

TO BE PUBLISHED IN THE GAZETTE OF INDIA – EXTRAORDINARY-PART-I, SECTION-1

F.No.14/6/2014-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street,
New Delhi-110001

Date: 03.11.2015

NOTIFICATION

(Final Findings)

Subject: Anti-dumping investigation concerning imports of Phthalic Anhydride originating in or exported from Japan and Russia-reg.

No. 14/6/2014-DGAD:-Having regard to the Customs Tariff Act, 1975 as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time.

BACKGROUND OF THE CASE

1. Whereas, M/s IG Petrochemicals Limited and Thirumalai Chemicals Ltd (hereinafter also referred to as the petitioners or the applicants) filed a duly substantiated application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and 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 Anti Dumping Rules or the Rules), alleging dumping of Phthalic Anhydride (hereinafter referred to as the product under consideration or the subject goods), originating in or exported from Russia and Japan (hereinafter referred to as the subject countries) and consequent injury to domestic industry, and, thus, requesting initiation of antidumping investigation and for levy of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject countries.
2. And whereas, the Authority found that sufficient evidence of dumping of the subject goods originating in or exported from the subject countries; injury to the domestic industry; and the causal link between the alleged dumping and injury, existed to justify initiation of anti-dumping investigation, the Authority initiated anti dumping investigation vide Notification No 14/6/2014-DGAD dated 9th May, 2014, into the alleged dumping of the subject goods from the subject countries, and consequent injury to the domestic industry, in terms of

Rule 5 of the AD Rules, to determine the existence, degree and effect of any alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

PROCEDURE

3. The procedure described below has been followed:
- (i) The Authority notified the Embassies of the subject countries in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules.
 - (ii) The Authority issued a public notice dated 9th May, 2014 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods originating in or exported from the subject countries.
 - (iii) The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicants) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the Rules.
 - (iv) The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of communication of intimation of investigation.
 - (v) The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules. A copy of the Application was also provided to other interested parties, wherever requested.
 - (vi) The Authority sent questionnaires to elicit relevant information to the following known exporters (whose names and addresses were made available to the Authority by the applicants) in the subject countries in accordance with Rule 6(4) of the Rules:

Gazprom NeftekhimSalavat 30, Molodogvardeitsev Street Salavat, 453256 Russia	JSC Ural Chemical Co SEVERNOYE SHOSSE, 21, NizhnijTagil - 622012, Sverdlovsk, Russia
West-Siberian Steel Highway Space, 16 Novokuznetsk, Kemerovo Region, Russia 654043	Angarsk Petrochemical Angarsk 665830, Irkutsk region, Russia
Polymer Pack Co POB 7167 Omsk Russia 644081	UralkhimpromPodlesnaya Street, No. 43 Perm-614 097, Russia

JFE chemical corporation Head Office 4F, JFE Kuramae Bldg., 2-17-4 Kuramae, Taito-ku, Tokyo 111-0051, Japan	C-chem co., ltd C – ChemCo.,Ltd. Akihabara UDX 13F, 4-14-1 Sotokanda, Chiyoda-ku, Tokyo, Japan
Nippon Shokubai Osaka Office Kogin Bldg., 4-1-1 Koraibashi, Chuo- ku, Osaka 541-0043 Japan	New japan chemical co. ltd Osaka Head Office Bingomachi Nomura BLDG., 2-1-8, Bingomachi, Chuo-ku, Osaka 541-0051, Japan

(vii) In response to the initiation notification, the following exporters/producers from subject countries responded:

- a. Rosplast OOO LLC, Russia
- b. OJSC Kamtex-Himprom, Russia
- c. Millman Limited, UK

(viii) The Trade Representation of the Russian Federation in the Republic of India filed legal submissions.

(ix) Questionnaires were sent to the following known importers/users and user associations (whose names and addresses were made available to the Authority by the applicants) of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

KIJ Plasticizers Ltd KLJ House 63 Rama Marg, Najafgarh Road, New Delhi	Mazda Colours Limited NKM International 178, Backbay Reclamation, Maharashtra
Pck Oil & Solvents Ltd. M-105 2nd Floor, Connaught Place, New Delhi	Lona Industries Limited Alta Bhavan 532 SenapatiBapat Marg, Dadar, Mumbai, Maharashtra
SilvassaPlast KLJ House, 63 Rama Marg, Najafgarh Road, New Delhi	Aarti Industries Limited UdyogKshetra 2nd Floor MulundGoregaon Link Road, Mulund (W), Mumbai, Maharashtra

<p>Mechemco Industries 170/6 Shiv Smruti 27th Road Sion West, Mumbai, Maharashtra</p>	<p>Rachna Plasticizers Plot No. 116&117, Piparia Indl. Estate, U.T. of D & N. Silvassa</p>
<p>Micro Inks Ltd. 512/513, Midas, 5th Floor, Saharplaza Complex, J.B. Nagar, M.V.R.D., Andheri (E), Mumbai, Maharashtra</p>	<p>Phthalo Colours & Chemicals (I) Ltd. Nanavati Mahalya, 18, Homi Mody Street Fort Mumbai, Maharashtra</p>
<p>Heubach Colour Pvt. Ltd. Plot No 9002-9010, Gidc Estate, Ankleshwar</p>	<p>Ramniklal S. Gosala & Co. National House, 608, B. J. Marg, Jacob Circle, Mumbai, Maharashtra</p>
<p>Sanman Trade Impex Pvt. Ltd. 1410, Maker Chamber V, Nariman Point, Mumbai, Maharashtra</p>	<p>Pertochem Middle East (India) Pvt. 201, Business Square, B. Wing, Andheri Kurla Road, Mumbai, Maharashtra</p>
<p>A-One Chem Trade Pvt. Ltd. 302, Shanti House, Nr. Madhushudan house, Opp. Navranpura Telephone Exchange, Off C.G. Road, Ahmedabad</p>	<p>Amjey Chemicals 5-1, Old Nagardas Road, 101, Adinath Tower, Andheri (E), Mumbai, Maharashtra</p>
<p>Sanjay Chemicals (India) Pvt. Ltd. 507, Matru Chhaya, 378/380, Narshinatha Street, Mumbai, Maharashtra</p>	<p>Hazel Mercantile Limited 181, Ashoka Shopping Centre, 2nd Floor, G.T. Hospital Complex, Mumbai, Maharashtra</p>
<p>Indian Plasticizers Manufacturers Association, "Klj House" 63, Rama Marg (Najafgarh Road), New Delhi – 110 015</p>	<p>Indian Plastics Federation 8b, Royd Street, 1st Floor, Kolkata. 16</p>
<p>Indian Paint Association, C/O, Desco Paints Conference, 75, Shakespeare Sarani – Kolkata</p>	<p>Chemical Industries Association, Iste Professional Centre, Gandhi Mandapam Road, Guindy, Chennai</p>
<p>Indian Chemical Council, Sir Vitthal Das Chamber, 6th Floor, 16 Mumbai Samachar Marg, Mumbai 400 001</p>	

- (x) In response to the initiation notification, the following importers filed the questionnaire response. Further, Indian Plasticizers Manufacturers Association filed comments to the petition.
- a. KLJ Plasticizers Limited
 - b. PayalPolyplast Pvt Ltd
 - c. Rachna Plasticizers
- (xi) Copy of initiation notification was also sent to the following Indian producers:
- (a) S I Group India Ltd.
Thane-Belapur Road,
Opp. Juinagar Rly station
Navi Mumbai- 400705, Maharashtra
 - (b) Asian Paints India Limited
Asian Paints House,
6A, Shantinagar, Santacruz (E), Mumbai
- (xii) Mysore Petrochemicals Limited has filed a letter supporting the petition of the petitioners. Sandeep Organics Pvt Ltd, Mumbai, an importer, filed legal submissions.
- (xiii) In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 15th January, 2015. The domestic industry and opposing interested parties which presented its views in the oral hearing were requested to file written submissions of the views expressed orally. However, after the oral hearing, due to change in the incumbency of Designated Authority, another oral hearing was held on 21st August, 2015. This new public hearing was held by the new DA as per the judgment of the Hon'ble Supreme Court in the matter of Automotive Tyre Manufacturers Association (ATMA) vs Designated Authority, delivered by a Division Bench in Civil Appeal No. 949 of 2006 on 7-1-2011. The new oral hearing was again attended by the domestic industry and opposing interested parties who filed written submissions of the views expressed orally.
- (xiv) The arguments raised and information/evidence provided by the interested parties during the course of the investigation, considered relevant to the present investigation, have been appropriately considered by the Authority.
- (xv) The Authority during the course of investigation satisfied itself as to the accuracy of the information supplied upon. The Authority conducted on-the-spot verification at the premises of the domestic industry and the responding exporters to the extent considered relevant and necessary.
- (xvi) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6(7). Relevant submissions made by all interested parties have been taken into account in present Final Findings.

(xvii) The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

(xviii) Investigation was carried out for the period of investigation (POI) starting from January, 2013 to December, 2013. The examination of trends in the context of injury analysis covered the periods 2010-11, 2011-12, 2012-13 and the POI.

(xix) 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 its views on the basis of the facts available.

(xx) A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 20.10.2015. The post Disclosure Statement submissions were received from the domestic industry and opposing interested parties have been considered, to the extent found relevant, in this Final Findings Notification.

(xxi) The Central Government, at the request of the Authority, extended the time to complete the investigation up to 08.11.2015.

(xxii) 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.

(xxiii) **** in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.

(xxiv) The exchange rate for the POI has been taken by the Authority as Rs. 58.95= 1 US\$.

PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. Phthalic Anhydride is an organic chemical classified under Customs Sub- Heading No. 29173500 under the Custom Tariff Act, 1975. The classification is, however, indicative only and in no way binding on the scope of the present investigation.

Views of Exporters, Importers, Consumers and other Interested Parties

5. The opposing interested parties have contended that Purified Teraphthalic Acid' ("PTA") is a viable substitute for Phthalic Anhydride. demand for PTA in India has increased. This has resulted in decrease in demand of Phthalic Anhydride, which can be directly substituted by PTA in certain applications.

Views of the Domestic Industry

6. The domestic industry has made the following submissions with regard to the issue of the

product under consideration.

- (i) Phthalic Anhydride is used to produce Phthalate esters, which function as plasticizers. It is an important chemical intermediate in the plastic industry. Phthalic Anhydride is classified under Customs sub-heading No. 2917 under the Custom Tariff Act, 1975
- (ii) There is no known difference in the subject goods produced by the Indian industry and exported from subject countries. Subject goods produced by the petitioners and imported from the subject countries are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
- (iii) As regards the argument of Purified Terephthalic Acid being direct substitute for PAN (PUC), it is submitted that it has not been established in any of the previous investigations that PTA and PAN are substitutes of each other. Import price of PTA and PAN are widely different. The responding parties themselves don't use PTA for production of plasticizers or any other product requiring PAN.

Examination by the Authority

7. The product under consideration in the present investigation is "Phthalic Anhydride". Phthalic Anhydride, also referred as PAN or PA, is an anhydride of Phthalic Acid, and is commercially produced by catalytic oxidation of Ortho-xylene or Naphthalene. It is a colourless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. The product is produced only in one grade. As regards different applications, it does not have distinguishable different types of forms. It is mainly used in the production of phthalate esters, which functions as plasticizers. It is an important chemical intermediate in plastic industry. It is also used in making of the products like Polyester Resins, Alkyd Resins used in paints and lacquers, Unsaturated Polyester Resins, Polyester Polyols, Dyes and Pigments, Halogenated Anhydrides, Polyetherimide Resins, Isatonic Anhydride, Insect Repellents etc.
8. Phthalic Anhydride is an organic chemical classified under customs sub-heading No. 29173500 under the Custom Tariff Act, 1975. The classification is, however, Indicative only and in no way binding on the scope of the present investigation.
9. The Authority, for the purpose of the present investigation, has considered that the product produced by the domestic industry is comparable to the product imported from the subject countries in terms of essential product characteristics such as physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The two are technically and commercially substitutable. The Authority treats the subject goods produced by the domestic industry as 'Like Article' to the subject goods being imported

from the subject countries.

10. As regards the argument of Purified Terephthalic Acid being substitute of Phthalic Anhydride, it is noted that none of the interested parties have filed any information to establish that consumer use the two products interchangeably. Further, in the previous investigations conducted by the Authority both in Purified Terephthalic Acid and Phthalic Anhydride, it was not established that they were substitutes to each other.

SCOPE OF DOMESTIC INDUSTRY AND STANDING

Views of Exporters, Importers, Consumers and other Interested Parties

11. The interested parties have made the following submissions with respect to the scope of domestic industry (DI) and its standing:
- (i) The information regarding separate production of all the domestic producers has not been disclosed. Petitioners have suo motu claimed that the M/s Asian Paints and M/s S I Group are not relevant for the present investigation and have not provided the production quantities for the same. There is no basis or evidence to conclude that the Petitioners actually constitute the 'major proportion' of the total domestic production as the total production remains unsubstantiated.
 - (ii) M/s IG Petrochemicals Limited and Thirumalai Chemicals Limited have admittedly imported the subject goods from Korea RP as per Initiation Notification No. 14/1/2011-DGAD dated 29th April 2011. Petitioners have blatantly failed to disclose the same and have made contorted and misleading averments and attempted to conceal the true position of the Petitioners.
 - (iii) M/s Asian Paints Ltd. is a major domestic producer and also has significant domestic sales of the subject goods. Hence, the claim of the Petitioners that M/s Asian Paints Ltd is primarily a 'captive producer' is grossly misleading and misrepresentative and the said producer is not liable to be ex facie excluded from the scope of the domestic industry.

Views of the Domestic Industry

12. The domestic industry has made the following submissions with respect to the scope of domestic industry and standing:
- (i) The petition was filed jointly by IG Petrochemicals Limited and Thirumalai Chemicals Ltd. The collective output of the two petitioners constitutes more than 50% of the production of Phthalic Anhydride in India. The petitioners, therefore, constitute domestic industry within the meaning of the Rules.
 - (ii) The petitioners have not imported the product under consideration from the subject countries. The petitioners are not related to the exporters or the importers of the alleged article.

- (iii) As regards non-disclosure of actual production figures of each of the petitioner companies, there is no requirement to provide the actual figure of total production of each of the constituent of the DI. The only thing to be established is the proportion of the Petitioners' production to that of the total Indian production, and that it is in majority proportion. The Petitioners fulfil that criterion by constituting more than 50% of the total Indian production.
- (iv) As regards the production of SI Group and Asian Paints, the relevant data has been provided. Asian Paints, even though a consumer of the PUC, has not opposed the current Petition.
- (v) With respect to the claim that petitioner companies have imported the PUC from Korea RP it is submitted that the exclusion from DI for importing/exporting the PUC can only be done if the alleged import/export is with the "subject country". Korea RP is not one of the subject countries. The import has not occurred during the POI but prior to that. Petitioner has imported the PUC from Korea RP is a well-known fact to the IPMA.
- (vi) Asian Paints primarily has been excluded for being a consumer and the Petition is in conflict with its interests. The Petitioners have not excluded Asian Paints' production for determining standing.

Examination by the Authority

13. The Authority has examined the issue as under:

- (i) The petition has been filed by M/s IG Petrochemicals Limited and M/s Thirumalai Chemicals Ltd. The petitioners have claimed that they have neither imported the subject goods from the subject countries nor are they related to any exporter or importer of the product in the subject countries; that there are three more producers of the subject goods in India, namely, Mysore Petrochemicals Ltd., S I Group India Ltd. and Asian Paints India Limited but Asian Paints primarily produces the product for its captive consumption; that as per the information available on record, Mysore Petrochemicals Ltd has supported their petition; that production of the petitioner companies in the Period of Investigation accounts for 87% of the total Indian production and that the petition, therefore, satisfies standing and petitioners constitute domestic industry within the meaning of the Rules. The Authority, after examining the above facts and evidence given by the petitioners in this regard, determines that the petitioner constitutes domestic industry within the meaning of Rule 2 of the Anti Dumping Rules, and the petition satisfies the criteria of standing in terms of Rule 5 of the Rules supra.
- (ii) As regards the evidence of production of other Indian producers, it is noted that production figures of M/s Mysore Petrochemicals Limited and M/s S I Group is taken on actual basis as provided by petitioners and production of M/s Asian Paints has been taken as per best information available provided by the domestic industry, since no information has been provided on the production figures either by the company or the opposing interested parties.

Particulars	Production in MT				Share (%)			
	2010-11	2011-12	2012-13	POI	2010-11	2011-12	2012-13	POI
Petitioners	2,07,810	2,08,480	2,13,684	2,11,033	83%	84%	83%	86%
IGPL	***	***	***	***	***	***	***	***
TCL	***	***	***	***	***	***	***	***
MPCL-Supporter	***	***	***	***	***	***	***	***
Other Indian Producer	33,815	32,720	32,412	32,035	13%	13%	13%	13%
SI Group	***	***	***	***	***	***	***	***
Asian Paints	***	***	***	***	***	***	***	***
Total	2,51,077	2,47,698	2,57,635	2,46,370	100%	100%	100%	100%

(iii) As regards the argument regarding M/s Asian Paints being major producer of the product, it is noted that none of the opposing interested parties has provided any reliable information establishing significant production of M/s Asian Paints. In fact the Authority had sent initiation notification to the company, but the company chose not to respond. The company has not opposed the present investigation as well. None of the domestic producers has opposed the petition filed and the petitioners constitute major proportion in the total Indian production.

(iv) It is noted that the petitioner companies have not imported the alleged subject goods from Russia or Japan (subject countries). The petitioner companies constitute eligible domestic industry for the purpose of present investigation.

MISCELLANEOUS ISSUES

Views of Exporters, Importers, Consumers and other Interested Parties

14. The opposing interested parties have made the following submissions :

- (i) The petitioners are merely seeking trade remedial protection, historically and habitually since 1999 on the PUC and other products manufactures by them, to unfairly restrict imports at competitive prices and have grown accustomed to rely upon trade remedial protection to subvert their own inefficiencies. The Authority ought to restrain from providing any relief to the Petitioners and terminate the present investigation.
- (ii) For the period from April 2013 up to December 2013, the evidence for imports in the petition appears to be selectively provided only for Russia and Japan and there is no direct evidence provided for imports for the period from January 2013 up to March 2013.
- (iii) Excessive Confidentially: The petitioners have not disclosed information such as Individual installed capacity of the Petitioners; costing information and the same should have at the least been indexed; methodology of the break-up of the indexed costing data used for constructing the Normal Values; methodology and evidence of export price

adjustments; actual individual production quantity of the Petitioners, the supporter and the other domestic producers and the quantity and value of the exports made by the Petitioners.

- (iv) No reason for claiming confidentiality on the prices of OX used in determination of normal value.
- (v) Applicants have failed to provide any indexation or meaningful summary of the costing data.
- (vi) Enough time was not given to Russian Federation to file detailed reply.

Views of Domestic Industry

15. The domestic industry has made the following submissions:

- (i) Opposing interested parties have resorted to excessive confidentiality. They have claimed practically all information as confidential.
- (ii) The opposing parties have claimed essential documents which are to be provided to the consumer such as the product specification, as confidential.
- (iii) The importers and exporters have merely provided blank pages at places where they have claimed confidentiality instead of various appendices.
- (iv) The petitioners have not disclosed OX prices for the reasons that since petitioners have disclosed CNV, it would have been easy for the opposing interested parties to determine conversion cost of the domestic industry which is highly business sensitive information and not amenable to summarization.
- (v) With reference to the argument that the DI has been availing undue protection since 1999, it is seen that the DI has been compelled to ask for protection for the PUC from time-to-time due to continued presence of dumped imports in the domestic market and the Authority has conducted proper investigations in these cases.

Examination by the Authority

16. Submissions made by the domestic industry and the opposing interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed as follows:

- (i) The 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 evidences submitted by various interested parties in the form of public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

- (ii) With regard to the argument that the petitioners are resorting to trade remedial measure to counter inefficiency, the Authority notes that the recommendation of anti dumping measures is guided by the parameters laid down in law and only when such parameters are met, the anti dumping duties are recommended. Mere filing of applications does not result into the levy of anti dumping duties.
- (iii) As regards the contention that enough time was not given to file detailed reply, the Authority notes that the Anti Dumping Agreement or Indian rules do not provide for additional time because of communication problem and language issues or distance involved. Still, the Initiation Notification and the copy of the petition was sent well in advance.

ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Views of Exporters, Importers, Consumers and other Interested Parties

17. The opposing interested parties have made the following submissions with regard to determination of the normal value, export price and dumping margin.
- (i) The price of 1 MT of Ortho-Xylene should be compared to the price of 1.13 MT of PAN in order to correctly construct the cost of production.
 - (ii) Excess steam/energy generated during the exothermic reaction for producing the subject goods which is either marketed or used for other products.
 - (iii) Power prices and other factors in each of the subject countries which determine the conversion costs incurred in that subject country
 - (iv) Legally impermissible method of determination of normal value leading to erroneous dumping margin:
 - i. Normal value should have been based on prices of like article in Russia and Japan. Applicants have not provided any explanation as to why this was adopted.
 - ii. The applicants have determined Oxylene prices of Russia based on average import price of the raw material into India and for Japan based on export price of raw material from Japan to the world. Normal value should have been based on cost of production in the subject countries considering the raw material in subject countries and conversion cost in subject countries. No explanation provided for difference in approach used in determination of normal value in Russia and Japan
 - iii. Normal value based on import price of raw material is likely to be higher than normal value in Russia as raw material can be sourced locally by the Russian producers and is likely to be cheaper than the raw material imported into India.
 - iv. The applicants have constructed the normal value using certain components based on data for subject countries while others based on data of India.
 - (v) The Applicants have provided no evidence whatsoever to establish that prices of Ortho-xylene in Russia are lower than the international prices.

- (vi) Applicants have not provided reference to any official rules or regulations which support their claim that an export tax is levied on Ortho-xylene in Russia.
- (vii) In the three computations of normal value done, the Applicants have used FOB prices of Ortho-xylene from Russia, CIF prices of Ortho-xylene to Europe from Russia and CFR prices of Ortho-xylene from South East Asia. However, the Applicants have failed to make the necessary adjustments to Ortho-xylene prices in the three computations so as to reflect the cost of Ortho-xylene in the domestic market of the respective jurisdictions.
- (viii) The presence of an export duty in Russia in no way is an indication of the domestic prices of Ortho-xylene not “reflecting the cost associated with production and sale of the article under consideration. The normal value in the instant proceedings must be determined based on the accounts of the particular producer or exporter.
- (ix) The price of Ortho-xylene in Russia would be determined by the level of domestic demand in the country. The Applicants cannot reach conclusion regarding domestic prices without providing any evidence relating to the level and elasticity of domestic demand for Ortho-xylene in Russia.
- (x) The Authority is required under the relevant legal provisions to compute an individual dumping margin for the supply chain consisting of Kamtex-Himprom and Rosplast as the producers and Millman as the exporter as the supply chain is complete. UralChem is not a part of Millman’s supply chain for the export of the subject goods to India. UralChem’s participation in the instant investigation therefore has no bearing whatsoever in the computation of an individual dumping margin for Millman’s supply chain. The data provided by Kamtex-Himprom in its questionnaire response relates to the total production and cost of the subject goods by Kamtex-Himprom.
- (xi) That Kamtex-Himprom is related to Rosplast in no way restricts it from providing services for production of the subject goods to other companies.

Views of the Domestic Industry

18. The following are the submissions made by the applicants in respect of normal value, export price and dumping margin:
- (i) The exporters’ questionnaire response is grossly inadequate to determine an accurate Normal Value in terms of the cost of production in Russia:
 - a. It has been admitted that OJSC KamtexHimprom is producing the product for Rosplast OOO LLC and LLC UralChemProm. But the questionnaire response is not based on total quantity produced by the company.
 - b. OJSC KamtexHimprom is related to Rosplast OOO LLC but still manufactures goods for LLC UralChemProm. Petitioners are unable to understand the reason for the same.
 - c. OJSC KamtexHimprom also produces the end product, namely, DOP. No information has been provided by OJSC KamtexHimprom regarding its

captive consumption of Phthalic Anhydride to produce DOP.

- (ii) Domestic industry has adopted the DGCIS&S data and the separate details of Russia and Japan have been provided to determine injury margin and month wise injury margin.
- (iii) The responding exporters have not filed complete response and hence individual dumping margin cannot be granted to these exporters/producers.
- (iv) For the determination of Normal Value for Russia, the raw material cost of the Russian exporter cannot be relied upon owing to the export tax levied by the Russian Government on the export of Ortho-xylene. The price of Ortho-xylene in Russia for Phthalic Anhydride production is at a price materially below the international prices.
- (v) The cost and price of the Russian producer does not reasonably reflect the costs associated with production and sale of the PUC because the Govt. of Russia is charging export duty on the export of orthoxylene (the main raw material).
- (vi) The Petitioners have calculated the Normal Value on the basis of the best available knowledge to them. Since the exporters have filed the questionnaire response, the normal value determination at this stage would be on the basis of data provided by the exporters. The conversion costs of the Russian producer are in fact higher than the conversion cost of the two petitioning companies.
- (vii) Normal value on the basis of selling price in Russia cannot be established without questionnaire response from LLC UralChemProm and sales by the company.
- (viii) The responding parties' contention that for determining Normal Value the price of 1 MT of orthoxylene should have been compared to the cost of 1.13 MT of PAN, lacks any reasonable logic and sense and is completely disregarded by the Petitioner.
- (ix) The Petitioners also disregard the responding parties' submission that the excess steam/energy produced in the reaction for production of PUC should be considered for the determination of Normal Value. It is submitted that no surplus electricity is produced in the process and all the electricity produced is consumed in the process.
- (x) The argument of the responding parties that the Petition did not have all the sufficient information is misconceived. The Petitioners have relied upon the best available information with them.

Examination by the Authority

19. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, barring below mentioned producers and exporters, none of the producer/exporter from subject countries has co-operated in this investigation by filing their questionnaires' responses. The questionnaire response has been filed by the following companies:

- (i) Rosplast OOO LLC, Russia
- (ii) OJSC KamtexHimprom, Russia
- (iii) Millman Limited, UK

20. It has been contended by the Domestic Industry that there had been volatility of the prices of the subject goods during the Period of Investigation. However, the Authority has done yearly analysis of the entire data for the determination of dumping margin and injury margin.
21. The Authority has assessed the Normal Value based on the information submitted by the producer and exporter in accordance with the Rules. It was first seen as to whether the domestic sales of the subject goods by the responding exporter/producer in their home markets were representative and viable for permitting determination of Normal Values on the basis of their domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents.
22. It is seen that Rosplast does not undertake production and sale of the product under consideration. Rosplast and KamtexHimprom are related companies. Production facilities are with KamtexHimprom and KamtexHimprom undertakes production of the product under consideration. Rosplast procures Orthoxylene and supplies the same to KamtexHimprom. Neither Rosplast nor KamtexHimprom sell significant volumes of the product under consideration in the domestic market. Further, Rosplast has not sold the product directly to the consumers in India. Rosplast has sold the product to Millman and Millman has in turn sold the material to various consumers or importers in various countries.
23. As regards the argument that the price of 1 MT of Ortho-Xylene should be compared to the price of 1.13 MT of PAN in order to correctly construct the cost of production, it is clarified that the Authority has adopted the consumption of inputs as provided by KamtexHimprom.

Normal Value for Russia

Normal value of Rosplast OOO LLC, Russia along with OJSC KamtexHimprom, Russia (Producer) and Millman Limited, UK (Exporter)

24. The domestic industry had argued that the normal value in case of Russia is required to be determined considering international price of raw materials. The Russian government has imposed export tax on the export Ortho-xylene, the major raw material for production of Phthalic Anhydride. Consequently, the supply of Ortho-xylene in Russia for Phthalic Anhydride production is at a price materially below the international prices and, therefore, the cost of production resultantly shall not reflect the costs reasonably associated with the production and sale of the product under consideration. Therefore, the petitioners submit that the raw material costs cannot be relied upon for determination of the cost of production of the product under consideration.
25. From the EQ response filed by Rosplast OOO LLC, Russia, the Authority notes that Rosplast does not have a factory of its own for the production of the subject goods, i.e., Phthalic Anhydride (PAN). Rosplast is not manufacturing any raw material either

required for manufacturing of PAN, including the main raw material Ortho-xylene. Rosplast provides the main raw material Ortho-xylene and other smaller raw materials to another company, namely, Open Joint Stock Company (OJSC) KamtexHimprom, which is a related company of Rosplast (as Rosplast has shareholding in KamtexHimprom). KamtexHimprom is involved in the manufacture of the Phthalic Anhydride in the capacity of a contract manufacturer/job worker on behalf of Rosplast under the terms of a Service Agreement entered into between KamtexHimprom and Rosplast. KamtexHimprom, after manufacturing PAN, shifts the same to its warehouses as well the warehouses of Rosplast. Rosplast receives inquiry from the trading company for possible volumes and price for PAN, type of packing and shipment time and indicating country of final destination of the product. Rosplast sends its price offer relying on rates indicated by ICIS and Platts for South Asia PA market on the one hand and cost of the product including all kinds of transportation and other costs. The buyer either accepts the price, or asks for a discount providing arguments. Rosplast in turn either confirms the deal, or refuses. When the price is fixed, Attachment to the contract is signed by both parties. As far as selling PAN to India during the POI is concerned, Rosplast sold PAN to its unrelated trader/exporter, namely, Millman Limited, UK, under a Contract Agreement, which lays down the terms and conditions of the sale. Millman Limited, UK, is the actual exporter in this chain and has exported the subject goods to India in the POI to unrelated customers. The subject goods are shipped to Indian customers directly from the Russian port.

26. The company has not reported any domestic sales of PAN in the POI. In its questionnaire response, the company had not filed the transaction wise exports sales to all other countries to whom it had exported PAN during the POI. In its questionnaire response, the company had provided the total quantity and total value of the exports to other countries. Further, the company had provided the consolidated price structure for exports to countries other than India. The company, during the verification stated that it had exported PAN to China, Belarus and Egypt. The Authority, during the verification visit verified the cost of production and consumption norms of Rosplast as well as KamtexHimprom.
27. Since Russia being a market economy country, the cost of Ortho-Xylene as recorded in the books of Rosplast has been considered. Further, domestic industry has not provided any evidence to the effect that the price of Ortho-xylene in Russia does not reflect the fair market price. The Authority has, therefore, determined the Normal Value for Rosplast on the basis of consumption of raw materials claimed by Rosplast/KamtexHimprom and conversion costs (including selling, general & administrative expenses) as per the information provided by Rosplast/KamtexHimprom, with addition of five percent profit. The ex-factory normal value is as indicated in the Dumping Margin Table below.

Normal Value for non-cooperative producers/exporters from Russia

28. The Authority notes that no other exporter/producer from Russia has responded to the Authority in present investigation. For all the non-cooperative exporters/producers in Russia, the Authority has adopted the normal value determined for the cooperating

producer Rosplast.

Export Price for Russia

Rosplast OOO LLC, Russia along with OJSC KamtexHimprom, Russia and Millman Limited, UK

29. In its questionnaire response, Rosplast has reported *** transactions of exports of Phthalic Anhydride to India during the period of investigation (POI), showing *** MT for a total value of US\$ ***. The entire quantity has been sold by Rosplast to a trading company, namely, Millman Limited, UK, on CFR Indian port basis. ***% exports to India by Millman Limited have been sourced from Rosplast, Russia. However, it was noted from the reconciled Appendix-2 of Millman Limited that the company has reported *** transactions of exports of PAN to India during the POI showing *** MT, for US\$ *** on CFR basis. During the verification visit, Millman Limited provided a statement of reconciliation for the difference in quantity. As per the quantity reconciliation statement, it was found that the quantity difference of *** MT was primarily due to the identification of the transactions on the basis of Invoice date by Rosplast and the shipment date by Millman Limited which were reflected by Millman Limited in the next year, i.e., ***. All sales to Millman Ltd were in flakes form. Rosplast claimed adjustments on account of expenses due to Inland Transportation, Customs Handling and Clearance Charges, Overseas Freight and Other Adjustments, which were accepted by the Authority. The ex-factory export price is as indicated in the Dumping Margin Table below.

Export price for other producers/exporters in Russia

30. The Authority notes that no other exporter/producer from Russia has responded to the Authority in the present investigation. For all these exporters/producers in Russia, the Authority has determined the export price after considering the lowest representative export price reported by the responding producer. The export price has been determined as CFR US\$ per MT basis. The CFR export price has been adjusted on the basis of information provided by the producer Rosplast and verified by the Authority. The ex-factory export price so determined for other producers/exporters from Russia is as indicated in the Duping Margin Table below.

Normal Value for Japan

31. Since none of the exporters from Japan has cooperated in the present investigation and filed exporter's questionnaire response, the Authority notes that the normal value in Japan could not be determined on the basis of actual information pertaining to the cost of production and selling price in Japan. Normal value in Japan has thus been constructed as per the facts available in terms of Rule 6(8) of the Rules. Accordingly normal value at ex-factory level in respect of Japan has been determined on the following basis – Orthoxylene prices as per export price of Ortho-xylene from Japan to the World as per UNComtrade data; freight as prevailing in Japan; consumption of raw materials and conversion costs on the basis of information/data of the most efficient producer of the domestic industry; selling, general & administrative expenses on the basis of

information/data of most efficient producer of the domestic industry and profit @5% of ex-factory cost excluding interest. The Authority constructed the normal value in respect of Japan accordingly. The ex-factory normal value for Japan so determined is as indicated in the Dumping Margin Table below.

Export price for Japan

32. Since no producer and exporter from Japan has cooperated and filed exporters questionnaire response in the present investigation, the Authority determines net export price in respect of Japan as per the facts available in terms of Rule 6(8) of the Rules. Export price in the case of all producers and exporters from Japan has been determined on the basis of transaction wise import data received from DGCI&S. After making the due adjustments, the ex-factory export price so determined is as indicated in the Dumping Margin Table below.

Dumping Margin Table

33. The dumping margin is as indicated in the Table below.

SN	Country	Producer/Exporter	Normal Value (US\$ per MT)	Export Price (US\$ per MT)	Dumping Margin (US\$ per MT)	Dumping Margin %	Dumping Margin Range
1	Russia	Roplast OOO LLC, Russia and Millman Limited, UK (Exporter)	***	***	***	***	5-15
2	Russia	All Others	***	***	***	***	10-20
3	Japan	All Producers and Exporters	***	***	***	***	10-20

34. It is seen that the dumping margins are quite significant and more than the limits prescribed under the Rules.

ASSESSMENT OF INJURY

Submissions made by producers, exporters, importers users and user associations

35. The opposing interested parties have made the following submissions with regard to injury and causal link:

- (i) The critical determinant of the applicable basic customs duty is the difference between the imports from Russia and imports from Japan of the same subject goods.

as the 'conditions of competition' between the imported articles from Japan and Russia are completely dissimilar. It is erroneous to undertake a cumulative examination of the imports from Japan and Russia.

(ii) Performance of Phthalic Anhydride derivatives must also be evaluated to examine whether there is any material injury to the Applicant. It should be analyzed that Phthalic Anhydride is transferred at arms length prices internally – as this will reflect the true overall profitability of the subject product. The Authority should investigate all aspects of the Applicants' business behavior relating to its value added products, particularly relating to capacity of its downstream derivatives and if there is any major change in production of derivatives during the injury period

(iii) The Authority must exclude all the imports of the subject goods into India made under advance license for examining the volume effect, as the imports made under advance license are not capable of causing any injury to the domestic industry. Landed Value of the subject goods imported under Advance license is lower as compared to the Landed value of the Duty Paid Imports and hence the Authority must examine the landed value of duty paid imports with the Non-Injurious Price and the Net Sales Realization of the Petitioners.

(iv) Domestic sales and market share of the Petitioners have steadily increased despite the declining demand and the imports from the subject countries are insignificant and merely 5% of the total Indian demand. Hence, there is no impact on the market share of the Petitioners and the claim made by the Petitioners is baseless and misconceived.

(v) Purified Terephthalic Acid' ("PTA") is a viable substitute for Phthalic Anhydride. Demand for PTA in India has increased from 2009-10 to 2012-13. This has resulted in decrease in demand of Phthalic Anhydride, which can be directly substituted by PTA in certain applications.

(vi) Analysis of the Capacity Utilization reflects that it has declined marginally in the POI as compared to 2010-11, but it may be noted that the Petitioners have themselves attributed the same to several extraneous factors.

(vii) The capacity of IG Petrochemicals Ltd. Has, however, increased significantly in 2013-14. IG Petrochemicals Limited is able to operate at a high rate. Any decline in capacity utilization demonstrated by the domestic industry is on account of Thirumalai Chemicals Ltd., which has not been able to optimally utilize its capacity because of logistical difficulties.

(viii) Given the constant high operating rates and locational advantages of IG Petrochemicals Limited, it incurs lower operating, logistical and labour costs. As a matter of fact, IG Petrochemicals Limited enjoys reduced costs for purchase of raw materials as compared to its peers because one of the key raw material supplier to the Phthalic Anhydride industry is also situated closer to IG Petrochemicals Limited. These advantages are not available to Thirumalai Chemicals Limited.

(ix) Sales volumes and selling price of the Petitioners has increased over the injury period, despite declining domestic demand.

(x) The apparent drastic decline exhibited in the POI is on account of the 'extraordinary expenses' incurred by M/s I G Petrochemicals Ltd. and is clearly erroneous. "Profit from Ordinary Activities before Finance Costs and exceptional item" of I G Petrochemicals Ltd. has increased in 2013-14 as compared to 2012-13. Further, it may be observed that the finance cost in 2013-14 has nearly doubled in 2012-13. Furthermore, some exceptional expenses such as exchange losses and extraordinary expenses have been dressed into the accounts in order to illustrate a loss, from an obvious profitable position.

(xi) Although the cost of sales of the Petitioners has increased over the injury period, there has been a commensurate increase in the selling price. As a matter of fact, the Petitioners should explain why there has been a significant increase in the cost of sales in the Period of Investigation as compared to 2010-11. Hence, there is clearly no price suppression/depression.

(xii) Productivity is observed to have a positive trend over the injury period.

(xiii) Increase in stock is due to decrease in exports. The Petitioners have failed to disclose the actual exports.

(xiv) The change in the policy of the Government has affected the industry:

a. Domestic industry enjoyed much higher levels of protection as the customs duty was much higher @ 30%. The same has been reduced to the current level of 7.5%.

b. The imports of the subject goods from Japan are amenable to preferential tariff under the India-Japan CEPA. reduction in the applicable customs duties has led to an increase in the imports from Japan

(xv) The Petitioners, in their respective annual reports have identified and admitted to several such other factors which are affecting them and have in fact affected them in the injury period, such as inverted duty structure, government policies, increased crude oil prices and forex fluctuations.

(xvi) Petitioners are not only exposed to risks of logistics constrain on procurement and supply but are exposed to pricing pressure on account of increasing raw material costs or other monopolistic activities by the sole supplier in India.

(xvii) The Authority ought to examine whether the Petitioners have actually adopted the Adjustment Plan proposed and whether the injury claimed by the Petitioners is on account of the continued inefficiency as highlighted by their own Adjustment Plan while facing self-inflicted injury attributed by the same areas of inefficiency and losses that had been identified in the said Adjustment Plan.

(xviii) Resolution of M/s Mysore Petrochemicals attached at Annexure 2.1 of the Petition unambiguously states that the main reason for closure of the plant has been because the conversion costs are very high and, therefore, it is unable to maintain competitiveness. Hence, it is the inefficiency of Indian industry that is causing injury.

(xix) Imposition of anti-dumping duty would gravely escalate the price of the subject goods and have a direct impact effect on the costs of the plasticizer manufacturers and other dependant downstream industries. Thus, it would make the end user industry completely unviable and it may suffer immense injury and it may even lead to closure of its plants.

(xx) The producers of Phthalate Plasticizers in foreign countries function on integrated units manufacturing Ortho-xylene and Oxo-Alcohols, Phthalic Anhydride as well as Phthalate Plasticizers and are cheaper as compared to Indian units. It is submitted that, an anti-dumping duty on imports of the subject goods, will open flood gates for foreign exporters of phthalate plasticizers and will cause gross injury to domestic manufacturers of phthalate plasticizers,

(xxi) During the POI, the basic customs duty on imports of the raw material Ortho-xylene was @5% whereas the basic customs duty on PUC is @7.5 %. In the Budget 2014-15, the basic customs duty on Ortho-xylene was reduced to 2.5 percent which comes to 50% of the chargeable duty. There is thus no need to impose anti dumping duty in the instant case.

(xxii) Market share of imports is not substantial enough to cause negative effect on the performance of the domestic industry. Negative effect is due to countries subject to anti-dumping duty and other domestic producers.

(xxiii) Production, sale and capacity utilization of the domestic industry has increased.

(xxiv) Increase in capacity is a clear indication of positive present and future performance. Further improvement in wages and productivity is the result of positive performance.

(xxv) IG Petro has consistently increased its profits over the injury period.

(xxvi) There is no significant price undercutting by the subject countries as the range of price undercutting has been 0-10% throughout the injury period.

(xxvii) The selling price of the domestic industry has increased almost equal to the cost of sales and, therefore, no price suppression and depression. Sales value of the domestic industry has increased in the POI as compared to the base year.

(xxviii) The Applicants have provided no evidence of threat of material injury.

(xxix) Despite imposition of anti-dumping duty, the imports from countries attracting anti-dumping duty has increased and these may affect the performance of domestic industry and same may be examined.

(xxx) Increasing price of raw material has contributed to decreasing margins of TCL. In addition, the company's reliance on a single raw material supplier and being located away from the raw material source has also impacted its margins.

(xxxii) Locational disadvantage of TCL contributes significantly to any injury caused to TCL.

(xxxii) IG petro is the lowest cost producer and one of the largest producer and it has locational advantage. TCL is suffering due to factors other than dumping.

(xxxiii)Shutdown of MPCL is a result of intensive competition from bigger domestic players like IG petro and TCL. In addition, their plant was located away from the western region.

(xxxiv)Competition amongst domestic producers has greater impact than imports of subject goods. Sales of IG Petro is likely to have had suppressing and depressing effect.

(xxxv) IG petro has been consistently increasing its gross profits. Decrease in cash profits and PBIT is due to amortization of investment, interest from borrowings required from expansion projects and result of expenses of extraordinary expenses.

(xxxvi)IG Petrochemicals Limited has been performing very well throughout the course of the injury investigation period.

(xxxvii) The Authority should request Thirumalai Chemicals Limited (“TCL”) and IG Petrochemicals Limited (“IGPL”) to provide injury related data separately for the injury period and the period of investigation (“POI”) rather than combined data for both the companies. As the data provided in the Application is combined for both the companies, the positive performance of IGPL has been masked by the relatively less positive performance of TCL.

(xxxviii) Any negative impact on the performance of TCL was as a result of imports already subject to anti-dumping duties and competition from other domestic producers of the like product as well as other factors.

(xxxix)The decline in the production in the POI was insignificant. Further, IGPL increased its production in 2013-14 as compared to the previous year.

(xl)Despite the decline in the sales volume, the sales value of the Applicants has increased. Further, IGPL’s sales value has consistently increased as apparent from the data. The sales value of IGPL increased in 2013-14 as compared to the previous year.

(xli) IGPL’s capacity utilization remains at very high levels and based on the positive performance of its plant, it has planned to further expand its capacity by adding a third PA plant

(xlii) Inventories relative to domestic production have remained constant throughout the course of the injury period and the POI.

(xlili) As per its Annual Reports, IGPL is one of the lowest cost producers of PA in the world and, therefore, it is submitted that a non-injurious price computed for IGPL would be lower than that of the other domestic producers of the like product.

(xliv) The performance of IGPL has improved, particularly in terms of production, sales, capacity utilization, capacity and gross profits, over the course of the injury

period and the POI. IGPL's profits have been steadily increasing over the course of the injury period and the POI, the imports from the subject countries have not been suppressing or depressing the prices of IGPL or resulting in undercutting and underselling of IGPL's prices. IGPL is not suffering injury in terms of the relevant legal provisions. The Authority should conduct the injury analysis for IGPL and TCL individually and not based on combined data

(xlv) The Applicants have not provided any evidence to establish that exporters from the subject countries are holding significant unutilized capacities and further that the exporters from the subject countries intend to increase exports to India.

(xlvi) Both TCL and Mysore Petrochemicals Limited have themselves expressly attributed their negative performance to a competitive disadvantage vis-à-vis IGPL.

Submissions made by Domestic Industry

36. The domestic industry has submitted that:

(i) Imports have increased in absolute terms. In fact, the imports have shown a significant increase in the proposed period of investigation.

(ii) Imports have shown absolute increase in both cumulatively and individually from each of the subject countries.

(iii) Imports have increased relative to production and consumption in India.

(iv) Imports from subject countries are significantly suppressing the prices of the product in the country to such an extent that it is suffering huge financial losses.

(v) Imports are significantly underselling the prices of the domestic industry which is evident from the difference between the non injurious price and landed price of imports.

(vi) Performance of the domestic industry has deteriorated in terms of capacity utilization, production, sales, inventories, market share, profitability and return on investment.

(vii) Performance of the domestic industry improved in the year 2012-13 with the imposition of anti-dumping duty on Israel, Korea and Taiwan. However, with the new sources dumping the product, the performance of the domestic industry has deteriorated to such an extent that performance of the domestic industry once again deteriorated in terms of production, capacity utilization, profits, cash profits and return on investments in the period of investigation.

(viii) Imports are undercutting the prices of the domestic industry. The imports are entering at such prices that there is strong likelihood of further importation.

(ix) The foreign producers are holding significant unutilized capacities. Given the nature of the production process, the foreign producers have no option but to sell the material, even at the dumping prices, in order to keep their plants running.

(x) It is submitted that the following factors establish that the injury to the domestic

industry has been caused by the dumped imports:

- a. There is significant difference between the prices offered by the domestic industry and foreign producers. Resultantly, domestic industry lost sales volumes. Thus, decline in sales volumes is a direct consequence of dumped imports from the subject countries.
- b. Imported product is severely undercutting the prices of the domestic industry. Resultantly, the domestic industry has been prevented from increasing its prices in proportion to cost increases.
- c. Deterioration in profits and subsequent losses, return on capital employed and cash profits are a directly result of dumped imports.
- d. Market share of imports from subject countries increased significantly. As a direct consequence, the market share of the Indian producers declined.
- e. Growth of the domestic industry became negative in respect of a number of parameters.

(xi) The DI was suffering due to intense dumping from Korea RP, Taiwan and Israel and thus, after an investigation, the imports from these countries were subjected to ADD to recover the DI. However, the DI still could not achieve the required results as the domestic market was never free of dumped imports. After the imposition of ADD on these countries, Russia and Japan resorted to dumping, taking advantage of the ever expanding Indian market.

(xii) Despite sufficient capacities with the domestic industry, the imports from subject countries are increasing significantly at dumped prices. The DI is still in the process of recovering from the effects of past dumping, and as such, the current dumping aggravates its already fragile condition.

(xiii) There has been a mild decline in demand of the PUC in the Indian market. However, imports of the subject goods from the subject countries have increased substantially establishing a direct link between dumping and injury to the DI.

(xiv) The increase in imports, both in absolute terms and relative to demand, domestic production and total imports have been more than significant and far exceed the increase in sales of the DI.

(xv) As regards the argument of increase in selling price, it is submitted that whereas the cost of production has seen an increase, the DI is unable to increase its selling price to the extent of increase in costs because imports from the subject countries are significantly suppressing the prices of the product in the country to such an extent that the DI is suffering huge financial losses.

(xvi) The Petitioners oppose the contention of the responding parties that the capacity utilization of DI suffered a “marginal” drop. It is submitted that the capacity could not be fully utilized. The utilization levels dropped to the lowest point during the POI as compared to the previous years. As regards the alleged logistical

difficulties of Thirumalai Chemicals Ltd, it is submitted that the opposing parties have not provided any evidence to demonstrate that Thirumalai Chemicals Ltd is suffering injury due to logistical difficulties.

(xvii) Inventories with the DI have increased throughout. The DI has to resort to export to prevent such piling up of inventories.

(xviii) As regards the shutdown of Mysore Petrochemicals limited, it is submitted that the company, is not a part of the investigation, and as such, its inclusion is not necessary. So significant was the dumping that the company was unable to further reduce its price to the level of imports and run the business. Hence the board decided to close the plant.

(xix) Growth of the DI in terms of market share, production, sales, capacity utilization, profits, ROI and cash profits is adverse.

(xx) As opposed to the responding parties' contention, it is not required to evaluate the performance of PAN derivatives too.

(xxi) The responding parties' contention that the imports made under advance license should not come under the purview of ADD investigation is flawed. Imports made under advance license are well capable of injuring the DI. It is only different in respect that for such imports, the Government has discretion on whether or not to impose duty. As such, inclusion of imports under advance license are also justified to determine accurate injury to the DI.

(xxii) The Petitioners have excluded any "extra expenses" incurred by IG Petrochemicals in determination of the drastic decline to the DI as opposed to the claims of the responding parties.

(xxiii) The DI cannot be allowed to face injury without imposing ADD for presumption of the downstream industries as claimed by the responding parties.

(xxiv) As regards injury to Thirumalai Chemical due to its disadvantageous location, it is submitted that responding parties have no material proof to back their claim that IG Petrochemical incurs lesser cost for raw materials than Thirumalai due to its advantageous location. Also, such observations are also irrelevant because the injury claimed by the Petitioners is on the basis of adverse price effect.

(xxv) Imposition of higher or lower customs duty does not impact dumping of goods as opposed to the claims of the responding parties.

(xxvi) The increase in imports from Japan might be attributed to an agreement (CEPA) as claimed by the responding parties. But no agreement can justify dumping.

(xxvii) As regards the statements in Annual reports, it is submitted that the factors in the annual report are not in the context of deterioration in performance of the domestic industry over the injury period. The Authority is concerned with the performance of the domestic industry over the injury period. The Annual Reports are, however, focused only on the period under consideration. Further, the Authority is

concerned about domestic operations, whereas the Annual Reports are concerned about company's overall operations. The shareholders and other stakeholders are interested in knowing not only the performance during the year but also reasons for the performance.

(xxviii) There are no monopolistic situations as claimed by the responding parties. The DI is buying the raw materials at the prevailing rates in the International market.

(xxix) Five percent share in the demand of the total market of imports from the subject countries cannot be termed as insignificant as claimed by the responding parties.

Examination by the Authority

37. The Authority has taken note of various submissions of the DI and the opposing interested parties on consequent injury to the domestic industry and has analyzed the same considering the facts available on record and applicable laws. While most of the issues are concerning the facts and figures which are addressed ipso facto in the injury analysis, the specific submissions are examined and addressed below.

(i) As regards the submission that the applicable basic customs duty is different for the imports from Russia and imports from Japan and the conditions of competition between the imported articles from Japan and Russia are completely dissimilar; the Authority notes that Annexure II of the AD Rules clearly states that condition of competition is to be analyzed between imported article and the like domestic article. The Authority has cumulatively assessed the effect of such imports as per Annexure II (iii) of the Anti Dumping Rules. It is noted that (i) the margins of dumping from each of the subject countries are more than the limits prescribed in the Rules; (ii) the volume of imports from each of the subject countries is more than the limits prescribed; and, (iii) cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market.

(ii) As regards the submission that analysis of Phthalic Anhydride derivatives should also be undertaken, the Authority notes that the anti-dumping duty investigation is a product specific investigation and product under consideration in the present investigation is Phthalic Anhydride and not its derivatives.

(iii) As regards the submission that the Authority should exclude the duty free imports made under advance licenses while examining injury, the Authority notes that the imports made under advance licenses cannot be considered to have affected the price in the domestic market as these are for export production.

(iv) As regards the argument that the subject countries constitute mere 5% of the Indian demand, the Authority notes that 5% market share in the present investigation is significant enough to cause injury to the domestic industry.

(v) As regards the contention that IG Petrochemicals Limited is able to operate at

a high rate and any decline in capacity utilization demonstrated by the domestic industry is on account of Thirumalai Chemicals Ltd., which has not been able to optimally utilize its capacity because of logistical difficulties, the Authority notes that the domestic industry (constituted by Thirumalai Chemicals Ltd and IG Petrochemicals Limited) is suffering injury on account of dumping in the POI. Therefore, injury cannot be attributed to lower capacity utilization only.

(vi) As regards the contention of locational disadvantage to Thirumalai Chemicals Ltd, the Authority notes that in anti-dumping investigation, the injury analysis is required to be conducted for domestic industry as a whole and not for individual domestic producers. Moreover, in the present investigation, the injury to the domestic industry is seen on account of adverse effects of imports on profits, cash flows, return on investment, etc., where the performance of both the DI producers is found to have deteriorated during the injury period. It is not a case that performance of only Thirumalai Chemicals has shown deterioration in respect of profits, cash flows, and return on investment. Performance of IG Petrochemicals has also shown deterioration in respect of profits, cash flows and return on investment. As regards the argument of decline in performance during POI on account of 'extraordinary expenses' incurred by M/s I G Petrochemicals Ltd, the Authority notes that such expenses were excluded while determining cost of production, profits and return on investments. The argument of locational disadvantage is also not hold good as the cost differentials between the two units is insignificant.

(vii) As regards the contention that change in Government policies has affected the performance of the domestic industry, the Authority noted that the argument is unsubstantiated as to how the changes in Government policies have caused injury to the domestic industry over the present injury period.

(viii) As regards the submission that as per the annual report, there are other factors for the decline in their performance, the Authority notes that the injury analysis carried out hereunder is self explanatory to establish that dumping has caused injury to the domestic industry. Further, public statements like annual reports of companies do not alter the conclusion that dumping of the product has contributed to injury to the domestic industry.

(ix) As regards the contention that whether the Petitioners have actually adopted the adjustment plan proposed and whether the injury claimed by the Petitioners is on account of the continued inefficiency as highlighted by their own Adjustment Plan, the Authority notes that the inefficiencies of the domestic industry are taken into account while determining the Non Injurious Price. The Authority notes that the performance of domestic industry has deteriorated during the injury period. This deterioration in performance of the domestic industry could not have been due to possible non-adoption of adjustment plan. The alleged adjustment plan could have made domestic industry more cost effective. However, under the AD Rules, the Authority is required to consider the domestic industry as it exists and examine whether the performance of the domestic industry deteriorated over the injury period.

The performance of the domestic industry has to be considered not in the context of ideal conditions but in the specific circumstances of the domestic industry.

(x) As regards resolution of M/s Mysore Petrochemicals, the Authority notes that Mysore Petrochemicals is not constituent of the domestic industry and hence the determination of injury is not based on injury to Mysore Petrochemicals.

(xi) As regards the submission that imposition of anti-dumping duty contributes to escalation of prices, the Authority notes that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the anti-dumping duties, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury caused to the domestic industry. On the contrary, imposition of the anti-dumping duties would remove the unfair advantages gained by the dumping practices; would prevent the decline of the domestic industry and help maintain availability of wider choice to the users/consumers of the subject goods.

(xii) As regards the contention that the main cause of injury to the domestic industry lies in the imports of the subject goods from the countries already attracting anti-dumping duty, the Authority notes that dumping can take place from several sources simultaneously. The objective of anti-dumping measures is to identify the sources of dumping and neutralize the effect of dumping to the extent of dumping established to create a level playing field for the domestic industry. The existing imports from countries already attracting ADD have been subjected to dumping duty to the extent of dumping found by the Authority.

(xiii) As regards the submission that inter-se competition between the domestic producers is the reason for their injury, the Authority notes that in a healthy market situation, competition amongst the producers cannot be ruled out. It is noted that wherever there are more than one producers of the product under consideration in the domestic market, there would always be some domestic competition amongst them. The performance of the domestic industry has materially declined in respect of parameters such as profit, cash flow and return on investment, despite existence of same degree of domestic competition. It has not been established by an interested party that the competition amongst domestic producers increased to such an extent that the same has broken the causal link between dumping and consequent injury suffered.

(xiv) Annexure II para (iii) of the Anti-dumping Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to antidumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

- a. the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and

the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and

b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

(xv) The Authority notes that:

a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.

b. The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.

c. Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries are entering into the Indian market at the dumped prices and the conditions of intense competition between the dumped imported articles and the like articles offered by the domestic industry in the Indian market exists.

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

39. The Authority has examined injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.

40. Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on the domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

41. 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, stock, profitability, net sales realization, magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the

Rules supra.

Volume Effect

Demand

42. The Authority has considered the import data procured from DGCI&S for the assessment of volume and value of imports from the subject countries and other countries. Demand of subject goods has been determined by adding domestic sales of domestic like product with imports of product under consideration from all countries. The summarized position is as follows.

Particulars	UOM	2010-11	2011-12	2012-13	POI
<i>Demand</i>					
Sales of Domestic Industry	MT	183,405	180,050	193,033	190,482
Sales of Other Indian Producers	MT	43,197	39,457	43,675	35,675
Subject Countries	MT	1,213	2,963	5,981	15,089
Russia	MT	1,213	2,648	3,547	11,667
Japan	MT	-	315	2,434	3,422
Countries attracting ADD	MT	43,014	31,167	32,994	34,241
Other Countries	MT	5,400	4,518	5,232	1,108
Total	MT	276,229	258,154	280,915	276,596

43. The Authority notes that demand for the subject goods has shown general increase over the injury period, although it marginally fallen during the POI in comparison to the previous year.

Import Volumes and Share of Subject Countries

44. The import volumes for the injury period, considering the import data provided by DGCI&S, are as under-

Import Volume	Unit	2010-11	2011-12	2012-13	POI
Subject Countries	MT	1,213	2,963	5,981	15,089
-Russia	MT	1,213	2,648	3,547	11,667
-Japan	MT	-	315	2,434	3,422
Countries attracting ADD	MT	43,014	31,167	32,994	34,241
Other Countries	MT	5,400	4,518	5,232	1,108
Total Imports	MT	49,626	38,647	44,207	50,438
Market share in Imports:					
-Russia	%	2%	7%	8%	23%
-Japan	%	0%	1%	6%	7%
Subject Countries	%	2%	8%	14%	30%
Countries attracting ADD	%	87%	81%	75%	68%
Other Countries	%	11%	12%	12%	2%

Imports from subject countries in relation to:					
-Total imports	%	2%	8%	14%	30%
-Demand	%	0%	1%	2%	5%
-Indian production	%	0%	1%	2%	6%

45. It is noted from the above table that:

- (i) Imports from subject countries have increased significantly in absolute terms during POI.
- (ii) Imports from subject countries in relation to total imports have increased significantly.
- (iii) Imports from subject countries in relation to production and consumption in India have increased in the POI.
- (iv) Imports from subject countries have increased in absolute terms as well as in relation to total imports, production & consumption in India throughout the injury period.

46. It is thus concluded that imports from subject countries have increased both in absolute terms and in relation to production and consumption in India.

Price Effect

Price effect of dumped imports and impact on domestic industry

47. It has been examined whether there has been a significant price undercutting by the dumped imports of the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

Price Undercutting

48. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. This comparison showed that during the period of investigation, the subject goods originating in or exported from the subject countries were imported into the Indian market at prices which were lower than the selling prices of the domestic industry. It is thus noted that imports of subject goods were undercutting the domestic prices and margin of undercutting is shown as per the table below:

SN	Particulars	Unit	2010-11	2011-12	2012-13	POI
A	Russia					
	Landed Price	Rs/MT	59,920	74,296	86,612	92,608
	Net Sales Realisation	Rs/MT	***	***	***	***
	Price Undercutting	Rs/MT	***	***	***	***
	Price Undercutting	%	***	***	***	***
	Price Undercutting Range	%	(0-10)	0-10	0-10	0-10
B	Japan					
	Landed Price	Rs/MT	-	81,578	87,624	91,285
	Net Sales Realisation	Rs/MT	-	***	***	***
	Price Undercutting	Rs/MT	-	***	***	***
	Price Undercutting	%	-	***	***	***
	Price Undercutting Range	%	0	(5-15)	0-10	0-10
C	Subject Countries					
	Price Undercutting	Rs/MT	***	***	***	***
	Price Undercutting	%	***	***	***	***
	Price Undercutting Range	%	(0-10)	0	0-10	0-10

49. The Authority notes that the landed price of imports from the subject countries is below the selling price of the domestic industry in the POI. The imports from subject countries are thus undercutting the prices of the domestic industry.

Price Underselling

50. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price (NIP) has been worked out and compared with the landed value of the subject goods (calculated on the basis of the average import price as per DGCIS imports data) to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules.

51. The analysis shows that the landed value of the imports of the subject goods was below the cost of production and non-injurious price of the domestic industry, as can be seen from the table below:

Particulars	UOM	Russia	Japan
NIP	Rs/MT	***	***
Landed Price	Rs/MT	92,608	91,285
Price underselling	Rs/MT	***	***

Price Underselling	%	***	***
Price Underselling	% Range	5-15	5-15

52. It is noted that during the POI, the landed price of the subject goods from the subject countries is far below the non injurious price determined for the domestic industry, resulting in significant price underselling.

Price Suppression/Depression

53. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority has examined the cost of production, net sales realization and the landed values of the subject goods from the subject countries in relation to the injury period including the POI. The position is shown as per the table below.

Parameters	Unit	2010-11	2011-12	2012-13	POI
Cost of sales	Rs./MT	***	***	***	***
Trend	Index	100	131	155	166
Selling price	Rs./MT	***	***	***	***
Trend	Index	100	128	154	159
Landed value of Imports for subject countries	Rs./MT	***	***	***	***
Trend	Index	100	125	145	154
Landed value of Imports- Japan	Rs./MT	-	***	***	***
Trend	Index	-	100	107	112
Landed value of Imports- Russia	Rs./MT	***	***	***	***
Trend	Index	100	125	145	155

54. From the above information, the Authority notes that there was significant increase in both costs of sales as well as selling price over the injury period. The increase in selling price however was not in proportion to the increase in cost of production over the injury period. This shows price suppression effect whereby the domestic industry has not been able to increase its selling price commensurate with increase in its cost of sales.

Economic parameters of the domestic industry

55. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on the domestic producers of the like product. The Rules further provide that the examination of the impact

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

Production, Capacity, Capacity Utilization and Sales

56. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization was as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Capacity	MT	256,110	256,110	256,110	268,610
Production	MT	207,810	208,480	213,684	211,033
Capacity Utilization	%	81%	81%	83%	79%
Domestic Sales	MT	157,438	162,932	179,649	173,839

57. From the information given above, the Authority notes that:

- (i) The Domestic industry enhanced its capacity over the injury period.
- (ii) Production of the domestic industry increased till 2012-13, but declined thereafter in the POI. Production of the domestic industry in the POI was lower as compared to the preceding year even when capacity was enhanced.
- (iii) Capacity utilization of the domestic industry improved till 2012-13 and then declined in the POI.
- (iv) Sales volume of the domestic industry increased from 2010-11 to 2012-13, but declined in the POI.

Profits, profitability, return on investment and cash profits

58. The performance of the domestic industry with regard to profits, return on investment and cash flow over the injury period was as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Profit/(Loss)	Rs./MT	***	***	***	***
<i>Trend</i>	Index	100	(421)	456	(1,563)
Profit/(Loss)	Rs Lacs	***	***	***	***
<i>Trend</i>	Index	100	(413)	480	(1,627)

Cash profits	Rs/MT	***	***	***	***
<i>Trend</i>	Index	100	29	159	(141)
Profit before interest	Rs./MT	***	***	***	***
<i>Trend</i>	Index	100	133	278	(65)
ROCE	%	***	***	***	***
<i>Trend</i>	Index	100	140	279	(61)

59. From the information given above, the Authority notes that:

- (i) Profitability of the domestic industry has been determined by considering the cost to make and sell the subject goods and the selling price.
- (ii) Profit/Loss and profitability of domestic industry has deteriorated significantly during the period of investigation.
- (iii) Whereas both the cost of production and the selling price increased over the period, the domestic industry was unable to increase its selling price in proportion to increase in cost in the POI. Resultantly, the profitability of the domestic industry steeply deteriorated during the period of investigation.
- (iv) The domestic industry is suffering financial losses during the POI.
- (v) The cash profits, profit before interest and return on capital employed followed the same trend as that of profits. Performance of the domestic industry deteriorated in respect of cash profits, profit before interest and return on capital employed.
- (vi) It is thus seen that performance of the domestic industry improved during 2012-13 with imposition of anti-dumping duty. However, the same declined due to dumping from present subject countries.

Market Share in Demand

60. The effects of the dumped imports on the market share in demand of the domestic industry have been examined as below:

Market Share in Demand	Unit	2010-11	2011-12	2012-13	POI
Sales of Domestic Industry	%	66.40%	69.75%	68.72%	68.87%
Sales of Other Indian Producers	%	15.64%	15.28%	15.55%	12.90%
Domestic Producers as a whole	%	82.04%	85.03%	84.27%	81.77%
Subject Countries	%	0.44%	1.15%	2.13%	5.46%
-Russia	%	0.44%	1.03%	1.26%	4.22%
-Japan	%	0.00%	0.12%	0.87%	1.24%
Countries attracting ADD	%	15.57%	12.07%	11.75%	12.38%
Other Countries	%	1.95%	1.75%	1.86%	0.40%

61. The Authority notes that the market share of the domestic industry and domestic

producers as a whole increased between 2010-11 and 2011-12 and declined thereafter. The market share of the subject countries increased significantly, whereas the market share of countries attracting ADD declined.

Employment, Productivity and Wages

62. The position with regard to employment, wages and productivity is as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
No of Employees	Nos	***	***	***	***
Wages	Rs.Lacs	***	***	***	***
Productivity per day	MT/Day	***	***	***	***

63. It is noted that employment with the domestic industry has increased till 2012-13 and declined thereafter. Wages paid have increased over the injury period with minor decline during the period of investigation. Productivity also increased till 2012-13 and thereafter declined.

Inventories

64. From the information given below, the Authority notes that the inventory position of domestic industry has increased during POI.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Closing Stock	MT	***	***	***	***
Trend	Index	100	75	96	107

Magnitude of dumping

65. The Authority notes that the dumping margin of the imports of the subject goods from the subject countries is not only positive but significant.

Growth

66. The Authority notes that the growth of domestic industry was negative during the POI. Production, sales volumes, profits, return on investment, PBIT and cash flow show negative growth during the POI.

Particulars	Unit (Year to Year)	2010-11	2011-12	2012-13	POI
Production	Y/Y	-	0%	2%	-1%
Domestic Sales	Y/Y	-	-2%	7%	-1%
Profit/(Loss)	Y/Y	-	-521%	8%	-442%
Cash Profit	Y/Y	-	-71%	456%	-189%
PBIT	Y/Y	-	33%	109%	-123%
Return on Investment	Y/Y	-	3%	12%	-22%

Ability to raise capital investments

67. The Authority notes that the domestic industry has enhanced its capacity in the face of increase in demand. However, dumping of the subject goods from the subject countries has caused material injury to the domestic industry.

Conclusion on injury

68. It is thus seen that there has been a significant increase in the volume of dumped imports from the subject countries in absolute terms. The imports have increased significantly in relation to consumption and production of the product in India. Imports have increased both in absolute terms and in relation to production and consumption in India. The dumped imports are undercutting the prices of the domestic industry in the market. Dumped imports have had significant adverse price effect in terms of price suppression. Effect of dumped imports has been to prevent price increase which otherwise would have occurred, to a significant degree. Imports have prevented the domestic industry from raising its prices in proportion to cost increases. The domestic industry is suffering significant price underselling. The dumping margin determined by the Authority is quite significant. With regard to consequent impact of dumped imports on the domestic industry, it is noted that dumped imports from the subject countries have adversely impacted the performance of the domestic industry in respect of market share, profits, cash profits and return on investment. Inventories with the domestic industry increased. Further, as a result of significant price undercutting and price suppression, profitability of the domestic industry deteriorated so significantly that the domestic industry was suffering significant financial losses. Further, the domestic industry suffered cash losses and low return on investment during the POI. The Authority thus concludes that the domestic industry has suffered material injury.

Causal Link

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

Imports from third countries

70. The Authority has examined the imports data of the subject goods from DGCI&S. It is noted that imports from third countries are either already attracting anti dumping duty or the volume is de-minimis and thus could not have caused claimed injury to the domestic industry.

Contraction in demand

71. There is marginal decline in the demand of Phthalic Anhydride in India in the POI. However, imports of the product under consideration from the subject countries increased significantly in a situation where the demand for the product under consideration has shown mild decline.

Trade restrictive practices of and competition between the foreign and domestic producers

72. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

Developments in technology

73. The Authority notes that the technology adopted by the domestic industry is comparable with that adopted by the producers all over the world. There is no significant difference in the manufacturing process of the Indian producers and the foreign producers. In fact, the domestic producers have been manufacturing the product for quite some time, and the technology for production is fairly established.

Changes in pattern of consumption

74. The domestic industry is producing the type of goods that have been imported into India. Possible changes in the pattern of consumption are not a factor that could have caused claimed injury to the domestic industry.

Export performance

75. Claimed injury to the domestic industry is not on account of possible deterioration in export performance of the domestic industry.

Performance of the domestic industry with respect to other products

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

Productivity of the domestic industry

77. The Authority notes that the productivity of the domestic industry has followed the same trend as production. Deterioration in productivity has not caused injury to the domestic industry.

Factors establishing causal link

78. The analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject countries. Causal link between the dumped imports and the injury to the domestic industry is established on the following grounds:

(i) Imports are undercutting the prices of the domestic industry. The volume of imports has increased significantly.

(ii) The consumers have increasingly switched their requirements to suppliers from the subject countries as a result of significant price difference. Thus, the price undercutting has led to significant increase in market share of imports and decline in the market share of the domestic industry.

(iii) The presence of dumped imports in the country is preventing the domestic industry from increasing its prices in proportion to the rise in costs.

(iv) The subject imports are underselling the product sold by the domestic

industry.

(v) Deterioration in profits, return on capital employed and cash profits is a direct consequence of the dumped imports.

(vi) The market share of dumped imports increased over the injury period.

Conclusion on Injury and Casual link

79. From the above examination of injury and causal link, the Authority concludes that the domestic industry has suffered injury as a result of dumping of the subject goods from the subject countries. There has been a significant increase in the volume of dumped imports from the subject countries in absolute terms throughout the injury period and in relation to production and consumption in India. The dumped imports are significantly undercutting the domestic prices. The dumped imports have had significant adverse effect on the prices of the domestic industry in the market. The dumping margin for the subject countries has been determined and is considered significant. Market share of the subject imports has significantly increased. Performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on investments. Inventories have increased. The Authority concludes that the domestic industry has suffered injury as a result of dumped imports from the subject countries

80. The non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. The injury margins have been determined as follows:

Injury Margin

Particulars	UOM	Russia		Japan
		Cooperative Producer/Exporter	Others	
NIP	Rs/MT	***	***	***
Landed Price	Rs/MT	***	***	***
Injury margin	Rs/MT	***	***	***
Injury margin	%	***	***	***
Injury margin	% Range	10-20	15-25	5-15

81. The level of injury margins determined is considered significant.

INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

82. The Authority notes that 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 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.

83. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

Post Disclosure Statement submissions by the opposing Interested Parties

84. Following are in brief the post Disclosure Statement submissions made by the opposing interested parties:

- a. There should not be any form of injury duty imposed/levied against Rosplast/Kamtex-Himprom for the reasons that even though in the POI the demand of the subject goods from Russia saw a dramatic increase, yet the price per unit for the subject goods in the POI from Russia was actually higher than the unit price for goods from Japan. Logically, the cheaper product would show the greater increase in sales volumes, yet this is not the case. The increase in sales of

the Russian product in the POI is due to the excellent focused marketing of the product by Millman Limited, and not any form of dumping.

- b. The total demand in MT varies each year, but more specifically from 2012-13 to the POI, it can be seen that there was a decline in demand. However, it is evident that the domestic sales have seen no significant effect from this decline as they have steadily remained at around 63-64%. Further to this, the results show that the domestic industry has continued to hold 76% of market demand for two years straight, inclusive of the period of investigation. From this it is evident that proportionately the domestic industry has not suffered from the increase in sales from Russia.
- c. Due to these reasons, we do not agree to the penalty of the injury margin, and we believe that if you are proposing \$5 - \$10/MT anti dumping duty for Japan then it should be NIL for Russia and certainly not more than \$5 - \$10/MT.
- d. The Authority should terminate this investigation forthwith, on the basis that the import information forming the basis for the initiation was not accurate or adequate and have failed to make critical disclosures.
- e. There is no information or credible evidence to show that there is dumping of the subject goods from the subject countries.
- f. The imports of the subject goods made under advance license need to be excluded in order to assess the alleged injury claimed by the Domestic Industry.
- g. There is no injury to the domestic industry, if any, as claimed by the Petitioners and the injury if any, is clearly self inflicted.
- h. There is no causal link between the injury alleged by the domestic industry and the imports of the subject goods into India.
- i. The imposition of anti-dumping duty on the product under consideration is not in public interest.
- j. The Authority should request Thirumalai Chemicals Limited (“TCL”) and IG Petrochemicals Limited (“IGPL”) to provide injury related data separately for the injury period and the period of investigation (“POI”) rather than combined data for both the companies. As the data provided in the Application is combined for both the companies, the positive performance of IGPL has been masked by the relatively less positive performance of TCL.
- k. Any negative impact on the performance of TCL was as a result of imports already subject to anti-dumping duties and competition from other domestic producers of the like product as well as other factors.
- l. The decline in the production in the POI was insignificant. Further, IGPL increased its production in 2013-14 as compared to the previous year.
- m. Despite the decline in the sales volume, the sales value of the Applicants has increased. Further, IGPL’s sales value has consistently increased as apparent from the data. The sales value of IGPL increased in 2013-14 as compared to the previous year.

- n. IGPL's capacity utilization remains at very high levels and based on the positive performance of its plant, it has planned to further expand its capacity by adding a third PA plant
- o. Inventories relative to domestic production have remained constant throughout the course of the injury period and the POI.
- p. As per its Annual Reports, IGPL is one of the lowest cost producers of PA in the world and, therefore, it is submitted that a non-injurious price computed for IGPL would be lower than that of the other domestic producers of the like product.
- q. The performance of IGPL has improved, particularly in terms of production, sales, capacity utilization, capacity and gross profits, over the course of the injury period and the POI. IGPL's profits have been steadily increasing over the course of the injury period and the POI, the imports from the subject countries have not been suppressing or depressing the prices of IGPL or resulting in undercutting and underselling of IGPL's prices. IGPL is not suffering injury in terms of the relevant legal provisions. The Authority should conduct the injury analysis for IGPL and TCL individually and not based on combined data
- r. The Applicants have not provided any evidence to establish that exporters from the subject countries are holding significant unutilized capacities and further that the exporters from the subject countries intend to increase exports to India.
- s. Both TCL and Mysore Petrochemicals Limited have themselves expressly attributed their negative performance to a competitive disadvantage vis-à-vis IGPL.
- t. IG Petrochemicals Limited is able to operate at a high rate. Any decline in capacity utilization demonstrated by the domestic industry is on account of Thirumalai Chemicals Ltd., which has not been able to optimally utilize its capacity because of logistical difficulties.
- u. Given the constant high operating rates and locational advantages of IG Petrochemicals Limited, it incurs lower operating, logistical and labour costs. As a matter of fact, IG Petrochemicals Limited enjoys reduced costs for purchase of raw materials as compared to its peers because one of the key raw material supplier to the Phthalic Anhydride industry is also situated closer to IG Petrochemicals Limited. These advantages are not available to Thirumalai Chemicals Limited.
- v. Sales volumes and selling price of the Petitioners has increased over the injury period, despite declining domestic demand.

Post Disclosure Statement submissions by the Domestic Industry

85. Following are in brief the post Disclosure Statement submissions made by the domestic industry:

- (a) Product under consideration has been exported to India at dumping prices from the subject countries.
- (b) Both dumping margin and injury margin in the POI are positive and significant. However, both dumping margin and injury margin requires reconsideration.
- (c) Normal values for all the three responding exporters are grossly understated
- (d) Individual dumping margin for the responding Russian producer-exporter should be denied.
- (e) Domestic industry has suffered material injury.
- (f) Definitive anti dumping duties are required to be recommended.
- (g) None of the interested parties have been able to establish that the contentions of the domestic industry on any of the relevant accounts are incorrect.
- (h) Fixed quantum of anti dumping duties is required to be expressed in terms of US\$.

Examination by the Authority

86. a). As regards the argument that the import price from Russia is higher than the import price from Japan and increase in sales of the Russian product in the POI is due to the excellent focused marketing of the product by Millman Limited, and not any form of dumping, the Authority notes that there has been a significant increase in the volume of dumped imports from the subject countries in absolute terms as well as in relation to production and consumption in India. The dumped imports are significantly undercutting the domestic prices. The dumped imports have had significant adverse effect on the prices of the domestic industry in the market. Market share of the subject dumped imports has significantly increased. Performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on investments. The domestic industry has thus suffered injury as a result of dumped imports from the subject countries.

b). As regards the argument that the demand for the product declined, it is noted that whereas the demand for the product declined in POI by 1.5% as compared to preceding year, the imports from subject countries increased by about 150%. Thus, the increase in imports from the subject countries was quite significant.

c). As regards the argument on the quantum of ADD, the Authority notes that the quantum of ADD has been determined based on the dumping margin and injury margin disclosed in the disclosure statement.

d). As regards the argument that information forming the basis for the initiation was not accurate or adequate and petitioners failed to make critical disclosures, the authority notes that the petition was duly documented and contain sufficient evidence to justify initiation of the investigation. Further, the petition and disclosure statement contains all relevant and necessary disclosures in this regard.

e). As regards the argument that there is no credible evidence to establish dumping, the authority notes that the investigation has clearly established dumping beyond de-minimis limits.

- f). As regards the argument that injury is clearly self inflicted, the authority holds that no interested party has established how the injury is self inflicted, nor the investigation has shown that the injury is self inflicted.
- g). As regards the argument that the imposition of duty is not in public interest, the authority notes that no interested party has established how the imposition of duty is not in public interest. It is also noted that the Govt. of India had earlier imposed safeguard duty on the product wherein the Director General of Safeguards held that imposition of safeguard duty was in public interest.
- h). As regards segregated data of the two petitioning companies, it is clarified that petitioner has provided segregated data. Since, the authority is required to examine the injury to the domestic industry by cumulating the data of the two companies, it would not be appropriate to examine the individual injury data of the two companies.
- i). As regards the contention that injury to the domestic industry is due to dumped imports from countries already attracting ADD, it is noted that the imports from these countries are already attracting ADD. The authority is not required to segregate injury to the domestic industry from other dumped imports. The authority is required to segregate injury to the domestic industry from undumped imports from third countries.
- j). As regards the contention of interested parties concerning decline in production, injury to one of the petitioner companies, the issues have been examined at relevant place in the injury analysis.
- k). As regards lower cost of production or no injury to one of the petitioner companies, the authority notes that it is required to consider the data for the domestic industry as a whole and not individual domestic producers comprising domestic industry.

CONCLUSION

87. After examining the submissions made by the interested parties and the domestic industry and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject countries below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the subject countries.

RECOMMENDATIONS

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

injury equal to the lesser of margin of dumping and margin of injury, so as to remove injury to the domestic industry.

89. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove injury to the domestic industry. Accordingly, anti dumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government on all imports of the subject goods originating in or exported from the subject countries.

Duty Table

Sl. No.	Heading/ Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
1	29173500	Phthalic Anhydride	Russia	Russia	Rosplast OOO LLC, Russia	Millman Limited, UK	106.30	MT	US\$
2	29173500	Phthalic Anhydride	Russia	Russia	Any	Any	159.43	MT	US\$
3	29173500	Phthalic Anhydride	Russia	Any other country	Any	Any	159.43	MT	US\$
4	29173500	Phthalic Anhydride	Any other than subject countries	Russia	Any	Any	159.43	MT	US\$
5	29173500	Phthalic Anhydride	Japan	Japan	Any	Any	126.17	MT	US\$
6	29173500	Phthalic Anhydride	Any other than subject countries	Japan	Any	Any	126.17	MT	US\$
7	29173500	Phthalic Anhydride	Japan	Any other country	Any	Any	126.17	MT	US\$

Explanation: Where there is overlapping of antidumping duty on the subject goods with respect to a subject country in different customs notifications, the duty applicable to that subject country shall be the one imposed under the customs notification in which the said country has been specifically mentioned under the Column "Country of Origin."

90. 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.
91. An appeal against the order of the Central Government arising out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(A K Bhalla)
Designated Authority

