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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES

Udyog Bhawan, New Delhi
Dated the 5th August, 2011

NOTIFICATION

Final Findings
(Mid Term Review)

Subject: Final Findings in Mid-Term Review investigation in respect of anti-dumping duty imposed on imports of Rubber Chemical PX-13 (6PPD) originating in or exported from Korea RP.

No. 15/21/2010-DGAD –Having regard to the Customs Tariff Act, 1975 as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time.

A. BACKGROUND OF THE CASE

No. 15/21/2010-DGAD – Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the Rules), the Designated Authority (hereinafter referred to as the Authority) initiated a Mid Term Review (MTR) antidumping investigation on 9th August, 2010 into alleged dumping of Rubber Chemical PX-13 (6PPD) (hereinafter referred to as the subject goods) originating in or exported from Korea RP. The original investigations was initiated on 6th July, 2007 against dumped imports of Certain Rubber Chemicals MBT, CBS, TDQ, PVI, and TMT originating in and exported from China and Rubber Chemical PX-13 (6PPD) originating in and exported from China and

Korea RP. The provisional antidumping duty was imposed on imports of PX-13 (6PPD) from China PR and Korea RP vide Customs Notification No. 61/2008-Customs dated 5th May, 2008 on the basis of the preliminary findings of the Authority dated 28th February, 2008. The Final Finding was notified vide Notification dated 1st October, 2008 and the Department of Revenue imposed definitive anti dumping duties on the PX-13 (6PPD) from China PR and Korea RP vide Notification No. 133/2008-Customs dated 12th December, 2008.

2. And whereas the Rule 23 of Anti-dumping Rules requires the Authority to review, from time to time, the need for continued imposition of anti-dumping duty and if the Authority is satisfied on the basis of positive information received by it that there is no justification for continued imposition of such duty, the Authority may recommend to the Central Government for its withdrawal. Notwithstanding the above provision, the Authority is required to review, on the basis of positive information submitted by any interested party substantiating the need for a review, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, as to whether continued imposition of the duty is necessary to offset dumping; whether the injury is likely to continue or recur if the duty was removed or varied; or both. In terms of the above provision, Designated Authority received an application filed by M/s National Organic Chemical Industries Limited (hereinafter referred to as NOCIL or the domestic industry) substantiating the need for Mid Term Review of the anti dumping duty imposed on Rubber Chemical PX13 (6PPD) originating in or exported from Korea RP, and requesting for enhancement /revision of the anti dumping duty imposed on the subject goods. Having decided to review the Final Findings notified vide Notification No 14/5/2007-DGAD dated 1st Oct, 2008, the Authority initiated the MTR investigations in terms of the Rule 23.

B. PROCEDURE

3. The procedure described below has been followed with regard to the present investigation:
 - i) The Authority received a duly substantiated application from M/s National Organic Chemical Industries Limited, Mumbai (NOCIL) for review of and enhancement in the quantum of anti dumping duty in force, *inter alia*, based on the grounds that the existing duty is not sufficient to address the injury to the domestic industry. The petitioner submitted prima facie evidence in this regard, requesting for review and enhancement of the anti dumping duty in force.

- ii) Having satisfied itself that the petitioner has produced sufficient positive information substantiating the need for a review, the Authority initiated the Mid Term Review investigation of anti-dumping duty imposed on imports of subject goods originating in or exported from Korea RP vide Notification No. 15/21/2010-DGAD dated 9th August, 2010 under Rule 23 of the AD Rules. The scope of the present review covers all aspects of the previous Notification.
- iii) The Embassy of the subject country in New Delhi was informed about the initiation of the investigations in accordance with Rule 6(2) with a request to advise the exporters/producers in that country to respond to the Questionnaire within the prescribed time.
- iv) The Authority provided copies of the non-confidential version of the application to the known exporters and the Embassy of subject country in accordance with Rules 6(3) supra. A copy of the non-confidential application was also provided to other interested parties wherever requested.
- v) The Authority forwarded a copy of the public notice of initiation of investigation to all known producers of the subject goods in India besides the petitioner.
- vi) The Authority forwarded a copy of the Initiation public notice to the known exporters (whose names and addresses were made available to the Authority) and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4). The notice was forwarded to following exporter, namely, Kumho Petrochemical Co. Ltd., Korea RP (KKPC).
- vii) Kumho Petrochemical Co. Ltd, Korea RP has filed response to the Questionnaire in the form and manner prescribed.
- viii) The Authority forwarded a copy of the Initiation public notice to all the following known importers (whose names and addresses were made available to the Authority) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4).

S.N.	Name of the Importer
1.	J.K. Industries Ltd. Kolkata
2.	CEAT Limited, Mumbai
3.	Apollo Tyres Ltd., Kochi
4.	Birla Tyre, Kolkata
5.	MRF Limited, Chennai
6.	Metro Tyres Ltd., Ludhiana

7.	Poddar Tyres Ltd., Ludhiana
8	Raison Ind. Ltd., New Delhi
9.	Rubber Products Ltd., Thane

- ix) In response to the Notification, response was received from Automotive Tyres Manufacturers' Association (ATMA) which was considered.
- x) Exporters, producers and other interested parties who have not responded to the Authority, nor have supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xi) Investigation was carried out for the period starting from 1st April, 2009 to 31st March 2010 (POI). However, injury examination was conducted for the period from 2006-07, 2007-08, 2008-09 and 2009-10 (i.e., POI).
- xii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the period of investigation and three years before the POI, which was received by the Authority.
- xiii) Information was sought from the applicant and other domestic producers to determine non-injurious price based on the cost of production of the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) to ascertain as to whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry. On the spot verification of the data provided by the applicant was carried out to the extent considered necessary.
- xiv) In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in public hearings held on 19.01.2011 and 16.03.2011. The parties which presented their views in the public hearings were requested to file written submissions of the views expressed orally. The arguments made in the written submissions/rejoinders received from the interested parties have been considered, wherever found relevant, in the Final Findings.
- xv) Arguments raised and information/evidence provided by the interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority. The Authority during the course of investigation satisfied itself as to the adequacy and accuracy of the information supplied. Additional/supplementary details regarding injury were sought from the domestic industry, which were also received.

- xvi) The Authority made available non-confidential version of the evidence presented by the interested parties through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6 (7).
- xvii)*** herein represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.
- xviii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available.
- xix) 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 granted confidentiality, 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.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

C.1 SUBMISSIONS OF THE DOMESTIC INDUSTRY

- 4. Following issues have been raised by the domestic industry with regard to the product under consideration and the like article:
 - i. The product under consideration involved in the original investigation and also in the present Review investigation is Rubber Chemical PX-13 (6PPD).
 - ii. There is no change with regard to the product under consideration between the previous investigation and present investigation. The description and scope of the product under consideration can be kept as the same as that of the one in the previous investigation.
 - iii. The user industry for the product under consideration can be divided in two broad segments, namely, tyre and non-tyre segments. In both these segments, Rubber Chemical PX-13 (6PPD) is used for the processing of various types of natural and synthetic rubbers. This is not the principal input/raw material in this industry and is only the processing chemical.
 - iv. The product does not have a dedicated classification at the eight-digit level. The product is imported under Chapters 29 and 38 of the Customs Tariff Act,

1975. In fact, the product is being imported under certain classifications not specifically dedicated for the product concerned. However, these customs classifications are indicative only and in no way binding on the scope of the present investigation.

- v. There is no change with regard to the product under consideration or the like article between the previous investigation and the present MTR investigation. The description and scope of the product under consideration and the like article can be kept as the same as that of the previous investigation.

C.2 SUBMISSIONS OF THE IMPORTERS, CONSUMERS, EXPORTERS AND OTHER INTERESTED PARTIES

5. Following issues have been raised by the interested parties with regard to the product under consideration and the like article:

- i. Scope of the product under consideration has not been properly identified and no proper classification of the product has been done by the Authority as can be said from the fact that various headings under Chapter including heading 98 which pertains to project imports, lab chemicals etc. and heading 38.10 which refers to brazing and soldering powders and pastes etc. have been included within the scope of the PUC, whereas the correct classification is 381230.
- ii. Designated Authority cannot absolve itself from its duty of determining the correct custom classification for which they have supported their reasoning with the CESTAT ruling in the case of Thai Acrylic fibre Co Ltd. v/s DA.

C.3 EXAMINATION BY THE AUTHORITY

6. The Authority concludes that since present review investigation is a mid-term review investigation, the product under consideration remains the same as has been defined in the previous investigations. The Authority in its original investigation vide notification No.14/5/2007- DGAD dated 1st October, 2008 defined the product under consideration as under:

*“f) Px-13 (6PPD) having chemical description N-(1,3-dimethyl butyl)-N”
Phenyl-P-1 with other trade/brand names as 6C, Pilflex 13, Sirantox 4020
Antioxidant 4020, Kumhonax 13 Vulcanox 4020 etc.”*

7. Rule 2(d) of the Anti-dumping Rules specifies that like article means an article which is identical and alike in all respects to the product under investigation or, in the absence of such an article, another article having characteristics closely resembling those of the article under examination.
8. The petitioner claimed that the goods produced by them are like articles to the goods originating in or exported from the subject country. The Authority notes that PX-13 produced by the domestic industry has characteristics which are similar to those of PX-13 imported from the subject country. In view of the above, the Authority notes that PX-13 produced by the domestic industry and that being imported from the subject country are like articles within the meaning of the Rules.
9. As regards the classification of the product under consideration, the Authority concludes that there is no dedicated ITC (HS) Classification for the subject goods and the product under consideration is classified under various sub-headings of customs classification heads 38.12.10; 38.12.20 and 38.12.30 as well as under 29.34.20 and 29.25.20 (at six digit levels) of the Customs Tariff Act and ITC HS classification. However, the Authority concludes that the products are known by their respective trade names and the chemical descriptions as indicated above. Therefore, the Customs as well as the ITC HS classifications shown above are indicative only and are in no way binding on the scope of the present investigation.

D. DOMESTIC INDUSTRY

D.1 SUBMISSIONS OF THE DOMESTIC INDUSTRY

10. The domestic industry, inter alia, submitted as under:
 - i. The present petition for Mid Term Review is filed by M/s NOCIL, Mumbai. There are two other producers of Rubber Chemical in India, viz., M/s. Lanxess India Pvt. Ltd., Thane and PMC Rubber Chemicals India Pvt. Ltd., Hooghly. It is understood that Merchem Ltd., Ernakulam has a plan to set up facilities for production of the product under consideration.

- ii. That the intensity of dumping had been such that while some of the Indian producers have substantially exited from manufacturing of the subject goods and in fact, turned traders, resorting to imports of rubber chemicals, others have been importing intermediates, even at penultimate stage, where further processing involved is insignificant in terms of total production activities.
- iii. Whether the production of such other Indian producers who are importing the product or are related to the foreign producers is included or excluded in the total production in India, production of the petitioner constitutes more than 50% of Indian production for the subject goods.
- iv. NOCIL is a major producer of the subject rubber chemicals in the country.

D.2 SUBMISSIONS OF THE EXPORTERS, IMPORTERS, CONSUMERS AND OTHER INTERESTED PARTIES

11. None of the interest parties has made any submission in respect of the “domestic industry”.

D.3 EXAMINATION BY THE AUTHORITY

12. Rule 2(b) of the AD Rules provides as follows:-

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

13. In the present review investigation, M/s NOCIL Ltd. has responded to the Initiation Notification. The Authority also sought details of production of the subject goods from the concerned Excise Authorities. The response to the same, information was received from the O/o Dy. Commissioner of Central Excise, Cochin. As per the information on record, the production of M/s NOCIL as a percentage of total Indian production accounts for 84% in the case of PX13. Thus, the Authority concludes that M/s NOCIL Ltd. is a major producer of the subject goods in India as in relation to the total Indian production of the Rubber Chemical PX-13 under investigation in the instant matter.

E. OTHER SUBMISSIONS AND ISSUES RAISED

E.1 SUBMISSIONS OF THE DOMESTIC INDUSTRY

14. The domestic industry, inter alia, submitted as follows:

- i. There is no provision, express or implied, in Rule 23(1) that prevents the Designated Authority in recommending a duty higher or lower than the one imposed in the original Final Findings based on the “*information*” received in the review where there was no justification for withdrawal. The expression “*continued imposition*” would be at the rates determined in the review. Moreover, as per Rule 23(3), the provisions of Rules 6 to 11 and 16 to 20 of the Anti Dumping Rules would be made applicable *mutatis mutandis* in review proceedings. Thus, determination of injury (as contemplated under Rule 11), dumping, material injury and causal link between the dumping and material injury have to be evaluated, *mutatis mutandis*, in all types of investigations whether initial, mid-term or sunset review. Rule 17(1)(b) clearly suggests that the Designated Authority can recommend the amount of duty which, if levied, would remove the injury, where applicable, to the domestic industry.
- ii. The Rules provide for undertaking a review “where warranted”. “*Where warranted*” has to be interpreted “*as and when necessary and in respect of such sources as are found necessary*”. Thus, the law requires the Designated Authority to initiate review investigation against other countries only if it is necessary.

E.2 OTHER SUBMISSIONS OF THE INTERESTED PARTIES

15. The interested parties, inter alia, submitted as follows:

1. Enhancement of anti-dumping duty in a midterm review is inconsistent with the Antidumping Rules, 1995. The DGAD may reduce the level of anti-dumping in force if it is felt that there is no justification for the continued imposition of such duty. “Such” duty in this case, shall be the rate of duty determined in the previous investigation. If there is no warrant to continue the duty at “such” duty rates, the duty rates may be revised downwards to

reflect the current state of dumping and injury. However, the cumulated reading of Rule 23 and Section 9A(5) of the Customs Tariff Act, 1975 makes it more than adequately clear that there is no mandate in the Act or the Rules, to enhance the rate of anti-dumping duty.

2. Original investigation on PX 13 being against China PR and South Korea, the DGAD could not have initiated the investigation against South Korea alone. The DGAD in the original investigation examined the cumulative effect of subject country imports, i.e., South Korea and China PR on the state of the Domestic Industry in India. Since, it has been determined that exports from South Korea and China PR taken together have caused injury to the Domestic Industry, the DGAD needs to examine whether there is a possibility of continued dumping and injury from both China PR and South Korea. Therefore, the DGAD cannot restrict the scope of the review to South Korea alone. There is no legal warrant to exclude China PR from the scope of the subject midterm review investigation.

E.3 POST DISCLOSURE SUBMISSIONS OF THE DOMESTIC INDUSTRY

16. Domestic industry reiterates all the fact, contentions, averment and statements presented in the previous submissions filed before the Designated Authority and requests for enhancement of applicable anti dumping duty. Domestic industry has following submissions:

- A. Dumping margin: The dumping margin has significantly increased as compared with the previous investigations. As submitted in the petition, the exporter absorbed the anti dumping duty earlier imposed.
- B. Non-market economy status of Sinorgchem: The non-market economy status of Sinorgchem has not undergone any change since the original investigation. Further, neither KKPC nor Sinorgchem have provided any material whatsoever establishing a significant change in the legal status of Sinorgchem. The company has long term relationship with different research institutions some of which are state owned and which are also its development advisors. Sinorgchem participated in safeguard investigations and did not refute special relationship with KKPC. The Director General, Safeguards has considered that Sinorgchem and KKPC have special relationship.

- C. Dumping margin methodology: The normal value in the present case should be determined considering cost of production, after due adjustments and after adding SGA, Interest and Profits.
- D. Non-injurious price may be reviewed: The apportionment methodology followed by the petitioner in charging expenditure to the product under consideration cannot be ignored while normating its cost of production. The fixed expenses may be fixed for a particular period and for the company. However, fixed expenses are not fixed for the product. It varies with level of production. Such being the case, it would not be appropriate to normate the fixed expenses in the present case. Further, working capital determined is grossly low. It appears that the Designated Authority is now not considering captive inputs at market price. Such being the case, the capital employed being considered should include (a) fixed assets and (b) working capital required for production of the captive input.
- E. Injury to the domestic industry: The imports from the subject country have substantially increased in absolute terms and in relation to total imports, production and consumption in India; imports are significantly undercutting the domestic prices despite current anti dumping duties and despite applicable anti-dumping duty on the imports from the subject country, the domestic industry has suffered continued material injury.
- F. Safeguards findings: Because of low quantum of anti dumping duties, so significant has been increase in imports that after elaborate investigations, the Director General (Safeguards) concluded as follows –

290. In view of the findings above, the final determination is that the increased imports of N 1,3-dimethyl butyl-N'Phenylenediamine (PX-13 or 6PPD) into India have caused serious injury and also threatened to cause serious injury to the domestic producers of N 1,3-dimethyl butyl-N'Phenylenediamine (PX-13 or 6PPD) . In arriving at the amount of safeguard duty which would be adequate to prevent serious injury and threat of serious injury to the domestic industry and to facilitate positive adjustment, weighted average cost of sales at reasonable return on employed capital and average landed cost of import (taking basic customs duty, cess) have been considered. The Antidumping duty on the PUI has also been considered while arriving at the amount of Safeguard duty. Further, the calculated safeguard duty has been moderated downward to allow imports to maintain competition in domestic market in the interest of end users and consumers. The public interest has also been considered in detail.

E.4 POST DISCLOSURE SUBMISSIONS OF THE INTERESTED PARTIES

17. A. Calculation of Normal value for KPC is against the provisions of law.

(i) The Authority has concluded that MET of Sinorgchem has not changed since the issuance of the Final Finding in the original investigation and hence, the costs incurred by KPC would not reasonably reflect the cost associated with production of 6PPD. We strongly object to the proposed action of the Authority.

(ii) By relying on the earlier decision on China PR without including China as part of the subject countries and without providing the Chinese exporters an opportunity to provide any evidence, Authority has clearly and unequivocally abdicated its responsibility to conduct a fair, unbiased and objective review investigation.

(iii) The price at which KPC procures the raw material (4ADPA) from Sinorgchem is slightly higher or on par with that of Rs.*** per Kg claimed by the domestic industry for constructing normal value. In such a situation, there was no need to ignore the actual cost of KPC.

(iv) Substituting the cost of production of KPC with any notional value would be in gross violation of Section 9A(6A) of the Customs Tariff Act, 1975. Even the WTO laws do not authorize the Authority to discard the costs in a market economy country merely because the raw material has been sourced from a non-market economy country.

(v) The Authority has proposed to put into practice the concept of ‘input dumping’ that has not been incorporated into the WTO: ADA. The existing Indian law does not recognize ‘input dumping’ and hence the question of determining and providing a relief even if a situation is perceived to be ‘input dumping’ does not arise.

(vi) By discarding the price at which KPC has procured the inputs from China, DGAD is giving a treatment to the ‘export price’ which is not permitted under the existing antidumping rules.

(vii) NME characteristics of the input get exhausted the moment they cross the border of the NME country upon sale to an unrelated buyer in a market economy country. After importing the input from China PR, KPC had achieved a value addition of 40%

in Korea and when the goods are sold in the domestic market after such a significant value addition, one cannot say by any stretch of imagination that the finished goods sold in the domestic market in Korea RP are affected by the NME conditions in which the raw materials were produced in China PR.

(viii) There is no antidumping duty on 4ADPA exported from China into India. Authority has also not determined the normal value of 4ADPA consumed in China PR corresponding to those exported to Korea RP. For this reason also, actual purchase price of KPC shall not be rejected.

(ix) The AD Rules do not authorise the Authority to discard the export price from a non-market economy country to a third country which is a market economy. In this regard, reliance is placed on paragraph 2 of Ad Article VI to GATT 1947.

(x) If the actual consumption norms of 4ADPA are considered, the normal value would be much lower. A consumption norm of 0.835 has been used in the review petition in one place. According to DGFT norms, 4 ADPA consumption is only 0.705 and not 0.835. KPC's consumption is only **** as per verified Appendix 6. It is not known what was the consumption norms adopted by the Authority in calculating the normal value.

(xi) In the absence of fresh evidence of international price of 4 ADPA during the POI in this review, the Authority should presume that there is no change as has been done for the status of Sinorgchem by the authority and adopt the prices that were used in the original investigation.

B. A reading of Rule 23 of the AD Rules and Section 9A(5) of the Customs Tariff Act, 1975 makes it clear that there is no mandate in the Act or the Rules, to enhance the rate of AD Duty in an MTR. The expression 'varied' would refer to a downward revision of the duty and not an upward revision of the duty.

C. China PR should not have been excluded from scope of subject MTR. Even though the prices of imports from China PR are substantially higher than the imports from Korea RP, the former is still undercutting and underselling the price of Domestic Industry. Hence, imports from China PR are also a significant cause for the injury alleged to be suffered by the Domestic Industry.

D. Existence of injury has not been established as different injury parameters analysed in the Disclosure Statement have clearly shown a trend of steady growth and there is no sign of injury.

E. Considering that the Domestic Industry would not be in a position to serve any demand over and above its capacity of 11,500 MT as against the total domestic demand of 14,500 MT, we request the Authority not to impose AD Duty on the import of first 3,000 MT of imports for the first year and first 3,600 MT during the second year.

F. The Director General (Safeguard) in its investigation against import of the subject goods for imposition of Safeguard Duty has vide its finding dated 6th June, 2011 has recommend a peak rate of 30 percent safeguard duty on import of the subject goods to India. As the entire injury alleged to have been suffered by the Domestic Industry would be cured by the imposition of Safeguard Duty. Hence, we request the Authority not to impose AD Duty at this point of time.

G. The Authority shall accept the cost of production of the KPC as such and consider the domestic selling price as the 'normal value'. Further, as the Domestic Industry is not suffering any injury, the proposal made in the Disclosure Statement should not be implemented.

E.5. EXAMINATION BY THE AUTHORITY

18. The Authority concludes that the instant MTR investigation was, inter alia, initiated in accordance with Rule 23 of the AD Rules. Rule 23 of the AD Rules enables the Authority not only to examine the need for continuation of the anti-dumping duty but also to determine the quantum thereof that needs to be recommended based on information/data available on record.

19. The Authority in MTR investigations examines the need for continuation of anti-dumping duty on the basis of various economic parameters as laid down under the Rules.

20. As regards the Review taken against only Korea RP, the Authority concludes that the Authority is required to cumulatively assess the injury to the domestic industry from more than one source only if conditions prescribed under the law for cumulative assessment of injury are satisfied. The Authority concludes that MTR in respect of only Korea RP has been initiated based upon the positive information that the landed price of imports from China PR even after adding the AD duty in force was substantially higher than the landed price of imports from Korea RP after adding the AD duty in force. The Authority concludes that the significant price

difference between Chinese import and Korean imports does not warrant a review against China.

21. As per Antidumping Rules, the Authority is expected to examine as to whether the subject goods were imported from the subject country at dumped prices causing or likely to cause material injury to the domestic industry and if so recommend antidumping duty to remove such injury. In view of the above, the suggestion of KPC to exempt certain portion of import of subject goods imported from the subject country from antidumping duty on the ground that the domestic industry is not in a position to meet the entire demand is not acceptable.

22. With regard to the submission of KPC that the domestic industry has not suffered any injury on many of the economic parameters, the Authority notes that there was significant price undercutting and underselling during the POI.

23. The other issues raised by the domestic industry and KPC to the extent relevant have been dealt with in the respective headings in these Findings.

F. DETERMINATION OF DUMPING MARGIN

F.1 SUBMISSIONS OF THE DOMESTIC INDUSTRY

24. The domestic industry, inter alia, submitted as follows:

- i. The price at which imported product has been sold in the domestic market in Korea RP alone most appropriately represents the normal value.
- ii. Cost of production determined should reasonably reflect the costs associated with production and sale of the product under consideration.
- iii. Dumping margin in respect of exports made by KKPC is quite significant.
- iv. In the previous investigations, the Authority had accepted the export price from Europe to India for 4ADPA. In the current period, because of shifting of the plant by Lanxess and resultantly no production, there are no imports of 4ADPA from market economy third country. The petitioner, therefore, requests the Authority to consider the export price from China to India for 4ADPA and adjust the same appropriately for the price difference between non-market economy and market economy country.
- v. Authority should, as a first principle, consider market price for such captive inputs. If market price is not available for any reason, the petitioner submits that the exporter must provide full workings of the cost of production and the same must be considered after adding reasonable profit on such captive input.

F.2 SUBMISSIONS OF THE INTERESTED PARTIES

25. The interested parties, inter alia, contended as follows:

- i. In the review petition, the domestic industry has projected normal value through four different routes, i.e., constructed normal value based on the cost of procurement of 4 ADPA by the domestic industry, inflated consumption norms and their own costs; normal value based on imports of 6 PPD into Korea; normal value based on export prices of 6 PPD by domestic industry to European Union; and normal value based on alleged changes in the cost of raw materials between the original investigation and the current POR.
- ii. The methodology suggested by the petitioner that the normal value be constructed on the basis of the cost of procurement of 4 ADPA by the domestic industry tantamounts to treating South Korea as a non-market economy country. For a market economy country like South Korea, normal value shall be constructed based on the costs prevailing in the country of origin, i.e., costs prevailing in South Korea and not in India.
- iii. With regard to the issue of normal value, it may be also be noted that in the original investigation, the DGAD rejected the actual cost of 4 ADPA incurred by KKPC on the ground that it had been procured from a non-market economy country, i.e., China. The said decision was erroneous and not legally sustainable. There seems no warrant to discard the export price of Sinorgchem to the petitioner. Further, the cost of 4 ADPA actually incurred by KKPC during POI is higher than the international prices used by the domestic industry in the petition. Thus, the cost incurred by the petitioner during the period of review is higher and reflects the market values. For this reason also, actual costs of the petitioner shall be accepted in determining the normal value.
- iv. Without any authorization, the DGAD does not have the power to investigate the input dumping matters, as given under the AD Rules, Customs Tariff Act or WTO AD Agreement. It is also accepted by the WTO members that such practice is GATT inconsistent.
- v. No factual basis to alter the rate of duty by DGAD in the absence of any increase in margin of dumping.

F.3 EXAMINATION BY THE AUTHORITY

26. 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).

F.3. (i) Normal value

27. The Authority in the previous investigation while determining normal value concluded as follows:

59. *Therefore, the Authority concludes that in a situation where major input i.e. 4 ADPA used in production of 6 PPD was solely sourced from a non-market Economy Company, the use of actual purchase price of Kumho Petrochemicals for 4 ADPA, would not reasonably reflect the cost associated with production of 6 PPD.*

60. *In view of above, the authority has adjusted the cost of production and sale by the difference between the international price of 4 ADPA from a market economy country and actual purchase price of Kumho Petrochemicals. Accordingly the revised cost of sales for PX 13(6PPD) works out to US \$ *** per kg. At this adjusted cost of sale the domestic sales made by Kumho Petrochemicals during POI fail to pass the ordinary course of trade test. Accordingly the domestic sales do not permit a proper comparison. The*

Authority, therefore, has constructed the normal value for Kumho Petrochemicals in terms of Section 9A (1) (c) (ii).

*61. Taking note of these factors, the Authority has calculated the normal value in the instant case by taking into account the cost of production of the subject goods in Korea RP based upon the 4ADPA's international price from a market economy country, and allowing other costs as claimed and verified. On the cost of sales so arrived at, the average profit margin has been considered. Normal value for PX-13 (6PPD) has been determined accordingly and worked out as US \$ *** per K.G by the Authority.*

28. The Authority concludes that the situation in the present investigation has not undergone any change from the original investigation for the reasons that Kumho Petrochemicals continues to source the major input 4ADPA from the same non-market economy company and no facts or evidence have been brought before the Authority since the issuance of Final Findings in the original investigation that the non-market economy status of the said company has undergone any change. The Authority, therefore, concludes that the use of actual purchase price of 4ADPA by KKPC from the said non-market economy company would not reasonably reflect the cost associated with production of PX13 (6 PPD). Further, there are no imports of 4ADPA to India from a market economy third country during the POI in the present MTR.

29. Since there is no evidence available showing international price of 4-ADPA during the POI in this Review, the Authority has constructed the cost of production of 4-ADPA. The Authority notes that the domestic industry has produced only 4-NDPA, which is a stage prior to 4-ADPA and the Authority adopted the cost of the same for determining the cost of 4ADPA on a conservative basis. While adopting the cost of production of 4ADPA of the domestic industry, cost of major inputs as per the best usage of the domestic industry at international prices, conversion costs and SGA expenses of the domestic industry, and reasonable profit have been considered.

30. The Authority has further adjusted the cost of production and sale of PX-13 (6PPD) by the difference between the constructed international price of 4ADPA (computed on the basis of data of the domestic industry) and its actual purchase price of KKPC. The revised cost of sales of PX-13 (6PPD) so constructed works out to US \$ *** per kg. At this adjusted cost of sales, the domestic sales of PX-13 (6PPD) made by KKPC during the POI in this MTR fail to pass the OCT test. In view of the above, the Authority has constructed the normal value of PX-13 (6PPD)

for Kumho Petrochemicals in terms of Section 9A (1) (c) (ii) of the Act as detailed below.

31. The Authority has calculated the normal value of the subject goods in the instant case by taking into account the cost of production of the subject goods in Korea RP based on the usage of 4ADPA as per KPC and the price computed on the basis explained in the above paragraph. The other costs (cost of other raw materials, conversion cost, SGA expenses, etc) of KKPC as claimed and verified have also been taken into account. Further, reasonable profit has also been allowed. The Normal value for PX-13 (6PPD) thus computed works out to US \$ *** per K.G.

F.3(ii) Normal value for Non-Cooperating Exporters from Korea RP

32. The Authority has adopted the same normal value of US\$ *** per Kg worked out for KKPC for the non-cooperating exporters from Korea as well.

F.3(iii). Export Price

33. Spot verification done by the Authority revealed that the adjustments claimed on account of Inland freight, Ocean freight (inclusive of terminal handling charges, Bill of Lading fee, handling charge, wharf age), Ocean insurance, Customs broker fee, Bank charges, Commission and a negative deduction towards duty drawback received on export sales were in order and corroborated by related records. Since the duty drawback received was reduced from the cost of production/sales of 6PPD, the Authority has not considered the duty drawback as negative adjustment for determining the ex-factory export price. Accordingly, the Authority has determined the responding producer having reported ex-factory export price as US \$ *** per Kg. in the exporter response was found to be in order by the Authority.

F.3(iv). Export Price for Non-Cooperating Exporters from Korea RP

34. In respect of non-cooperating exporters from Korea RP, the lowest import price based upon the IBIS import data has been taken into account. Adjustments like Ocean freight etc. have been allowed at par with the ones allowed in respect of company operating exporters from Korea as above, for arriving at export price at ex-factory level. By adopting this method, the export price at ex-factory level in

respect of non-cooperating exporters from Korea for PX13 (6PPD) worked out by the Authority is US \$ *** per Kg.

F.3(v). Dumping Margin

35. On the basis of the normal values and net export prices so determined at ex-factory level, the dumping margin during the POI for all exporters/producers from Korea RP has been determined as follows:

Dumping Margin Calculation

Sr. No.	Exporter/Producer	Dumping Margin (US\$/Kg.)	Dumping Margin (%)
1	M/s KKPC	***	15-25
2	All other exporters/ producers from Korea RP except as mentioned above	***	20-30

F.3(vi). Lasting nature of the changed circumstances and likelihood of dumping

36. The domestic industry has quoted Article 11.2 of the WTO Agreement on Antidumping and Rule 23 of the Antidumping Rules saying that the midterm review has been rightly initiated as they had submitted positive information substantiating the need for review though they maintain that such a requirement is not contemplated by rule 23.

37. In accordance with the practice of the Authority, it was examined as to whether changed circumstances could be said to be of lasting nature or as to whether there would be chances of increased dumping if the anti dumping duty is not enhanced. It was found after examination that the domestic industry is suffering injury due to dumped imports from the subject country. Further, the exporters had significant exports of subject goods to countries other than India during the POI.

G. INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

G.1 SUBMISSIONS OF THE DOMESTIC INDUSTRY

38. The domestic industry has submitted as under:-

- i. The imports from the subject country have substantially increased in absolute terms and in relation to total imports, production and consumption in India.
- ii. Imports are significantly undercutting the domestic prices despite current anti dumping duties.
- iii. Landed price of imports is substantially below the non injurious price of the domestic industry. The imports are, thus, resulting in significant price underselling in the market.
- iv. The performance of the domestic industry in terms of the production, capacity utilization, sales values & volume, profits, return on investments, cash flow, inventories and market share continued to remain sub-optimal despite existence of significant demand in the country.
- v. Domestic industry was faced with loss of production.
- vi. Inventories with the domestic industry are at a very high level, despite liquidation of inventories through exports.
- vii. Despite applicable anti-dumping duty on the imports from the subject country, the domestic industry has, thus, suffered continued material injury.
- viii. Injury to the domestic industry has been caused by the dumped imports.
- ix. The existing measure is not sufficient to counteract the dumping which is causing injury.
- x. Despite existing anti-dumping duties, the product under consideration continues to be exported to India below its normal value resulting in dumping.

39. Various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.

G.2 SUBMISSIONS OF THE EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

40. The interested parties submitted as follows:

- i. As per Para (2) of Annexure II, for analyzing the scope of injury, DGAD should not only examine volume and effect of dumped imports on prices in domestic market for like article but also its impact on domestic producers.
- ii. Price difference between China PR and Korea RP is insignificant.
- iii. Injury to the domestic industry is on account of losses suffered in the exports.
- iv. The legal requirement for a mid-term review is the domestic industry performance should have “worsened” or it must remain the same
- v. De-cumulation of imports from China PR was not warranted for the purpose of the present review investigation.
- vi. Imposition of higher ADD against what was determined in the original investigation is against the Act or Rules of Anti-Dumping.
- vii. The DGAD has not examined the accuracy and authenticity of the evidence furnished in the present application.
- viii. DGAD is required to include exports from China PR also as there could be no continued injury alone on the basis of exports from South Korea.
- ix. No prejudicial effect on volume or price can be claimed on import of goods from South Korea as there is a significant improvement in various parameters.
- x. Proper isolation is required in order to check the injurious effect of imports from non-subject countries to ensure the same is not attributing to South Korean imports.
- xi. The domestic industry, in order to prove its stand, has to show that the situation of the domestic industry got worsened since 2008 when the duty got first imposed.
- xii. The performance of the domestic industry as can be seen from the 2008-09 and 2009-10 data makes it critical to ascertain injury.
- xiii. Price undercutting cannot be a reason of bad performance of domestic industry since a significant growth can be seen in all injury parameters.
- xiv. NOCIL does not have the capacity to cater the domestic demands despite ADD got levied on PX-13.
- xv. The domestic industry cannot change the base year from 2006 to 2001 on its own for the public hearing.
- xvi. The data which has been provided by the domestic industry in MTR and SSR for PX-13 are similar, as any injury suffered due to imports from EU

and Chinese Taipei cannot be attributed to the injury suffered from imports from Korea RP and vice-versa.

- xvii. The injury submissions by the domestic industry should not be accepted as there is no distinctions between the injuries suffered from imports from EU and Chinese Taipei and from Korea RP, hence should be dismissed by DGAD.
- xviii. There is no causal link due to the following reasons:
 - a. Imports from non subject countries.
 - b. Exports from the domestic industry.
- xix. Domestic industry cannot meet the demand of the user industry.

G.3 EXAMINATION BY THE AUTHORITY

41. The Authority has considered import data as per IBIS data. In the subsequent paragraphs, the Authority has analyzed injury parameters as per Rules.

- i. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, 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.
- ii. Cost of production – The Authority notes that the cost of production adopted for the purpose of present determination is on the basis of consistent practice of the Authority. With regard to the post disclosure comments of domestic industry regarding determination of non-injurious price, the Authority notes that the non-injurious price has been determined on the basis of principles mentioned in Annexure to the Antidumping Rules and practices followed in this regard.
- iii. In the midterm review, the authority has to review as to whether the quantum of duty already in force is likely to lead to continuation or recurrence of dumping and injury. Thus, the examination is also on likelihood and recurrence other than the present dumping and injury to the domestic industry. The Authority has examined the available information accordingly.

42. As regards the contention of the interested party that the domestic industry cannot meet the demand of the user industry, the Authority concludes that AD Rules do

not require that the domestic industry must meet the demand of the user industry for getting redressal to its injury on account of dumping.

Volume Effect of Dumped Imports

Import volumes and market share

43. Annexure-II (ii) of the AD Rules provides that “while examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports either in absolute term or relative to production or consumption in India”. Thus, with regard to the volume of the dumped imports, it has been examined as to whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

44. The table below summarises the factual position with regard to import volumes and market share –

	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Import Volumes					
Korea RP	MT	3336	3158	2980	6030
Trend	Index	100	95	89	181
China PR	MT	1570	3287	1795	1831
Trend	Index	100	209	114	117
Other Countries	MT	746	415	831	1967
Trend	Index	100	56	111	264
Total Imports	MT	5652	6860	5606	9828
Trend	Index	100	121	99	174
Share of Imports					
Korea RP	%	59.03	46.04	53.16	61.35
Other Countries including China PR	%	40.97	53.96	46.84	38.65

45. The Authority notes that the imports from the subject country have significantly increased during investigation period. Market share of the subject country has increased during the injury period with a significant increase during POI.

Assessment of demand

46. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of the domestic industry and other Indian producers have been added to the total imports into India, which has been summarized as under:

	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Total Demand					
Sales of Domestic industry	MT	***	***	***	***
Trend	Index	100	138	133	198
Sales of other Indian producers	MT	***	***	***	***
Trend	Index	100	135	156	79
Imports from Korea RP	MT	3,336	3,158	2,980	6,030
Trend	Index	100	95	89	181
Imports from China PR	MT	1570	3287	1795	1831
Trend	Index	100	209	114	117
Imports from Other Countries	MT	746	415	831	1967
Trend	Index	100	56	111	264
Total Demand	MT	8,753	11,095	10,053	14,311
Trend	Index	100	127	115	164
Market Share of Demand					
Sales of Indian industry (Applicant + Other Indian Producers)	%	***	***	***	***
Trend	Index	100	108	125	88
Imports from Subject Country	%	38.12	28.47	29.64	42.13
Trend	Index	100	75	78	111
Imports from Other Countries including China PR	%	26.45	33.37	26.12	26.54
Trend	Index	100	126	99	100

47. The Authority notes that the demand for PX13 has shown a positive trend and increased significantly in the period of investigation as compared to the base year. The growth in demand during period of investigation over base year was about 64%.

Price Effect

48. In order to ascertain the price effect of the imports of the subject goods from the subject countries on the domestic industry, the Authority has examined 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. In order to assess the extent of price undercutting, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization was arrived, after deducting all rebates and taxes. The landed value of imports was compared with net sales realization of the domestic industry, even after considering the anti-dumping measure in force.

49. In a review investigation, it is required to examine as to whether there has been a significant price effect by the dumped imports from the subject country as compared with the price of the like product in India, or whether there is likelihood of recurrence of price effect in case the duty is not enhanced.

Particular	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Landed Value-without anti dumping duty	Rs./Kg	***	***	***	***
Trend	Index	100	76	113	88
Landed Value-with anti dumping duty	Rs./Kg	***	***	***	***
Trend	Index	100	76	119	94
Net Sales Realization	Rs./Kg	***	***	***	***
Trend	Index	100	91	125	115
Price Undercutting- without anti dumping duty	Rs./Kg	***	***	***	***

Trend	Index	100	346	322	556
Price Undercutting-with anti dumping duty	Rs./Kg	***	***	***	***
Trend	Index	100	346	231	465
Price Undercutting-without anti dumping duty	%	0-10	15-25	10-20	25-35
Price Undercutting-with anti dumping duty	%	0-10	15-25	5-15	15-25

50. From the above, the Authority concludes that the landed price of imports of PX 13 from Korea RP is below the net selling price of the domestic industry. The imports from Korea RP are significantly undercutting the selling prices of domestic industry. Even after adding the existing anti-dumping duties to the landed value, the price undercutting is positive from the subject country.

Price underselling

51. The Authority has assessed the extent of price underselling by comparing non-injurious price of the domestic industry with the landed price of imports, as shown below:

	NIP Rs./Kg	Landed Value Rs./Kg		Price underselling (%)	
		With ADD	Without ADD	With ADD	Without ADD
M/s KKPC	****	****	164.70	****	****
				20-30	25-35
All other producers/ exporters from Korea RP	****	****	156.98	****	****
				25-35	30-40

52. From the above, the Authority notes that:

- a. The landed price of imports of PX 13 from Korea RP is significantly below the non-injurious price (NIP) of the domestic industry. Thus, the imports from Korea RP are significantly underselling the NIP of domestic industry.

Even after adding the existing anti-dumping duties to the landed value, the price underselling is positive.

- b. The NIP of the domestic industry is higher than the net selling price of the domestic industry. Thus, the domestic industry is not able to realize fair selling price (i.e., NIP) for the subject goods (PX 13).

53. Considering the fact that the Authority is also required to look into the likelihood of continuation/recurrence of dumping and consequential injury to the Domestic Industry, Authority concludes that it is necessary to re-evaluate the injury margins for the purposes of comparison with dumping margin for determination of duty component.

Price suppression and depression

54. In order to assess as to whether imports from subject countries were suppressing/depressing the prices of the domestic industry, the Authority has compared the cost of production and net selling price of the domestic industry along with the landed price of imports over the injury period, which is given in the table below:

	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Cost of Production	Rs./Kg	****	****	****	****
Trend	Index	100	96	122	109
Net Selling price	Rs./Kg	****	****	****	****
Trend	Index	100	91	125	114
Profit/Loss	Rs./Kg	****	****	****	****
Trend	Index	100	(9)	167	207
Average Landed price of imports	Rs./Kg	191.75	145.80	217.57	169.01
Trend	Index	100	76	113	88

55. The Authority notes that whereas both the cost of production and net selling price of PX 13 increased over the injury period, the increase in the net selling price was more than the increase in the cost of production. Thus, apparently the

price suppression/depression effect of the prices of the domestic industry is missing during the POI.

Other Economic Parameters Relating to the Domestic Industry

56. Annexure II to the AD Rules requires that the determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down 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 the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments."

Actual Production, Capacity, Capacity Utilization and Sales

57. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:-

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Installed capacity	MT	****	****	****	****
Trend	Index	100	136	136	144
Production	MT	****	****	****	****
Trend	Index	100	150	152	174
Capacity utilization	%	****	****	****	****
Trend	Index	100	111	112	121
Domestic sales	MT	****	****	****	****
Trend	Index	100	138	133	198
Total Demand	MT	8,753	11,095	10,053	14,311
Trend	Index	100	127	115	164
Domestic sales in relation to demand	%	****	****	****	****

Trend	Index	100	109	116	121
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58. The Authority notes from the above that the production, capacity utilization and sales of the domestic industry of PX13 have gone up in absolute term. The domestic sales of PX13 have increased in relation to the demand/consumption of the product in India.

Profits, return on investment and cash flow

59. Profits, return on investment and cash flow of the domestic industry has been examined as under:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Profit before tax	Rs/Lacs	****	****	****	****
Trend	Index	100	(12)	222	410
Profit before interest and tax	Rs/Lacs	****	****	****	****
Trend	Index	100	(3)	253	400
Return on capital employed (NFA basis)	%	****	****	****	****
Trend	Index	100	(3)	231	274
Cash profit	Rs/Lacs	****	****	****	****
Trend	Index	100	41	185	314

60. The Authority concludes that performance of the domestic industry for PX13 has improved over the injury period and the domestic industry is in profits. The Authority examined the profitability by considering the trends in the cost of production and selling prices over the injury period. It is found that both the cost of production and the selling prices increased throughout the injury period. But the increase in selling price is more than the increase in the cost of sales. Consequently, profitability of the domestic industry has significantly improved during the POI.

Employment, wages and productivity

61. Position with regard to employment, wages and productivity is as under:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Employment (Manpower strength)	Nos	****	****	****	****
Trend	Index	100	173	136	164
Wages	Rs/Lacs	****	****	****	****
Trend	Index	100	109	105	166
Productivity per employee	Nos	****	****	****	****
Trend	Index	100	89	114	108
Productivity per day	Per Day	12	18	18	21
Trend	Index	100	150	152	174

62. The Authority notes that the productivity of the domestic industry for PX 13 improved with the improvement in production. Employment has increased during the POI after a decline during 2008-09. The wages have shown the same trend as that of the employment. The Authority, however, notes that the domestic industry is a multi-product company and hence, the employment by the domestic industry and wages paid by it may not be an appropriate parameter to evaluate the injury in the instant matter.

Inventories

63. Designated Authority has examined the inventory level of the domestic industry, which is given in the table below:-

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Average stock	MT	****	****	****	****
Trend	Index	100	181	171	189
Average stock in terms of No. of days sales	Days	****	****	****	****
Trend	Index	100	109	100	101

64. The Authority notes that while the inventories of PX13 have shown significant increasing trend over the injury period as compared to the base year, the inventory ratio has marginally decreased during the corresponding period.

Magnitude of Margin of Dumping

65. The Authority concludes that the dumping margin from Korea RP is significant and above de-minimis level during the period of investigation.

Growth

66. The Authority notes that while the growth of domestic industry in terms of domestic sales, production, and capacity utilization, cash profits, profits and return on investment has been positive over the injury period, there has been substantial growth in the import volume from the Korea RP too.

Likelihood of continuation or recurrence of injury

67. As regards the issue of likelihood of injury, the Authority notes that despite the existence of the anti-dumping duty, the imports of PX 13 from the subject country increased significantly over the injury period. More importantly, these imports are at dumped prices and they are undercutting and underselling the prices of the subject goods of the domestic industry. The Authority concludes that non-modification of the anti-dumping duty is likely to lead to continuation of dumping and consequent injury to the domestic industry.

Magnitude of Injury and Injury margin

68. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from Korea RP for determination of injury margin during the POI. Thus compared, the injury margin is worked out as under:

Particulars	Unit	M/s KKPC	Others - Korea RP
Non-Injurious Price (NIP)	Rs./Kg	****	****
Landed Price without ADD	Rs./Kg	****	****

Injury Margin	Rs./Kg	****	****
Injury Margin (%)	%	25-35	30-40

Other Known Injury Factors and Causal Links

Volume and Prices from Other Countries

69. The other countries from where PX13 was imported are European Union, China, Japan, USA and Thailand. The Authority notes from the import statistics that imports of PX13 from European Union and China are already attracting duty and imports from Japan, USA and Thailand are either *de-minimis* or the export price is higher.

Contraction in Demand and / or Change in Pattern of Consumption

70. The Authority notes that there is there is no contraction in demand for product under consideration in India. Possible decline in the demand has not, therefore, caused material injury to the domestic industry. Demand of the product in India marked significant increases over the years. There is also no indication of any change in the consumption pattern.

Trade Restrictive Practices of and Competition between the Foreign and Domestic producers

71. The Authority notes that the import of the subject goods is not restricted in any manner and the same are freely importable in the country. The domestic producers compete among one another and at the same time compete with the landed prices of the subject goods. The price of the domestic industry is influenced substantially by the landed price of subject goods. Moreover, no evidence has been submitted by any interested party even to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

Development of Technology

72. The Authority notes that the technology as also production process for producing PX13 is fairly stabilized with little technical or technological developments. There is no known difference between the technology deployed by the petitioner and producers in subject countries.

Export Performance

73. The Authority concludes that the injury claimed by the domestic industry is not due to possible deterioration in the export performance of PX13 as the Authority has excluded the export performance from the injury analysis made in earlier paragraphs.

CONCLUSIONS

74. Having regard to the contentions raised, information provided and submissions made by the interested parties and the facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the state of continuation/recurrence of dumping and injury, the Authority concludes that the subject goods are entering the Indian market from Korea RP at dumped prices and dumping margin is significant and above the de-minimis limits prescribed. It is seen that the subject goods continue to be exported to India at dumped prices in spite of the existing anti-dumping duties. Though, the situation of domestic industry has improved due to the existing anti-dumping duties, it is noted that price undercutting and price underselling are significant from Korea RP. Hence, injury to the domestic industry is likely to recur in case the present antidumping duties are not modified.

RECOMMENDATIONS

75. Having concluded as above, the Authority is of the opinion that the existing anti-dumping measure is required to be modified in respect of imports of the subject goods from Korea RP as specified in the duty table below.

76. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duties equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty as per the amount specified in Col 8 of the Table below is recommended to be imposed in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from Korea RP from the date of the notification to be issued in this regard by the Central Government.

Duty Table

Sl. No.	Heading/ Sub-heading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	292519 292520 293420 381210 381212 381220 381230	Rubber Chemical PX 13 (6PPD) having chemical description N-(1,3-dimethyl butyl)-N” Phenyl-P-1 or 6C, Pilflex 13, Sirantox 4020 Antioxident 4020, Kumhonax 13 Vulcanox 4020 etc.”	Korea RP	Korea RP	Kumho Petrochemicals Company Ltd.	Kumho Petrochemicals Company Ltd.		Per Kg	Rs.
2	292519 292520 293420 381210 381212 381220 381230	-Do-	Korea RP	Korea RP	Any combination of Producer and Exporter other than at 1 above			Per Kg	Rs.
3	292519 292520 293420 381210 381212 381220 381230	-Do-	Korea RP	Any Country	Any other than above	Any other than above		Per Kg	Rs.
4	292519 292520 293420 381210 381212 381220 381230	-Do-	Any country other than China PR and EU	Korea RP	Any other than above	Any other than above		Per Kg	Rs.

77.Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

78.An appeal against the order of the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Sd/-

Vijaylaxmi Joshi
The Designated Authority