending completion of the investigation. Therefore, Authority considers it necessary and recommends imposition of provisional anti- dumping duty on imports of subject goods from the subject country.
98. In terms of provision contained in Rule 17(1) (b) read with Rule 4(d) of the Rules, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the Domestic Industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of

the duty table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of subject goods originating in or exported from subject country.

**Duty Table**

SN	Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Duty	Unit	Currency
1	2	3	4	5	6	7	8	9
1	29214110	Aniline or aniline oil	China PR	Any country including China PR	Wanhua Chemical Group Co., Limited	65.91	MT	USD
2	29214110	Aniline or aniline oil	China PR	Any country including China PR	Any producer other than mentioned in S.No. 1	150.80	MT	USD
3	29214110	Aniline or aniline oil	Any country other than China PR	China PR	Any	150.80	MT	USD

**M. FURTHER PROCEDURE**

99. The procedure as below would be followed subsequent to notifying the preliminary findings:-
- (i) 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 finding.
  - (ii) Domestic Industry, exporters, importers and other interested parties known to be concerned are being addressed separately by the Authority, who may make their views known, within 30 days from the date of the publication of these preliminary findings.
  - (iii) Any other interested party may also make known its views within 30 days from the date of publication of these findings.
  - (iv) The Authority would conduct oral hearing in terms of Rule 6(6) to give an opportunity to all interested parties to present their views relevant to the investigation. Issues and concerns raised during oral hearing will be examined in the final findings.
  - (v) The date of the oral hearing would be announced on the DGTR website (dgtr.gov.in).
  - (vi) The Authority would conduct further verification to the extent deemed necessary.
  - (vii) The Authority would disclose the essential facts as per the Rules before issuing the final findings.

(Bhupinder S. Bhalla)  
Additional Secretary & Designated Authority