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F. No. 7/01/2022-DGTR

Government of India

Ministry of Commerce & Industry

Department of Commerce

(Directorate General of Trade Remedies)

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

Dated: 2nd February, 2023

NOTIFICATION
FINAL FINDINGS

(Case No. AD (SSR)- 01/2022)

Subject: Sunset Review anti-dumping investigation concerning imports of Saturated Fatty Alcohol originating in or exported from Indonesia, Malaysia and Thailand.

Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred as the "Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the "Rules" or the AD Rules") thereof:

1. The Designated Authority (hereinafter also referred to as the "Authority") received an application filed by M/s VVF India Ltd. (hereinafter referred to as the "applicant" or "domestic industry") in accordance with Act and Rules for sunset review investigation of anti-dumping duty on imports of Saturated Fatty Alcohol (hereinafter also referred to as the "subject goods" or "PUC" or "SFA") originating in or exported from Indonesia, Malaysia and Thailand (hereinafter referred to as the "subject countries").

A. BACKGROUND OF THE CASE

2. The original anti-dumping Investigation concerning imports of "Saturated Fatty Alcohols" originating in or exported from Indonesia, Malaysia, Thailand and Saudi Arabia was initiated vide notification no.14/51/2016-DGAD dt 24.04.2017. The Authority recommended anti-dumping duty on the imports of "Saturated Fatty Alcohols" from Malaysia, Indonesia and Thailand vide its final finding dated 23.04.2018. Based on the recommendations, the anti-dumping duty was imposed vide Customs Notification 28/2018-Customs (ADD) dated 25.05.2018, and amended by Notification No. 48/2018-Cus. (ADD), dated 25.09.02018. The said duties were levied for a period of 5 years.

3. In terms of Section 9A(5) of the Act read, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition. The Authority is required to review whether the expiry of anti-dumping duty is likely to lead to

continuation or recurrence of dumping and injury.

4. Further, Rule 23(1B) of the Rules provides as follows:

> *"any definitive anti-dumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry"*

5. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury.

6. In view of the duly substantiated application by the domestic industry with *prima facie* evidence of likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated a sunset review investigation vide Notification No. F. No. 7/01/2022- DGTR dated 3rd February 2022 to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

7. The scope of the present review covers all aspects of the previous investigation concerning the subject goods issued vide Final Finding No. 14/51/2016-DGAD dated 23rd April 2018, which were implemented vide Notification No. 28/2018-Cus. (ADD) dated 25.05.2018, as amended by Notification No. 48/2018-Cus. (ADD), dated 25-9-2018.

B. PROCEDURE

8. The procedure described herein below has been followed with regard to the subject investigation:

i. The Authority notified the Embassies of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigation.

ii. The Authority issued a public notice dated 3rd February, 2022 published in the Gazette of India Extraordinary, initiating the sunset review anti-dumping investigation concerning the imports of the subject goods from Indonesia, Malaysia and Thailand.

iii. The Authority sent a copy of the initiation notification dated 3rd February, 2022, to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers and other interested parties, as per the information made available by the applicant.

iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.

v. In the initiation notification, the Authority had called for comments on the proposed PCN methodology from the interested parties in order to have fair comparison. The comments of the interested parties were considered and thereafter, vide letter dated 9th March 2022, the interested parties were requested to file their questionnaire response in accordance with the PCN methodology.

vi. The interested parties were requested to provide relevant information in the form and manner prescribed and to make their views known in writing within the prescribed time, in accordance with Rules 6(2) and 6(4) of the Rules.

vii. The Embassies of the subject countries in India were also requested to advise the producers / exporters from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers / exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.

viii. The Authority sent questionnaires to the following known producers/exporters in the subject countries, in accordance with Rule 6(4) of the Rules:

i. PT. Musim Mas, Indonesia
ii. PT. Ecogreen Oleochemicals, Indonesia
iii. PT. Energi Sejatera Mas, Indonesia
iv. PT. Wilmar Nabati, Indonesia
v. Emery Oleochemicals Sdn. Bhd., Malaysia
vi. KLK Oleo, Malaysia
vii. FPG Oleochemicals Sdn Bhd, Malaysia
viii. Thai Fatty Alcohols Co. Ltd., Thailand

ix. In response, the following exporters/producers from the subject countries filed exporter's questionnaire response in the prescribed format:

i. PT. Musim Mas, Indonesia
ii. Inter-Continental Oils & Fats Pte Ltd. Singapore
iii. PT. Ecogreen Oleochemicals, Indonesia
iv. Ecogreen Oleochemicals (Singapore) Pte Ltd
v. PT. Energi Sejatera Mas, Indonesia
vi. Sinarmas Cepsa Pte. Ltd. Singapore
vii. PT. Wilmar Nabati, Indonesia
viii. Natural Oleochemicals Sdn Bhd, Malaysia
ix. Wilmar Trading Pte Ltd Singapore
x. Emery Oleochemicals (M) Sdn. Bhd., Malaysia
xi. Emery Oleochemicals Rika (M) Sdn Bhd
xii. KLK Oleo, Malaysia
xiii. FPG Oleochemicals Sdn Bhd, Malaysia

xiv. Procter and Gamble International Operations SA Singapore
xv. Thai Fatty Alcohols Co. Ltd., Thailand
xvi. Global Green Chemicals Public Co., Ltd. Thailand
xvii. Unilever Asia Private Limited Singapore

x. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

i. M/s Galaxy Surfactants Limited
ii. Viswaat Chemicals Limited
iii. Rhodia Speciality Chemicals India Ltd
iv. Indian Glycols Limited
v. Sterling Auxiliaries Pvt. Ltd
vi. Matangi Industries
vii. Venus Ethoxylates Pvt. Ltd
viii. Gujarat Chemicals
ix. Aarti Surfactants Limited
x. Kusa Chemicals Pvt Ltd
xi. Krishna Antioxidants Pvt. Ltd.
xii. BASF India

xi. In response, the following importers/users have responded and filed importer's / user's questionnaire response.

i. Godrej Industries Limited
ii. Galaxy Surfactants Limited
iii. Viswaat Chemicals Limited
iv. Indian Glycols Limited
v. Clariant IGL Specialty Chemicals Pvt. Ltd.,
vi. Hindustan Unilever Ltd.
vii. Aarti Surfactants Limited
viii. Tide Industries

xii. Apart from the respondent exporters and importers mentioned above, some legal submissions have been received on behalf of the following parties during the course of this investigation.

i. Indian Surfactant Group

xiii. Further information was sought from the applicant and the other interested parties to the extent deemed necessary.

xiv. Due to the ongoing global pandemic of COVID-I9, all interested parties were asked to share the non-confidential versions of all their submissions with the other interested

parties via emails. Submissions made by all the interested parties to the extent considered relevant have been taken into account in the final findings notification.

xv. The petition was filed based on the import data obtained from Directorate General of Commercial Intelligence and Statistics (DGCI&S) for the period 2018-19 to May' 2021. The petitioner had submitted that the data for the period June' 2021 to September' 2021 was not provided to them despite repeated requests. Accordingly, the petitioner had extrapolated the data for the period October' 2020 – May' 2021 for submitting data for the Period of investigation, i.e. October' 2020- September' 2021.

xvi. Request was made by the Authority to the Directorate General of Systems (DGS) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has considered the data obtained from DGCI&S for the period April' 2018 to May' 2021 (corroborated with the DGS data) and DGS data for the period June' 21 to September' 21, for computation of the volume of imports and required analysis after due examination of the transactions.

xvii. The domestic industry has submitted financial data duly certified by their Chartered/Cost Accountant. The non-injurious price (NIP) has been determined based on the optimum cost of production and the cost to make & sell the subject goods in India as per the information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

xviii. Physical inspection through on-spot verification of the information provided by the applicant domestic industry, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the present final findings.

xix. The verification of the information provided by the producers/exporters to the extent deemed necessary, was carried out by the Authority and such verified information has been relied upon for the purpose of the present final findings.

xx. The Period of Investigation for the purpose of the present anti-dumping investigation is from October, 2020 to September, 2021 (12 Months). The injury investigation period has however, been considered as the period 2018-19, 2019-20, 2020-21 and the POI. The overlap of six months between 2020-21 and the POI has been kept in consideration, while conducting the injury analysis.

xxi. In accordance with Rule 6(6) of the Rules, and Trade Notice No. 01/2020 dated, 10th April 2020, the Authority conducted an oral hearing through video conferencing on 7th July, 2022, to provide an opportunity to the interested parties to present the relevant information orally before the Authority. All the parties attending the oral hearing were advised to file written submissions of the views expressed orally. Non confidential

versions of the written submissions were circulated to the interested parties by email, and opportunity was given to them for submitting rejoinder submissions, if any.

xxii. The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present final findings.

xxiii. A disclosure statement containing the essential facts in this investigation which forms the basis of the present final finding was issued to the interested parties on 30th January 2023. The post disclosure statement submissions received from the applicants and other interested parties have been considered, to the extent found relevant, in this final finding notification.

xxiv. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in the final findings notification.

xxv. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the 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.

xxvi. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.

xxvii. The exchange rate adopted by the Authority for the subject investigation is US$1 = ₹74.6

xxviii. In this final findings notification, *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

9. Keeping in view that the present investigation is a sunset review, at the stage of initiation, the scope of the product under consideration as defined in the original investigation was retained. The product under consideration was accordingly defined as follows:

> *All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C-8) and Decyl Alcohols(C-10) and blends of C8 and C10*

C.1. Submissions made by other interested parties

10. The submissions made by the exporters, importers, users and other interested parties with regard

to the product under consideration and like article, and considered relevant by the Authority, are as follows:

i. The scope of the product under consideration was expanded in the original final findings by covering "All Saturated Alcohol (SFA)", other than carbon chain length C8 and C10, which would cover SFA of carbon chain length C4, C6 or C20, C22 etc., even though the same were not included in the scope of PUC at the time of initiation.

ii. Pure C10 fatty alcohol was excluded from the product scope because the same was considered neither a like article to the goods produced by the applicant industry nor the same was produced by the applicant industry. Therefore, the Authority has correctly rejected the request of the applicant industry to include the same in the scope of the product under consideration.

iii. It was also submitted that the applicant industry is importing C810 fatty acids to produce C10 during the POI and considering the practice of the DGTR, they cannot be considered as domestic industry for pure C10.

iv. The applicant industry has categorically admitted during the oral hearing that they have not produced pure C12 and therefore, the Authority should exclude C12 from the scope of the product under consideration, as per the consistent practice of the DGTR.

v. It is also submitted that applicant industry has never approached known users of Pure Cuts (C10 and C12) to whom they have categorically denied supply of C10 and C12 in the past. Since neither their website shows production or supply of C10 and C12 nor the same was even offered for sale to the known actual users of pure cuts C10 and C12, user industry requested the Authority to exclude C12 from the scope of the product under consideration.

vi. It is submitted that blend of pure C12 and C14 is technically not like article to the C1214 imported from the subject countries, as imported C1214 contains traces of other pure cuts also, whereas blend of pure C12 and C14 would not contain any such traces and therefore, cannot be used by the users.

vii. That even the blend of pure C12 and C14 is commercially not like article to the C1214 imported from the subject countries. In this context, it is submitted that imported C1214 is imported in the range of USD 1600 to 1700, whereas price of blend by mixing pure C12 and C14 would be around USD 3500 to 4000. Therefore, commercially also it would not make any business sense to blend pure C12 and C14.

viii. The petitioner does not produce pure cuts i.e. C12 and C14, and therefore, the same should be excluded from the scope of the PUC.

ix. C12 and its blends are not commercially substitutable with higher cuts (C1618) being

manufactured by the petitioner. They have distinct raw materials, production process and end uses.

x. The petitioner is manufacturing C12-14 alcohol from imported distilled fatty acid, which does not involve substantial value addition. The petitioner therefore, cannot be considered as a producer of C1214, and the same should be excluded from the scope of the PUC.

xi. It has also been claimed that C1214 produced by blending pure C12 and C14 has different chemical specification and therefore is not like article to C1214 being imported.

C.2. Submissions made by the domestic industry

11. The following submissions have been made by the domestic industry with regard to the scope of the product under consideration and like article:

i. Saturated Fatty Alcohol ("SFA") of carbon chain length C8 and C10 were included in the scope of the PUC at the time of initiation of the original investigation, however, the same were excluded in the original final findings on the concession given by the petitioner at that time, since it was not manufacturing those grades. It has been submitted that since the petitioner is now producing SFA of carbon chain length C10 in commercial quantities, the same ought to have been included in the scope of the PUC.

ii. The product under consideration in the present petition is "Saturated Fatty Alcohol" (SFA) of Carbon Chain Length C12 to C18 and their blends. The PUC is used mainly as an intermediary product, for further processing into fatty alcohol sulphates, fatty alcohol ethoxylates and fatty alcohol ether sulphates, also called Surfactants.

iii. The fatty alcohols are primarily used for the manufacture of surfactants, for personal care, home care, and pharmaceutical and agriculture-related end applications. They are also used in relation to processing of articles of leather, textile, fur, pulp, paper, petroleum products, fine chemicals, rubber products, plastics and fabricated metal products. Other applications include mining, offshore operations, construction work, and as a solvent for degreasing purposes. The PUC is also used as a synthetic intermediate or as anti-freeze and as an emulsifying agent. It also finds use in the production of paints, lubricants, cosmetics, food preparations, etc. The various grades of fatty alcohols can be used inter-changeably. The customer selects the fatty alcohol of a particular carbon chain length, based on its requirement, with regard to viscosity, solubility, foaming properties, etc.

iv. That the production of various grades (carbon chain length) of SFA is through fractional distillation of CPKO. CPKO inherently consists of various carbon chain length, which are fractionated depending on the desired grade (carbon chain length) that the producer wants to extract.

v. The petitioner produces high quality natural saturated fatty alcohols under the registered trade name Vegarol. It has the capacity to manufacture entire range of fatty alcohols from short chain Vegarol C10 (Decyl alcohol) to Vegarol C22 (Behenyl Alcohol), and the decision as to which grade is to be manufactured is taken based on the customer preferences and the demand.

vi. The majority of imports into India are of C1214/C1216 grade, as the said grade has the highest demand in India. In contrast, presently there is a very limited demand for pure cut C12 and C14 grades. The pure cuts C12 and C14 are interchangeable with the blend C1214.

vii. In one of the production routes opted by the petitioner, C1214 grade is manufactured using split fatty acid. Split fatty acid (SCPKO) is produced by splitting palm kernel oil. The petitioner carries out fractional distillation of SCPKO to produce distilled fatty acid of the desired composition (i.e. C1214 fatty acid, in the instant case). The C1214 fatty acid is then converted to get C1214 fatty alcohol by using wax ester hydrogenolysis technology. As an alternative, C1214 blend can also be produced by producing pure C12 and C14 grades first and then blending them subsequently through simple process of mixing, without incurring any further cost.

viii. The choice of manufacturing pure C12 and C14 fatty alcohols and then blending them or directly manufacturing the C12 and C14 grade is dynamic and is decided based on the prevailing factors of market demand and margins. It was therefore submitted that C12 and C14 are interchangeable and substitutable with C12 and C14, to the extent that it is both technically and commercially feasible to simply blend the two pure cuts in a tank, with no additional cost. As such, exclusion of pure C12 and C14 from the product under consideration would defeat the entire purpose of levy of the duty on the PUC. This issue was examined in depth in the original final findings F. No. 14/51/2016-DGAD dated 23.04.2018, where the claim for exclusion of pure grade C12 and C14 was rejected by the Authority

C.3. Examination by the Authority

12. The Authority has noted submissions made by the interested parties with regard to the scope of the product under consideration and like article offered by the domestic industry. With respect to the product under consideration, the Authority notes as follows:

i. The scope of product under consideration as defined in the original investigation was "*All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C-8) and Decyl Alcohols (C-10) and blends of C8 and C10"*. It was noted that in Para 8 (b) of the original final findings that the scope of PUC is *"Saturated Fatty Alcohols with carbon chain length of C12, C14, C16, and C18 including single, blends and unblended (not including branched isomers) which includes blends of a combination of carbon chain lengths, C12-C14, C12-C16, C12-C18, C-16-18 and C14-C16".* Considering the claims made by some of the interested parties that the definition of scope of PUC in the original investigation has led to inclusion of certain carbon chain lengths (other than C12-18) within the ambit of duty, as an abundant caution, the Authority clarifies that

the scope of PUC is "*Saturated Fatty Alcohols with carbon chain length of C12, C14, C16, and* C18 including single, blends and unblended (not including branched isomers) which includes blends of a combination of carbon chain lengths, C12-C14, C12-C16, C12-C18, C-16-18 and C14-C16".

ii. As regard to the submission made by the domestic industry regarding inclusion of SFA of carbon chain length C10 in the scope of PUC, it is noted that since the instant investigation is that of review, the scope of the product under consideration cannot be enhanced.

iii. On the basis of the submissions made by the various interested parties and the examination of import data, the Authority holds that the product under consideration in the present investigation is ***"Saturated Fatty Alcohol of carbon chain length C12 to C18 and blends thereof".*** The product under consideration includes pure C12, C14, C16 and C18 and their blends. The product under consideration is classifiable under CTH 2905 17 (pure cuts) and 3823 70 (blends). Tariff classification is indicative only and not binding on the scope of the product under consideration.

iv. As regard the claim for exclusion of pure C12 and C14 on the ground that same was same was not manufactured by the domestic industry, it is noted that this issue has been examined in depth in the original Final Findings F. No. 14/51/2016-DGAD dated 23.04.2018 conducted in respect of the subject goods, wherein it was held as under:

> *"As regards exclusion of pure form of C12 and C14 alcohols, the Authority finds force in the argument of the domestic industry that it has produced and sold C12C14 alcohol. In fact, C12C14 has the most demand in India. When the domestic industry has sold the blended form of these alcohols, the pure forms cannot be excluded, as such exclusion would defeat the very purpose of the duty……".*

v. The above findings of the Authority have been confirmed by the Hon'ble CESTAT, New Delhi vide Final Order No. 50010-50013/2023 dated 06.01.2023, wherein it was observed as under:

> *"34. There is, therefore, no error in the finding recorded by the designated authority in including pure cuts C12 and C14 in the product under consideration."*

vi. The petitioner had, during on-site verification, demonstrated that C1214 can be produced by a simple process of mixing pure C12 and C14, without incurring any additional cost. It is noted that the decision whether to manufacture C12-14 blend directly or by blending pure C12 and C14, is decided depending on the market demand and customer preferences. If duty is imposed on imports of C1214 blend only and not on pure C12 and C14, it would be possible to circumvent the duty by importing pure cuts C12 and C14 instead of C1214 blend and then producing the C1214 at minimal cost, thereby defeating the very purpose of the imposition of duty. The Authority accordingly notes that pure C12 and C14 cannot be excluded from the scope of the PUC.

vii. Further, the Authority notes that the claim of the interested parties that C1214 produced by blending pure C12 and C14 has a different chemical specification and therefore, is not a like product to C1214 being imported, is devoid of any merit. The interested party has submitted that the technical specification of imported C1214 which shows that it has pure C12 in the range of 70-77%, and pure C14 in the range of 21-30%, and has traces of other pure cuts (upto maximum of 2%) of other carbon chain length C8 & lower, C10 or C16 or above, cumulatively. In this regard, the Authority notes that as is the case with most refinery products, any pure grade would inherently have certain residual components. The investigation has shown that even the pure grades manufactured by the domestic industry, such as C1698 or C1898, there is upto 2% trace of other pure cuts present and hence same was being qualified by the domestic industry as C1698, i.e. C16 – of 98% purity. It is noted that the presence of these traces of SFA of different carbon chain length does not have any significant impact on the quality of the product. Moreover, it is noted that even C1214 produced by blending pure C12 and pure C14 would inherently have traces of other carbon chain length present in the said pure grades.

viii. Further, as regard the claim that the petitioner only does toll manufacturing of C1214 alcohol, wherein it imports C1214 fatty acid and then merely carries out the conversion of C1214 fatty acid to C1214 alcohol, the Authority notes that the said averment is not factually correct. The petitioner has provided evidence of manufacture of C1214 from base raw materials i.e. Palm Kernel Oil sources as well. In any case, as the petitioner has produced and sold C1214 in substantial quantity, hence, its exclusion is not warranted.

ix. Unblended fatty alcohols are classified under heading 2905.17 or 2905.19, while blended alcohols are classified under heading 3823.70 of Schedule I to the Customs Tariff Act, 1975. Under the heading 3823.70, they are imported under the following tariff entries:
3823.70.10
3823.70.20
3823.70.40
3823.70.90
The customs classification above is indicative only and in no way binding on the scope of the product under consideration in this investigation.

x. The Authority notes that the subject goods produced by the domestic industry and that imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification ofthe goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The consumers importing the product under considerationhave also purchased the same from the domestic industry. In view of the same, the Authority holds that the goods produced by the domestic industry are like article to the product under consideration imported from subject countries.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the other interested parties

13. The standing of the petitioner as "domestic industry" has not been objected to by the interested parties.

D.2. Submissions made by the domestic industry

14. The submissions made by the domestic industry during the course of the investigation with regard to the scope of domestic industry & standing are as follows:

i. There are only two producers of the subject goods in India, viz. VVF (India) Ltd. and Godrej Industries Ltd. ("Godrej").
ii. The petitioner accounts for more than 65% of the total Indian production and therefore has the requisite standing to file the present application as "domestic industry", in terms of Rule 2(b) of the AD Rules.
iii. In any case, Godrej has been importing the PUC from the subject countries since past few years. As such, in terms of Rule 2(b) it ought to be excluded from the determination of the petitioner's standing as domestic industry. Once Godrej is excluded, the petitioner would represent the entire eligible domestic production of the PUC in India, and therefore, has standing as a domestic industry.
iv. VVF (India) Ltd. has neither imported the subject goods nor is related to any of the importer or exporter of the subject goods.

D.3. Examination by the Authority

15. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

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

16. The petition is filed by M/s. VVF India Ltd. There are two producers of the subject goods in India, namely, M/s. VVF India Ltd. and M/s Godrej Industries Ltd. The Authority notes that Godrej has imported the subject goods in substantial quantity from the subject countries during the period of investigation and thus becomes ineligible to be a part of the domestic Industry. Therefore, being the sole eligible Indian producer, VVF India Ltd. has the standing of the domestic industry. In any case, the petitioner accounts for more than 65% of the total Indian production. Therefore, even after the inclusion of the production of the subject goods by Godrej Industries Ltd, the petitioner M/s VVF India Ltd. accounts for major share of the Indian production and therefore, for the purpose of this investigation, it satisfies the standing requirement and constitutes the domestic industry within the meaning of Rule 2(b) of the Anti-

Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions made by the other interested parties

17. The following submissions have been made by the other interested parties with regard to confidentiality:
    i. The domestic industry has claimed excessive confidentiality and have failed to provide a non-confidential summary of productivity, export price, R&D expenses, funds raised, return on investment, alleged capacity expansion in the subject countries and costs of the domestic industry.
    ii. The domestic industry has claimed excessive confidentiality with regard to capacity, production, capacity utilization and sales.
    iii. The domestic industry has not provided information with regard to constructed normal value.
    iv. The domestic industry has claimed excessive confidentiality with regard to manufacturing process, volume and value of production by other producers and non-injurious price calculation which is in violation of Trade Notice No. 1/2013 and 10/2018.
    v. Policies relating to purchase, sales, accounting, cost accounting and quality control procedure and information contained in Section-VI have been claimed confidential without any reason.
    vi. Information relating to utilities consumption, cost of production, raw material and packing material consumption for the period of investigation and injury period has not been provided even in indexed form.
    vii. The domestic industry must be compelled to provide the information requested under the relevant trade notice which is a practice followed by the Authority.
    viii. Neither the Authority nor the domestic industry thus far have provided the transaction-wise import data in Excel to all the interested parties which is in violation of the decision taken in Exotic Décor Pvt. Ltd. and Ors. v. Designated Authority.

E.2. Submissions made by the domestic industry

18. The following submissions have been made by the domestic industry with regard to confidentiality:
    i. The foreign producers have not provided information regarding write-up of manufacturing process and raw materials used, in violation of Trade Notice 10/2018.
    ii. The foreign producers have claimed complete confidentiality regarding details about production facilities, capacity, sales volume and value,
    iii. Information contained in Section VI is business proprietary information and cannot be disclosed to the interested parties.

E.3. Examination by the Authority

19. With regard to confidentiality of information, Rule 7 of the Anti-Dumping Rules provides as follows:

> "*Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and subrule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basisby any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization ofthe party providing such information.*
>
> *(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in theopinion of a party providing such information, such information is not susceptibleof summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*
>
> *(3) Notwithstanding anything contained in sub-rule (2), if the designated authorityis satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.*"

20. A list of all the interested parties was uploaded on the DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing COVID19 global pandemic.

21. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by interested parties by directing the interested parties to share the non-confidential versionof their submissions with each other through e-mails.

22. The interested parties have contended that the domestic industry has not disclosed information pertaining to capacity, production, sales, return on investment, costs and information contained in Section-VI. The Authority notes that such information is confidential by nature, and has accepted the confidentiality claimed by the domestic industry.

23. With regard to the DGCI&S data, the Authority notes that the data has been shared with the interested parties relating to volume & value of the imports from exporting countries into India. Further, the applicant has provided a complete list of transaction wise import data to the

Authority. The Authority holds that procedure for sharing and procuring the import data has been laid down in the Trade Notice 07/2018 dated 15th March 2018 and the Authority notes that the procedure now being applied is consistent and uniform across all interested parties and investigations and provides adequate opportunity to the interested parties to defend their interests.

24. With regard to the contentions of the domestic industry concerning the excess confidentiality claimed by the responding foreign producers / exporters, it is noted that the Authority has examined the confidentiality claims made by the responding foreign producers / exporters and on being satisfied the Authority has accepted the confidentiality claims, wherever warranted.

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

F.1. Submissions made by the other interested parties

25. The following submissions have been made by the other interested parties with regard to determination of normal value, export price and dumping margin.

i. The petitioner has stated that it has computed the cost of production for grades C12-14 based on its own cost of production. The petitioner has provided no reasonable explanation as to how the cost of production of such grades reflects the costs in the subject countries.

ii. No credible evidence substantiating adjustments made by the petitioner has been provided, thereby preventing any meaningful analysis by the interested parties.

iii. The Authority is requested to consider the information provided by the exporters for the calculation of normal value, export price, and dumping margin.

iv. It has been submitted that that exporters with nil anti-dumping duty in the original investigation be excluded from the sunset review. It has been claimed that 0% anti-dumping duty cannot be altered as a result of a sunset review because that duty's expiry cannot, by its very nature, lead to a continuation or recurrence of dumping and injury. In particular, a 0% anti-dumping duty cannot counteract dumping which is causing injury as no duty exists.

F.2. Submissions made by the domestic industry

26. The following submissions have been made by the domestic industry with regard to determination of normal value, export price and dumping margin:

i. The subject countries have continued to dump into India despite imposition of anti-dumping duty.

ii. The anti-dumping duty imposed consequent to the original investigation was significantly inadequate which has resulted in the dumping and consequent injury to the domestic industry being continued even during the imposition of the duty.

iii. Dumping from the subject countries has intensified in the current investigation.

iv. Continued and intensified dumping itself establishes that producers will dump their goods with the expiry of duties

F.3. Examination by the Authority

27. Under section 9A (1) (c), normal value in relation to an article means:

> *(i) the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
>
> *(ii)when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either –*
>
> > *(a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
> > *(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*
>
> *Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

28. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in this investigation by filing the questionnaire response:

i. PT Wilmar Nabati Indonesia
ii. Natural Oleochemicals Sdn Bhd, Malaysia
iii. Wilmar Trading Pte Ltd Singapore
iv. PT Musim Mas Indonesia
v. Inter-Continental Oils & Fats Pte Ltd. Singapore
vi. PT. Ecogreen Oleochemicals, Indonesia
vii. Ecogreen Oleochemicals (Singapore) Pte Ltd
viii. Pt. Energi Sejahtera Mas Indonesia
ix. Sinarmas Cepsa Pte. Ltd. Singapore
x. KL-Kepong Oleomas Sdn Bhd

xi. Emery Oleochemicals (M) Sdn Bhd/ Edenor Oleochemicals (M) Sdn. Bhd
xii. Emery Oleochemicals Rika (M) Sdn. Bhd./ Edenor Oleochemicals Rika (M) Sdn. Bhd.
xiii. FPG Oleochemicals Sdn Bhd.
xiv. Procter & Gamble International Operations SA Singapore
xv. Thai Fatty Alcohols Co. Ltd.
xvi. Global Green Chemicals Public Co., Ltd. Thailand
xvii. Unilever Asia Private Limited Singapore

29. The normal value and export price for all producers / exporters from the subject countries have been determined as below. The domestic industry has claimed that the price of raw material in Indonesia and Malaysia is distorted on account of Government interference. The Authority has taken note of this aspect in the parallel countervailing investigation being conducted in respect of the subject goods. Accordingly, to avoid overlapping of duty on account raw material price distortion, the particular market situation due to distorted raw material price has not been considered while determining dumping margin.

F.3.1. Determination of normal value and export price

INDONESIA

A) <u>PT. Wilmar Nabati, Indonesia, Natural Oleochemicals Sdn Bhd, Malaysia and Wilmar Trading Pte Ltd Singapore (WINA Group)</u>

<u>Normal Value</u>

30. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that PT. Wilmar Nabati is the producer of the subject goods. It has exported the subject goods to India during the period of investigation to unrelated customers through its related trader Wilmar Trading Pte Ltd Singapore. The producer sells the subject goods to unrelated customers in the domestic market directly. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The producer has claimed adjustment on account of inland transportation, credit cost and the same have been allowed by the Authority. The normal value determined is mentioned in the dumping margin table.

<u>Export Price</u>

31. During the period of investigation, the producer/exporter has exported *** MT of subject goods to India through its related trader. The producer/exporter has claimed adjustments on account of ocean freight, inland transportation, insurance, port expenses, bank charges, credit cost in

order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Accordingly, the net export price at ex-factory level for PT. Wilmar Nabati has been determined, which is indicated in the dumping margin table below.

B) PT. Musim Mas, Indonesia and Inter-Continental Oils & Fats Pte Ltd. Singapore (PTMM Group)

Normal Value

32. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that PT. Musim Mas ("PTMM") is the producer of the subject goods. It has exported the subject goods to India during the period of investigation to unrelated customers directly through its related trader Inter-Continental Oils and Fats Pte Limited (ICOF) situated in Singapore. The producer sells the subject goods to unrelated customers in the domestic market directly. It is observed that the PCN-wise domestic sales have not passed the sufficiency test when compared with exports to India. The Authority notes that in a situation where there are no/insufficient sales of the like article in the ordinary course of trade in the domestic market of the exporting country, the normal value shall be either comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country or the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits. The Authority has therefore considered it appropriate to determine normal value in the present case on the basis of cost of production data for each PCN furnished by the exporter plus a reasonable profit margin and the same is shown in the dumping margin table below.

Export Price

33. During the period of investigation, the producer/exporter has exported *** MT of subject goods to India through its related trader. The producer/exporter has claimed adjustments on account of ocean freight, insurance, port expenses, bank charges, credit cost in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Accordingly, the net export price at ex-factory level for PTMM has been determined, which is indicated in the dumping margin table below.

C) PT. Ecogreen Oleochemicals, Indonesia and Ecogreen Oleochemicals (Singapore) Pte Ltd (PTEO Group)

Normal Value

34. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that PT Ecogreen Oleochemicals ("PTEO") is the producer of the subject goods. It has exported the subject goods to India during the period of investigation to unrelated customers directly through its related trader Ecogreen Olechemicals (Singapore) Pte. The producer sells the subject goods to related and unrelated customers in the domestic market directly. The domestic sales are in sufficient volumes when compared with exports to India. To

determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The producer has claimed adjustment on account of transportation/freight, insurance, port charges, other deductions and the same have been allowed by the Authority. The normal value determined is mentioned in the dumping margin table.

Export Price

35. During the period of investigation, the producer/exporter has exported *** MT of subject goods to India through its related trader. The producer/exporter has claimed adjustments on account of ocean freight, inland transportation, insurance, port expenses, bank charges, credit cost in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Accordingly, the net export price at ex-factory level for PTEO has been determined, which is indicated in the dumping margin table below.

D) PT. Energi Sejatera Mas, Indonesia and Sinarmas Cepsa Pte. Ltd. Singapore (ESM)

Normal Value

36. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that Pt. Energi Sejatera Mas ("ESM") is the producer of the subject goods. It has exported the subject goods to India during the period of investigation to unrelated customers through its related trader Sinarmas Cepsa Pte.Ltd. (SCPL) in Singapore and an unrelated exporter Unilever Asia Private Limited (UAPL). The producer sells the subject goods to related and unrelated customers in the domestic market affiliated and unaffiliated traders. It is observed that the domestic sales have not passed the sufficiency test when compared with exports to India in few PCNs. For such PCNs, the Authority has therefore considered it appropriate to determine normal value in the present case on the basis of cost of production data for corresponding PCN furnished by the exporter plus a reasonable profit margin and the same is shown in the Dumping Margin Table below. For other PCNs, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The producer has claimed adjustment on account of transportation/ freight, insurance, port charges, other deductions and the same have been allowed by the Authority. The normal value determined is mentioned in the dumping margin table.

Export Price

37. During the period of investigation, ESM has exported *** MT of subject goods to India through its related trader Sinarmas Cepsa Pte.Ltd. (SCPL) in Singapore and an unrelated exporter Unilever Asia Private Limited (UAPL) in Singapore. The producer/exporter has claimed adjustments on account of ocean freight, inland transportation, insurance, port expenses, bank charges, credit cost in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Further, the Authority has adjusted the losses incurred by the trader UAPL to sell the PUC to compute the net export price. Accordingly, the net export price at ex-factory level for ESM has been determined, which is indicated in the dumping margin table below.

E) <u>All other Producers from Indonesia</u>

38. For all other non-cooperating producers in Indonesia, normal value, export price and dumping margin have been determined based on facts available taking into account the data of the cooperating producer and the same is shown in the dumping margin table below.

<u>MALAYSIA</u>

A) <u>FPG Oleochemicals Sdn Bhd, Malaysia and Procter and Gamble International Operations SA Singapore (FPG Group)</u>

<u>Normal Value</u>

39. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that FPG Oleochemicals Sdn. Bhd. (FPG) is the producer of the subject goods. It has exported the subject goods to India during the period of investigation to unrelated customers through its related trader Procter and Gamble International Operations SA Singapore (PGIO). The producer sells the subject goods to unrelated customers in the domestic market through PGIO. It is observed that the domestic sales have not passed the sufficiency test when compared with exports to India in few PCNs. For such PCNs, the Authority has therefore considered it appropriate to determine normal value in the present case on the basis of cost of production data for corresponding PCN furnished by the exporter plus a reasonable profit margin and the same is shown in the Dumping Margin Table below. For other PCNs, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The producer has claimed adjustment on account of transportation/ freight, insurance, port charges, other deductions and the same have been allowed by the Authority. The normal value determined is mentioned in the dumping margin table.

<u>Export Price</u>

40. During the period of investigation, FPG has exported *** MT of subject goods to India through its related trader PGIO and an unrelated exporter. The producer/exporter has claimed adjustments on account of ocean freight, inland transportation, insurance, port expenses, bank charges, credit cost in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Further, the Authority has adjusted the losses incurred by the trader PGIO to sell the PUC to compute the net export price. Accordingly, the net export price at ex-factory level for FPG has been determined, which is indicated in the dumping margin table below.

B) KL-Kepong Oleomas Sdn. Bhd, Malaysia (KLK Group)

Normal Value

41. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that KL-Kepong Oleomas Sdn. Bhd (KLK) is a producer-exporter of the subject goods. It has exported the subject goods to India during the period of investigation to unrelated customers directly and through unrelated traders Unilever Asia Private Limited (UAPL) in Singapore and Procter and Gamble International Operations SA Singapore (PGIO). All the domestic sales during the POI were made to unrelated customers directly by KLK. It is observed that the domestic sales have not passed the sufficiency test when compared with exports to India in few PCNs. For such PCNs, the Authority has therefore considered it appropriate to determine normal value in the present case on the basis of cost of production data for corresponding PCN furnished by the exporter plus a reasonable profit margin and the same is shown in the Dumping Margin Table below. For other PCNs, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The producer has claimed adjustment on account of inland transportation, ocean freight, insurance, port charges, other deductions and the same have been allowed by the Authority. The normal value determined is mentioned in the dumping margin table.

Export Price

42. During the period of investigation, KLK has exported *** MT of subject goods to India directly and through unrelated traders. The producer/exporter has claimed adjustments on account of ocean freight, inland transportation, insurance, port expenses, bank charges, credit cost in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Further, the Authority has adjusted the losses incurred by the trader UAPL to sell the PUC to compute the net export price. Accordingly, the net export price at ex-factory level for KLK has been determined, which is indicated in the dumping margin table below.

C) Edenor Oleochemicals (M) Sdn. Bhd. (formerly, Emery Oleochemicals (M) Sdn Bhd) and Edenor Oleochemicals Rika (M) Sdn. Bhd. (formerly, Emery Oleochemicals Rika (M) Sdn. Bhd)

Normal Value

43. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that Edenor Oleochemicals (M) Sdn Bhd (EOM) is a producer-exporter of the subject goods. It has exported the subject goods to India during the period of investigation to unrelated customers directly. All domestic sales to related and unrelated customers were made by EOM.

Export Price

44. During the period of investigation, EOM has exported *** MT of subject goods to India directly and through unrelated traders. The Authority notes that the quantity exported by Edenor Group to India during the POI is very low as compared to the exports made by other participating producers/ exporters from Malaysia and the total imports of the PUC. The exports made by Edenor Group to India are even less than ***% of the total imports from Malaysia into India. Secondly, the trade pattern of PCNs exported by Edenor to India is not comparable to the trade pattern of the other participating exporters and therefore, the weighted average export price of Edenor Group is not comparable to that of other exporters. Thirdly, this Group had not cooperated in the original investigation and therefore, was not allocated individual duty. Even in the POI, the Group has not exported representative quantities. In view of the above facts, the Authority has not determined individual dumping and injury margins for Edenor Group.

D) All other Producers from Malaysia

45. For all other non-cooperating producers in Malaysia, normal value, export price and dumping margin have been determined based on facts available taking into account the data of the cooperating producer and the same is shown in the dumping margin table below.

THAILAND

A) Thai Fatty Alcohols Co. Ltd., Thailand (TFA) and Global Green Chemicals Public Co., Ltd. Thailand TFA

Normal Value

46. Based on the verified information furnished in the exporter's questionnaire response, the Authority notes that Thai Fatty Alcohol Co. Ltd. (TFA) is a producer-exporter of the subject goods. It has majorly exported the subject goods to India during the period of investigation to unrelated customers directly, and insignificant volumes through a trading company namely Chemicals Mate SDN. The producer sells the subject goods to related and unrelated customers in the domestic market directly. Global Green Chemicals Public Co. (GCC) is the holding

company of TFA. It is noted that GCC is also the supplier of raw material to TFA. The Authority notes that TFA and GGC have entered into a business transfer agreement dated 29 September 2022 whereby all assets and liabilities of TFA were transferred to GGC with effect from 1 October 2022. The Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The producer has claimed adjustment on account of transportation/ freight, insurance, port charges, other deductions and the same have been allowed by the Authority. The normal value determined is mentioned in the dumping margin table.

Export Price

47. During the period of investigation, TFA has exported *** MT of subject goods to India directly and through unrelated traders. The producer/exporter has claimed adjustments on account of ocean freight, inland transportation, insurance, port expenses, bank charges, credit cost in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Accordingly, the net export price at ex-factory level for EOM has been determined, which is indicated in the dumping margin table below.

B) All other Producers from Thailand

48. For all other non-cooperating producers in Thailand, normal value, export price and dumping margin have been determined based on facts available taking into account the data of the cooperating producer and the same is shown in the dumping margin table below.

Dumping Margin

49. The dumping margin determined for producers/exporters from Indonesia, Malaysia and Thailand is given in the table below:

DUMPING MARGIN TABLE

Country		Normal Value	NEP	DM		Range
	Wt. Avg.	USD/MT	USD/MT	USD/MT	%	%
Indonesia	PTEO	***	***	(***)	(***)	Negative
	PTMM	***	***	(***)	(***)	Negative
	WINA	***	***	***	***	10-20%
	ESM	***	***	(***)	(***)	Negative
	Others	***	***	***	***	10-20%
Malaysia	FPG	***	***	***	***	10-20%
	KLK	***	***	***	***	0-10%
	Others*	***	***	***	***	10-20%
Thailand	TFA & GGC	***	***	***	***	0-10%

	Others	***	***	***	***	5-15%

* Emery/Edenor has exported insignificant quantities during the POI.

G. ASSESSMENT OF INJURY AND CAUSAL LINK

G.1. Submissions made by the other interested parties

50. The following submissions have been made by the other interested parties with regard to injury and causal link:

Volume effect:

51. The petitioner has attempted to obscure information relating to market share and the relative increase in production. The petitioner has merely provided graphs/charts of the market share without any numerical information. Therefore, the exporters are not in a position to offer any meaningful comments on the same. The petitioner's presentation of data clearly belies an intention to conceal critical information from interested parties.

52. Any alleged impact on the petitioner's market share in the domestic market is due to the petitioner concentrating its sales towards exports. Even though the domestic and export sales price increased in the POI in comparison to the base year, the petitioner concentrated towards export sales.

53. The petitioner in the POI has commissioned a plant for manufacturing tertiary amines, which is produced through PUC. Hence, on account of petitioner's own captive consumption (coupled with exports of the PUC), petitioner cannot aver that it is unable to regain market share.

Price effect:

54. There exists no price suppression or depression on account of imports from the subject countries. The petitioner has been able to change its prices commensurate with changes in the cost of production

55. There is no correlation between alleged price undercutting and the performance of the petitioner.

Economic parameters:

56. All the economic parameters including capacity, production, sales volume, wages, no. of employees, capital employed, return on capital employed, etc. have shown a positive trend or a minimal decline in the POI in comparison to the base year. There exists no injury to the petitioner, let alone material injury.

57. The petitioner has not been able to increase its production capacity and production level despite increase in demand, which clearly shows that the injury to the petitioner is on its own account.

Causal link:

58. Alleged injury to the petitioner, if any, is on account of high interest and finance costs.

59. The petitioner has acknowledged in its financial statements that it has been financially impacted by the COVID-19 pandemic.

60. The petitioner was subject to insolvency proceedings before the National Company Law Tribunal. This clearly indicates that there is mismanagement in the operations of the petitioner whereby it has been unable to pay creditors.

61. The Auditors' adverse remark(s) in the auditors' report in the past financial statements of the petitioner indicates that there exists a doubt the petitioner may not be able to continue its operations on account of heavy financial losses and a high level of debt. The Authority must take cognizance of the fact that imposing duty based on the petition of the company which might cease to exist beats the entire purpose of an anti-dumping investigation.

62. The injury to the petitioner is also on account of investment made in its plant at Kutch, which has resulted in additional cost of Rs. 2200/MT. Subsequently, the fiscal benefit given by Government of India for the said investment was withdrawn. In 2020, the Hon'ble Supreme Court in its decision in Union of India vs. M/S V.V.F. Ltd. [(2020) 20 SCC 57] upheld the GOI's decision to modify the fiscal benefits that VVF was entitled to. This has created a potential liability of Rs. 304 million against the petitioner.

63. Injury to the petitioner is on account of inverted duty structure, i.e. high import duty of 37.5% imposed on the imports of raw material (CPO/CPKO). The petitioner does not have access to feedstock, and is dependent on imports. As such, unviability of its production is mainly on account of non-availability of raw material.

G.2. Submissions of the domestic industry

64. The following submissions have been made by the domestic industry with regard to injury and causal link.

i. There has been a flood of imports from the subject countries over the injury period, which has increased by 54% compared to the base year. In contrast, the production of the petitioner has remained at the same level as compared to the base year.

ii. The subject imports in relation to production have increased throughout the injury period and have reached to 154 index points in the POI as compared to the base year.

iii. The share of the subject countries in total imports to India and in the Indian demand has shown a steady and steep increase throughout the injury period. The imports have increased not only in absolute terms but also in relation to production.

iv. The demand for the subject goods has increased throughout the injury period. There was an increase of 22% in demand in the POI as compared to the base year. However,

the entire incremental demand has been captured by the imports from the subject countries, which have increased by more than 30 indexed points in the POI as compared to the base year. In contrast, the domestic industry has lost almost 25% of its market share during the same period.

v. The subject imports have not only captured the incremental demand but have also eaten into the market share of the Indian industry.

vi. The losses of the domestic industry continue to be at high levels on account of continued increase in imports from the subject countries.

vii. Import prices from the subject countries are suppressing and depressing the domestic prices.

viii. Imports are resulting in significant price underselling, as evidenced by the difference between non-injurious price and landed price of the imports.

ix. The Indian producers have the capacity to cater to the entire domestic demand, yet, almost 75% of the domestic demand is being met by the imports from the subject countries on account of their low prices.

x. The profitability and ROI of the domestic industry has continued to remain in red, despite the petitioner's best efforts to reduce its cost and increase its sales.

xi. The domestic industry has been forced to match the prices of the subject imports which have allowed the domestic industry to maintain its volume parameters but have severely impacted its profitability.

xii. The injury to the domestic industry is not caused due to other factors. The exists a causal link between the dumped imports and the injury to the domestic industry.

xiii. The submission that the injury to the domestic industry is on account of financial mis-management and high interest cost is baseless. The IBC proceedings initiated against the petitioner have been terminated, which clearly belies the insinuations being made regarding petitioner's ability to remain a "going concern".

xiv. The matter concerning withdrawal of duty exemption in Kutch is currently sub-judice as the petitioner has filed an application seeking alternate relief, which is being considered by the appropriate authority.

xv. The injury claimed cannot be attributed to export sales, and relates only to performance in the domestic market.

G.3. Examination by the Authority

65. The Authority has examined the arguments and counterarguments of the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder

addresses the various submissions made by the interested parties.

Cumulative assessment

66. The Authority notes that cumulative assessment of injury to the domestic industry on account of dumping from the subject countries was already examined in the original investigation wherein the conditions specified in the Rules for cumulative assessment were satisfied. Therefore, the Authority proceeded to the cumulatively examine injury due to dumped imports from the subject countries. The present investigation being a sunset review investigation with anti-dumping measures already in force, it is not necessary that all the conditions required for cumulative assessment may be satisfied. In line with the consistent practice of the Authority and the fact that cumulative examination was undertaken in the original case, the Authority has undertaken cumulative assessment in the present investigation as well.

67. Rule l1 of the Rules read with Annexure-II provides that an injury determination shall involve an examination of factors that may indicate injury to the domestic industry, ".... taking into account all the relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on the domestic producers of such articles...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

68. The Authority has taken note of the various submissions made by the domestic industry and the other interested parties on injury and causal link and has analyzed the same considering the facts available on record.

Volume Effect of dumped imports and Impact on domestic Industry

i. Assessment of Demand

69. Demand or apparent consumption of the product under consideration in India is defined as the sum of domestic sales of all Indian producers and imports from all other countries. It is seen that demand has increased over the injury period. The demand (excluding C10) so assessed is as follows-

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
1	Sales of Domestic Industry	MT	***	***	***	***
	Trend		100	125	98	92
2	Sales of Other Producer	MT	***	***	***	***

	Trend		100	120	119	134
3	Imports from Subject Countries	MT	69,309	73,952	97,570	1,04,227
4	Import from Other Countries	MT	10,603	12,671	3,859	395
5	Total Demand	MT	***	***	***	***
	Trend		100	113	120	122
6	Production	MT	***	***	***	***
	Trend		100	111	102	99

ii. Imports volumes and share of the imports from subject country

70. With regard to volume of the subject imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject countries have been analysed as under-

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
A	Indonesia	MT	17,655	26,735	46,394	54,633
B	Malaysia	MT	40,212	35,136	42,964	40,268
C	Thailand	MT	11,443	12,081	8,213	9,326
1	Subject Countries	MT	69,309	73,952	97,570	1,04,227
2	Other Countries	MT	10,603	12,671	3,859	395
3	Total	MT	**79,912**	**86,623**	**1,01,429**	**1,04,621**

71. It is seen that:

a. There has been a significant increase in the absolute volume of imports from subject countries by 50% in POI from the base year.
b. The imports have increased sharply in relation to production of the domestic industry from ***% in 2018-19 to ***% (by 63%) in the POI.
c. During the POI, the imports from the subject countries accounted for almost 100% of total imports to India.
d. Out of the total demand, the petitioner has the ability to produce and meet over and above 80%. However, due to huge imports volume by subject countries, they could only utilise less than 50% of their production capacity.

Price effect of subject imports and impact on domestic industry

72. With regard to the effect of dumped imports on prices, the Authority has considered 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 dumped imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

i. Price Undercutting

73. Price undercutting has been worked out by comparing the landed price of the imports with the selling price of the domestic industry for the investigation period. The price undercutting has been determined separately for each PCN produced by the domestic industry and thereafter for the product under consideration as a whole. The weighted average undercutting computation is as under:

POI	QTY	LV Rs/ Kg	NSR Rs/Kg	Undercutting (Rs/Kg)
Indonesia	54,633	129	***	***
Malaysia	40,268	129	***	(***)
Thailand	9,326	137	***	(***)
Subject Countries	1,04,227	129	***	(***)

74. The Authority notes that the undercutting is positive for certain grades. On a weighted average basis there is nil/negligible undercutting.

ii. Price underselling / Injury Margin

75. The Authority has worked out non-injurious prices of the subject goods and compared the same with the landed value of the imported goods to arrive at the extent of price underselling. The price underselling/ injury margin has been determined separately for each PCN and thereafter for the product under consideration as a whole.

76. It is noted from the below table that the price underselling/ injury margin is positive, indicating that the imports have entered the market at injurious prices. The injury margin for cooperative producers/exporters are evaluated as under:-

Country	Producer	NIP	Landed Price	Injury Margin	Injury Margin	Injury Margin
	Wt. Avg.	USD/MT	USD/MT	USD/MT	%	Range
Indonesia	PTEO	***	***	***	***%	10-20%
	PTMM	***	***	***	***%	15-25%
	WINA	***	***	***	***%	20-30%
	ESM	***	***	***	***%	0-10%
	Others	***	***	***	***%	25-35%
Malaysia	FPG	***	***	***	***%	0-10%
	KLK	***	***	***	***%	20-30%
	Others	***	***	***	***%	20-30%
Thailand	TFA & GGC	***	***	***	***%	10-20%
	Others	***	***	***	***%	10-20%

* Emery/Edenor has exported insignificant quantities during the POI and therefore, separate injury margin is not computed for it.

iii. Price suppression and depression

77. In order to determine whether the effect of imports is to depress prices or prevent price

increases which otherwise would have occurred, the Authority has examined the changes in the landed price of imports, and costs & prices of the domestic industry over the injury period.

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
1	Cost of sales	Rs. /Kg	***	***	***	***
2	Trend	*Indexed*	*100*	*98*	*93*	*115*
3	Selling price	Rs./Kg	***	***	***	***
4	Trend	*Indexed*	*100*	*88*	*95*	*115*
5	Landed Price	Rs./Kg	105	88	101	129
6	Trend	*Indexed*	*100*	*84*	*96*	*121*

78. It is seen that the cost of sales of the domestic industry has increased on account of significant increase in cost of raw material. Landed value has remained significantly below cost of production throughout the injury period. Low landed price has not allowed the petitioner to increase the domestic selling price above the cost of sales during the entire injury period which results suffering of sustained loss by it.

Economic parameters relating to the domestic industry

79. The Rules require that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provides that the examination of the impact of the 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, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The Authority has accordingly, herein under examined the performance of the domestic industry over the injury period.

i. Production, capacity, capacity utilization and sales

80. The position of the domestic industry over the injury period with regard to production, capacity, capacity utilization, domestic sales and export is as under:

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
1	Capacity	MT	***	***	***	***
	Trend		100	100	100	100
2	Production	MT	***	***	***	***
	Trend		100	111	102	99
3	Capacity Utilization	%	***%	***%	***%	***%
	Trend		100	110	102	98
4	Domestic Sales	MT	***	***	***	***
	Trend		100	126	98	92

5	Export Sales	MT	***	***	***	***
	Trend		100	102	110	111

81. The Authority notes that the capacity and capacity utilization of the domestic industry has remained at the same level over the injury period. It is noted that the petitioner is suffering losses during the entire injury period due to high per unit capital and fixed cost which is primarily on account of underutilization of capacity. Even though, the petitioner has a substantial capacity to meet more than 80% of the Indian demand, the petitioner is unable to compete with large volumes of cheap imports coming from the subject countries, and thereby utilizing less than 50% of its capacity.

ii. Market Share

82. The market share of the domestic industry and domestic producers over the injury period is as under:

SN	Market Share	Unit	2018-19	2019-20	2020-21	POI
1	Sales of Domestic Industry	%	***	***	***	***
	Range	%	20-30	20-30	10-20	10-20
2	Sale of Other Producers	%	***	***	***	***
	Range	%	0-10	0-10	0-10	10-20
3	Subject Countries	%	***	***	***	***
	Range	%	50-60	50-60	60-70	70-80
4	Other Countries	%	***	***	***	***
	Range	%	0-10	0-10	0-10	0-10
5	Total Demand	%	100%	100%	100%	100%

83. The market share of subject imports has increased significantly, from 59% to 72 % of demand of the country, whereas that of the petitioner has declined from ***% to ***% (by 6%) during the same period. This is leading to decrease in capacity utilization resulting in higher per unit fixed cost and sustained loss.

iii. Profit or loss, cash profits and return on capital employed

84. The position of the domestic industry in terms of profit or loss, cash profits and return on investment is as under:

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
1	Cost of sales	₹/kg	***	***	***	***
2	*Trend*	*Indexed*	*100*	*98*	*94*	*116*
3	Selling price	₹/kg	***	***	***	***
4	*Trend*	*Indexed*	*100*	*89*	*96*	*115*
5	Profit/(Loss)	₹/kg	(***)	(***)	(***)	(***)
6	*Trend*	*Indexed*	*(100)*	*(138)*	*(83)*	*(118)*
7	Profit/(Loss)	Rs.Lacs	(***)	(***)	(***)	(***)

8	*Trend*	*Indexed*	*(100)*	*(173)*	*(81)*	*(108)*
9	PBIT	Rs.Lacs	(***)	(***)	(***)	(***)
10	*Trend*	*Indexed*	*(100)*	*(203)*	*(37)*	*(97)*
11	Cash Profits	Rs.Lacs	(***)	(***)	(***)	(***)
12	*Trend*	*Indexed*	*(100)*	*(178)*	*(80)*	*(109)*
13	ROCE	%	(***)%	(***)%	(***)%	(***)%
14	*Trend*	*Range*	*(10-20)*	*(20-30)*	*(0-10)*	*(20-30)*

85. The Authority notes that:

a. The domestic industry suffered losses in the entire injury period and the loss during POI has increased over the base year.
b. Almost all parameters of profitability like Cash profits, PBIT and return on capital employed of the domestic industry have also followed the similar trend. The negative profitability of the domestic industry is mainly due to decreased market share and selling price below cost of sales on account of dumped subject imports.

iv. Inventories

86. The data relating to inventories of the subject goods is as follows-

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
1	Average Stock	MT	***	***	***	***
	Trend	*Indexed*	100	112	120	116

87. It is noted that the average inventories have increased over the period.

v. Employment, wages and productivity

88. The situation of the domestic industry with regard to employment, wages and productivity during the injury period is as under:

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
1	Wages	Rs Lacs	***	***	***	***
2	*Trend*	*Indexed*	*100*	*127*	*121*	*124*
3	Employment	Nos	***	***	***	***
4	*Trend*	*Indexed*	*100*	*101*	*98*	*99*
5	Productivity per day	MT/Day	***	***	***	***
6	*Trend*	*Indexed*	*100*	*112*	*102*	*99*
7	Productivity per employee	*Per No*	***	***	***	***
8	*Trend*	*Indexed*	*100*	*111*	*105*	*101*

89. It is seen that the wages, employees and productivity have remained at the same level.

vi. Growth

90. The trends of volume and profit parameters of the domestic industry showed as under-

SN	Particulars	Unit	2018-19	2019-20	2020-21	POI
1	Production	%	-	11%	-8%	-3%
2	Domestic sales	%	-	25%	-22%	-6%
3	Loss per unit	%	-	42%	-43%	46%

91. It is noted that there is negative growth in production and domestic sales of the domestic industry. The losses of domestic industry have increased significantly compared to previous year and base year.

vii. Ability to raise capital investment

92. The domestic industry is not able to service its existing debts and hence it does not have ability for further capital investment. Due to dumped imports resulting sustained loss during the entire injury period, the domestic industry is not able to service its existing debts and hence it does not have ability for further capital investment.

Causal Link

93. The Authority has examined as under whether other known factors could have caused injury to the domestic industry:

a. Volume and prices of imports from third countries

94. The imports from other countries are negligible.

b. Contraction of demand and changes in the pattern of consumption

95. The Authority notes that there is no contraction of demand. Further, there has been no change in the consumption pattern.

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

96. There is no known trade restrictive practice.

d. Developments in technology

97. None of the interested parties has furnished any evidence to demonstrate any change in the technology.

e. Export performance of the domestic industry

98. It is noted that injury analysis is based on domestic performance of the petitioner.

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

99. The Authority has considered data only in relation to the product under consideration.

g. Other Factors alleged by the interested parties

100. Some of the interested parties have alleged that the injury, if any, being faced by the domestic industry is on account of other factors such as investments made by the domestic industry in setting up a **splitting** facility in Indonesia, or in Kutch. It has also been submitted by the interested parties that the injury to the domestic injury is on account of its high interest cost. In response, the domestic industry has submitted that its investment in Indonesia has significantly helped it in mitigating its raw material cost. As regard the investment made in Kutch, it has been submitted that the Kutch plant has been closed since 2011 and therefore, it has practically no impact on the present cost.

101. As regard the submission that the injury to the domestic industry is on account of inverted duty structure i.e. high import tariff on CPKO (raw material), the petitioner has submitted that it does not import CPKO for manufacture of the product under consideration, as such, injury being faced by VVF is not on account of the inverted duty structure. The petitioner has submitted that it imports raw material such as Split CPKO, Fatty acid distillates etc., on which import duty of 7.5% is applicable.

102. The Authority further notes that a parallel investigation is being conducted to examine the subsidies, if any, being provided by the subject countries in respect of the PUC and consequent injury to the domestic industry.

H. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

H.1 Submissions by the other interested parties

103. The interested parties have made the following submissions:

i. It is a settled position that the onus on the petitioner to provide tangible evidence in sunset review to substantiate that cessation of anti-dumping duty would lead to continuance or recurrence of anti-dumping. The petition contains no analysis at all with respect to the above likelihood parameters, such that the Authority ought not to have accepted such an unsubstantiated petition as the basis of initiation of the present investigation.

ii. While the petitioner has stated that likelihood analysis should take into account both POI and the post-POI period, it has not provided any post-POI data

iii. It has also been claimed that the exporters on whom no duty was imposed during the original investigation ought to be excluded from the present review investigation, as in absence of any duty being there, it cannot be assumed that cessation of duty on such exporter would lead to recurrence or continuation of duty.

iv. There are no spare or idle capacities with the exporters. Capacity utilization of them is well above the standard industry rate for an oleochemical product.

H.2 Submissions by the domestic industry

104. The domestic industry has submitted as under:

i. The fact that duty imposed were significantly inadequate is evident from sharp increase in dumped imports, despite imposition of anti-dumping duty. The imports have continued to be at dumped prices throughout the injury analysis period.

ii. If the anti-dumping duty is allowed to expire and the quantum of duty is not enhanced, the dumping would further intensify, potentially destroying the Indian domestic industry.

iii. As the PUC is mainly used in manufacture of FMCG products, its demand is directly proportional to the population of the country. The subject countries, unlike India, owing to low population have almost negligible demand for the subject goods. As such, they are mainly dependent upon export markets for remaining viable. The petitioner understands that about 90% production of the PUC in the subject countries is available for exports.

iv. India being a growing market, which is exclusively dependent on plant based fatty alcohol for its FMCG products requirement (unlike other countries where animal fat "tallow" is used extensively), is one of the prime target markets for the PUC manufactured in the subject countries.

v. The petitioner has also submitted that the injury caused by dumped imports is separate and does not overlap with the injury caused by inadmissible subsidies being granted by the subject countries, in respect of which the Authority is conducting a parallel investigation.

H.3 Examination by the Authority

105. The present investigation being a sunset review of duties imposed on the imports of subject goods from the subject countries, it is imperative to examine whether cessation of duty is likely to continuance or recurrence of dumping and injury to the domestic industry. The domestic industry has claimed that the duties imposed in the original investigation were grossly inadequate, which has resulted in continued dumping and injury to them. They have therefore, requested for not only continuance of duties but also enhancement of the quantum of duties originally imposed. On the other hand, most of the exporters have claimed that since the duty initially imposed against their imports was "nil", there can be no likelihood of injury if the said duty is allowed to expire.

106. The Authority has examined the likelihood of continuance or recurrence of injury as well as the request of the domestic industry for enhancement of duties, considering the requirement laid down under Section 9A (5) read with Rule 23 and parameters relating to the threat of material injury in terms of Annexure-II (vii) of the Anti-dumping rules, and other relevant factors brought on record by the interested parties.

107. In accordance with the practice of the Authority, the third country exports have been examined to see the pricing behaviour of the producers in the subject countries. Further, the Authority has also examined if the exports to the other countries are at prices injurious to the domestic industry and at prices below the Indian prices to examine the likely increase in imports to India in the

event of cessation of duties. It has also been examined if the subject exporters are export oriented and that the capacities are primarily being used for catering the export market.

(a) Idle capacities

108. The capacity, production and capacity utilization of the participating exporters is given below.

Indonesia	**Capacity**	**Production**	**Capacity utilization**	**Surplus capacity**	**Surplus capacity% of Indian Demand**	
	MT	**MT**	**%**	**MT**	**%**	**Range**
PTEO	***	***	***	***	***	40-50%
PTMM	***	***	***	***	***	70-80%
Wilmar	***	***	***	-	-	-
Energi	***	***	***	-	-	-
Malaysia						
KLK	***	***	***	-	-	-
FPG	***	***	***	***	***	0-10%
Edenor	***	***	***	***	***	30-40%
Thailand						
Thai fatty	***	***	***	***	***	10-20%
Total	**1452340**	**1219844**	**84%**	**246298**	**170%**	**165-175%**

109. From the above, it can be seen that there is surplus capacity available with most of the exporters, which cumulatively is more than the total Indian demand itself. Moreover, such surplus capacity exists despite the fact that exports from subject countries to Indian have increased during the POI. Considering that the above surplus capacity exists despite increase in exports to India, the Authority notes that above factors indicates that injury is likely to continue if the duty is allowed to expire.

(b) Export Orientation

110. On verification of data submitted by the respective exporters, it is noted that the most of the producers have set up capacities significantly in excess of their local demand and are primarily catering to the export markets.

	Total Exports	Domestic Sales	Domestic Sales % of Production		Export orientation as % of Indian demand	
Indonesia	MT	MT	%	Range	%	Range
PTEO	***	***	***	10-20%	***	140-150%
PTMM	***	***	***	0-10%	***	145-155%
Wilmar	***	***	***	0-10%	***	90-100%
Energi	***	***	***	0-10%	***	100-110%
Malaysia						
KLK	***	***	***	0-10%	***	150-160%
FPG	***	***	***	20-30%	***	40-50%
Edenor	***	***	***	60-70%	***	0-10%
Thailand						

Thai fatty	***	***	***	40-50%	***	30-40%
Total	**10,56,160**	**1,38,120**	11%	**10-20%**	**730%**	**730-740%**

111. It is noted that the producers in subject countries are utilizing only a small portion of their capacities towards local demand and a significant share is being used to cater to export markets.

(c) Third Country dumping and below non –injurious price

112. The Authority has also examined the volume and prices at which sales are being made by the producers in the subject countries to third countries. It is noted that the prices of all most all the exporters are either comparable to or below their export price to India and are significantly below the non-injurious price determined for the domestic industry.

	Exports to India	Exports to 3rd country	3rd country price underselling compared to NIP	
Indonesia			%	Range
PTEO	***	***	***	20-30%
PTMM	***	***	***	20-30%
Wilmar	***	***	***	35-45%
Energi	***	***	***	10-20%
Malaysia				
KLK	***	***	***	10-20%
FPG	***	***	***	20-30%
Edenor	***	***	***	20-30%
Thailand				
Thai fatty	***	***	***	20-30%

113. Thus, it can be seen that the 3rd country exports of the producers are significantly below the non-injurious price of the domestic industry. The Authority has considered this, along with other parameters discussed hereinabove, as an indication for likelihood of dumping and injury.

114. As regards the claim of the domestic industry regarding enhancement of duties, it is noted that the question whether the Authority has such power under the relevant legal provisions was examined by the Hon'ble CESTAT in the case of ***Shanghai Fortune Chem Co. Ltd. v. DGAD, 2016 (342) E.L.T. 578 (Tri. - Del.),*** wherein it was held as under:

> ***"10.*** *The appellant has further argued that during the course of sunset review, the rate of duty cannot be enhanced. We have perused the provisions of Rule 23 of the Anti-Dumping Rules, which relates to mid-term review and sunset review. It is the contention of the assessee that only rate of duty can be enhanced in Mid-term review and not during sunset review. By drawing our attention to the said Rule 23 of the Rules, it stands contended that sub-rule (1A), which provides for variation in the anti-dumping duty applies to only mid-term review and sub-rule (1B) which relates to sunset review does not provide any variation in the rate of duty and only relates to the extension of period.*
>
> ***11.*** *We find that an identical issue stands considered and decided by the Tribunal in the case of Indian Graphite Manufacturers Association v. Designated Authority [2006 (199)*

E.L.T. 722 (Tri. - Del.)]. It was held that a cumulative reading of Sections 9A(1), 9A(5) and 9AA, read together, empowers the Designated Authority for recommending the amount of anti-dumping duty different from the amount of duty imposed at the time of initial imposition of definitive anti-dumping duty. ***The purpose of review will be frustrated if the Designated Authority cannot recommend higher or lower anti-dumping duty than the original definitive anti-dumping duty. As such, the said plea of the exporter/appellant is also not tenable."***

115. It is noted that in the present case, the domestic industry is facing significant injury despite imposition of the anti-dumping duties. It is seen that dumping has continued even during the imposition of the duties and imports into India are being made at prices significantly below non-injurious price. Given these facts, the Authority notes that there is merit in the claim of the domestic industry that the duties imposed under the original investigation were inadequate. A tabular representation of the duties initially imposed as compared to the dumping and injury margin determined for the POI, is as below:

Fig.: In USD/MT

	ADD imposed	**Dumping Margin**	**Injury Margin**
Indonesia			
PTEO	Nil	***	***
PTMM	7.10	***	***
Wilmar	52.23	***	***
Energi	51.64	***	***
Others	92.23	***	***
Malaysia			
KLK	Nil	***	***
FPG	17.64	***	***
Others	37.64	***	***
Thailand			
Thai fatty	Nil	***	***
Others	22.50	***	***

116. From the above, it is noted that the Anti-dumping duties initially imposed were in fact significantly inadequate.

I. Public Interest

117. It has been claimed by the interested parties that imposition of anti-dumping duty, if any, on the subject goods would not be in public interest as:

i. Because of its raw material dependency, high interest cost and other inefficiencies, the petitioner would not be able to meet the Indian demand for the PUC.

ii. Increase in the cost of the PUC would lead to an increase in the costs of products such as soap, detergents etc., which are routinely used by the public at large.

iii. A levy of duty on the PUC would lead to an increase in imports of the downstream products of the PUC, such as ethoxylates, SLES, and SLS, which are currently subject

to 0% basic customs duty under the ASEAN Free Trade Agreement. Imposition of duty would lead to an inverted duty structure for the downstream industries, thereby leading to increase in the imports of downstream goods. This will in turn lead to loss of business and employment for the downstream industries.

iv. There has been a significant increase in the production capacity of the downstream products in subject countries. It is very likely that the exporters would start exporting downstream products (SLS/SLES or Ethoxylates) if duties are imposed on SFA.

v. The capacity of the petitioner is not sufficient to meet the Indian demand and imposition of duty, if any, would lead to demand supply gap in the Indian market.

118. In response, the petitioner has claimed that imposition of the duty would be in the interest of the downstream industries as well as the public at large. It has been submitted that the installed capacity of the petitioner alone is sufficient to meet about 80% of the Indian demand. However, if the petitioner is forced to wind up, the downstream industries would become completely dependent on imports for their raw material requirement. As such, imposition of duty is not likely to cause any demand supply gap in the Indian market.

119. In any case, the purpose of imposition of anti-dumping duty, 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 duty would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the product under consideration to the consumers.

120. The petitioner has also submitted that there would be a negligible impact of duty on the cost of consumer products. It has been submitted that a levy of 35% duty would lead to an increase of about 0.3% on the cost of the consumer goods (shampoo). However, if the protection of duties is not granted to the domestic industry forthwith, it would not be able to survive and consequently, the entire downstream industries would become dependent on imports for their raw material (SFA) requirement. It has been submitted by the petitioner that the increase in capacity of downstream products (SLS/SLES) in the subject countries, significantly in excess of the local demand, clearly indicates that once the petitioner, that is the Indian domestic industry is wiped out, the exporters from the subject countries would encourage exports of value-added downstream products, thereby jeopardizing the entire Indian downstream industry.

J. Post-Disclosure Comments

121. The post disclosure submissions have been received from the interested parties and the domestic industry, and it is noted that most of the issues raised are reiterations and have already been raised earlier and also addressed appropriately. Additional submissions have been analysed as under.

J.1. Submissions made by the other interested parties

122. The submissions made by the exporters, importers, users and other interested parties on the disclosure statement circulated by the Authority, are as follows:

i. The Authority has erroneously stated that the landed value of imports has not increased commensurate to the cost of production of the DI. The Authority ought to have appreciated that there is no price undercutting by the subject imports. Further, the fact that the petitioner has been able to increase its selling price regardless of the landed value of imports, indicates that there is no price suppression/depression.

ii. The finding of the Authority that the petitioner has suffered losses is contrary to the data provided in the petition. However, the disclosure statement records that the petitioner is making losses.

iii. The landed value claimed by ESM (and duly verified) and that provided in the confidential landed value (as part of the disclosure statement) has certain differences.

iv. Alleged injury to the petitioner, if any, is on account of the following reasons and not the subject imports:

- The petitioner is subject to penal interest rates.
- High shipping costs of raw material.
- High administrative, corporate costs and inefficient sales network.
- The petitioner has acknowledged that it has been financially impacted by the COVID-19 pandemic.
- High procurement costs for Split Fatty Acid: The export taxes have led to high procurement costs, leading to further inefficiencies.
- The technology used by VVF is outdated. VVF uses Lurgi 1st generation manufacturing process whereas producers of PUC from the subject countries such as the Edenor Group use advanced process.
- Lastly, it is relevant to note that the dumping margin is either "negative" or low for the cooperating producers. On the other hand, in most instances, the same producers have higher injury margins. This implies that the non-injurious price of the petitioner is significantly higher and injury is due to its operational inefficiencies and flagrant history of poor investments.

v. While the petitioner has stated that likelihood analysis should take into account both POI and the post-POI period, it has not provided any post-POI data.

vi. There are no significant imports from ESM in terms of volumes in comparison to the total imports from Indonesia in the injury period including the POI. Further, the imports from ESM are very negligible in total demand for the PUC in India and total subject imports. ESM's prices to India are higher than the prices at which the PUC is being exported to third countries.

vii. Alleged export orientation is not sufficient to find that there is likelihood of continuation or recurrence of dumping and injury with respect to India.

viii. The Authority has failed to appreciate that pricing policies may vary across jurisdictions based on various factors such as negotiation, logistics, etc. Hence, the Authority cannot assume that prices will simply be transposed from one jurisdiction to another without any recalibration. It is not necessary that if prices to a third country are presently lower than India that these prices will

as is be applied to India.

ix. If the dumping margin is negative, that company should be awarded NIL individual rate of anti-dumping duty in the current sunset review investigation.

x. The names of both producers of Edenor group must be mentioned in the duty table. As stated in questionnaire appendices, the subject goods produced by RIKA are sold to EOM and kept in a comingled tank which also stores the subject goods produced by EOM. Thereafter, EOM sells the subject goods in domestic market and exports to all countries including India.

xi. The increase in volume of subject imports was necessitated because of an increase in demand for mid-cut alcohols (C12-14 and C12-16) in India over the injury period and the domestic industry's incapability of meeting the rising demand for the said midcut alcohols. The data shows almost 80-90% of subject imports is of these two grades of the PUC.

xii. The Authority in the parallel countervailing duty investigation on the PUC, while calculating the subsidy margin for the provision of CPKO at LTAR, has compared the monthly prices of CPKO with the monthly benchmark prices for 'fair comparison'. Therefore, in furtherance of the principle of 'fair comparison', the Authority is requested to adopt similar methodology of comparing prices on a month-to-month basis while computing the injury margin due to wide fluctuation in prices of raw materials (CPKO and its oleo derivatives) and the PUC during the POI.

xiii. VVF along with the only other producer Godrej Industries Limited, focuses on manufacturing C1618 alcohol and behenyl alcohol (22 carbon atoms chain) which are higher carbon chain products. The higher carbon chain fatty alcohols are mainly produced out of mustard seeds, Crude Palm Oil, Palm Fatty Acid Distillates (PFAD) and stearin which is abundantly found in India. VVF is able to export its higher carbon chain products globally at competitive price and has been consciously concentrating on higher cuts of the PUC. Therefore, it was not able to meet the additional demand of mid cut grades of the PUC which were consequently met through imports.

xiv. Trend shows the absence of correlation between the volume of subject imports and VVF's production and capacity utilization performance.

xv. Due to the imposition of anti-dumping duty, there is substantial decrease in dumping from the subject countries and substantial decrease in price undercutting.

xvi. Imposition of ADD shall be against the general Indian economic interest as the continuation of ADD shall significantly impact the profitability and viability of the downstream industry. Anti-dumping duties till date has only added extra cost burden to Indian users of fatty alcohols (who are mainly in the Micro, Small and Medium Enterprise (MSME) sectors) such as ethoxylators and ultimately on the Indian consumers.

xvii. The Authority is requested to impose fixed rate of anti-dumping duty, as is the practice in all anti-dumping investigations, and not ad valorem rate. The imposition of anti-dumping duty in ad valorem form would be inimical to the interests of the user industry because of the volatility of the PUC.

xviii. A proper month-to-month comparison of NEP with NV of KLK Oleo would reveal that KLK Oleo's dumping margin is only ***%. The margin in the disclosure statement is inflated and is artificial.

xix. The Authority has determined dumping margin and injury margin on a monthly/quarterly basis in the Original anti-dumping investigation concerning Partially Oriented Yarn (POY) from Indonesia, Taiwan, Thailand and Malaysia (Final Findings dated 04th January 2002), Sunset review of anti-dumping duty on imports of Phenol from United States of America and Thailand (Final Findings dated 30th July 2021), Sunset review of anti-dumping duty on Viscose Staple Fibre from China PR (Final Findings dated 31st July 2021). The European Commission followed this practice in the anti-dumping investigation on imports of synthetic staple fibres of polyester originating in Australia, Indonesia and Thailand (Council Regulation (EC) No 1522/2000 of 10 July 2000; paras 66 and 70).

xx. The PUC produced by FPG are exported to India through its related trader PGIO located in Singapore. PGIO has submitted its questionnaire response wherein it has disclosed profit (in Appendix 5) with respect to its business pertaining to trading of the PUC. The Respondent understands that the Authority has computed a loss for PGIO with respect to its PUC trading business. This is due to the reason that the Authority did not accept the actual figure of PGIO (Exporter) in Appendix 5 which reported profit. Instead, the Authority has allocated the overheads cost (staff, admin, SGA expenses etc.) from the whole PGIO company to the PUC on the basis of sales value ratio which resulted in a loss. Further, the Authority has adjusted the loss of PGIO for determining the NEP computation.

xxi. The Authority has not taken into consideration the typical capacity utilization in the oleochemical industry. Further, the Authority has also not recorded any reasons for the constant exports from respondents throughout the injury investigation period even though they have surplus capacity coupled with the fact that they have meagre duty of 7.10 USD / MT which is around (0.42% of the CIF value).

xxii. When respondents raised the issue in relation to computation and analysis of capacity, issues relating to manufacturing cost, domestic Industry conveniently stated at paragraph 11 (vii) that they are manufacturing subject goods from "palm kernel oil". However, when the issue of inverted duty came, the domestic Industry submitted that they are not importing palm kernel oil.

xxiii. The NIP should be adjusted to the extent of non-refundable custom duty paid while importing the input material. In this context, kind attention of the Authority is invited to the Para 9.4 of the "Determination of Non-Injurious Price (NIP)" at page 244 of the Compendium. The Authority should reduce the impact of basic custom duty, cess on basic custom duty from the raw material cost while determining cost and subsequently from computation of NIP.

xxiv. It is the consistent practice of the Authority to not grant individual duty based on individual dumping and injury margin to a new cooperating exporter in a review investigation. In TDI Review Investigation [F. No. 12612021- DGTR dated 24th June, 2022] wherein the new producers/exporters fully cooperated in the review investigation and granted individual dumping & injury margins but not granted individual duty based on their actual margins.

xxv. The user is forced to pay a higher conversion cost due to operational inefficiencies of the petitioner to the tune of *** compared to the other producers. This coupled with the continuation of duties will further have an adverse impact on public interest and should be avoided, especially in the current recessionary climate.

xxvi. The Authority has taken note of the business transfer from TFA to GGC but has not included the name of GGC in the dumping margin/injury margin tables. The entire business of TFA has been transferred to GGC. As a result of the above transfer, GGC will perform all obligations under agreements entered into by TFA and be bound by their terms and conditions in every way

as if it were the original party to these instead of TFA. This includes all sales of the PUC to India as well as other markets. The transfer of business will not have any effect on the Authority's calculations in the present investigation as GGC, in any event, has fully participated in the investigation and submitted all relevant information, should duties be imposed in the captioned investigation, the Authority is humbly requested to also include GGC in the proposed duty table, if any.

xxvii. One of the user industries namely, M/s Tide Industries has claimed that it uses C12 specifically in its production process and therefore, there could be no circumvention of duty imposed on C1214 by its imports. It has also submitted a certificate certifying that C12 pure grade imported by it would be used captively and not for converting C12 into C12-14 or C10-12 blends.

J.2. Submissions made by the domestic industry

123. The submissions made by the domestic industry on the disclosure statement circulated by the Authority, are as follows:

i. Computation of NIP without allowing any return, much less reasonable return, is grossly inadequate.

ii. The Authority has not disclosed the basis for disallowing a substantial part of the petitioner's interest cost from NIP computation.

iii. Since the petitioner is the only eligible domestic producer of the subject goods, the interest actually being borne by it ought to be considered as the "normal" interest, for NIP determination.

iv. The dumping margin determined for most of exporters is negative on account of distorted raw material prices in Indonesia and Malaysia. In the original investigation, the Authority ought to have considered the particular market situation existing in the said countries, and determined the normal value considering the international raw material prices. It has been noted in the disclosure statement that in the present review investigation, the particular market situation is not being examined as the impact of distorted raw material prices is being addressed in the parallel anti-subsidy investigation. The petitioner submits that if, for any reason, the said anti-subsidy investigation is terminated or subsidy on raw material is not countervailed, the normal value for dumping margin computation be re-determined after considering the international raw material prices.

v. Edenor Oleochemicals (M) Sdn. Bhd. (formerly, Emery Oleochemicals (M) Sdn Bhd) and Edenor Oleochemicals Rika (M) Sdn. Bhd., have made nil/negligible exports to India during the POI. As per the market information available with the petitioner, Edenor group has not made representative sales in the period prior to or post POI as well. As the sales made by the said companies are not representative, individual duty rate is not required to be determined for the said companies.

vi. The responding exporters are mainly export oriented and have substantial over-capacities. The idle capacity with the responding exporters is more than 165% of the Indian demand. The prices at which the exporters are selling in third countries is also substantially below the petitioner's NIP. It is submitted that if the anti-dumping duties are not continued, the dumping and injury would recur.

vii. Even though the dumping margin determined in the present disclosure statement is negative for

some of the exporters, however, considering that there is a strong likelihood of recurrence of dumping and injury if duties are allowed to expire, the petitioner requests the Hon'ble Authority to continue the duties, as initially imposed, against the said exporters as well.

viii. The duties originally imposed were significantly inadequate, which is evident from the continued injury and dumping. The petitioner requests that the originally duties ought to be enhanced to grant adequate protection to the domestic industry.

ix. None of the interested parties have refuted the petitioner's computation of the impact of duties on the final consumer, which is negligible. Moreover, the fact that the downstream manufacturers would be able to pass on the impact of duty, if imposed, on their customers has also not been refuted. However, unless adequate protection is granted, the petitioner would not be able to survive. Thus, continuation and enhancement of duty is in the larger public interest.

J.3. Examination by the Authority

124. The submissions by the interested parties were mostly repetitive in nature, and have already been addressed at the relevant place in the finding. The Authority has examined the relevant submissions, claimed not to have addressed, herein below.

125. With regard to the contention on profitability and capacity utilization of the petitioner, it is noted that the injury analysis as disclosed by the Authority vide its disclosure statement is based on duly verified information/ annexures on record.

126. It has been submitted by some of the interested parties that landed price of imports has not increased commensurate to the increase in DI's cost of production is irrelevant and in absence of positive price undercutting, a positive finding of injury cannot be drawn. In this regard, the Authority notes that during the POI, the average landed value of the imports from the subject countries was Rs. 129/Kg, as against which the cost of production of the domestic industry was Rs. ***/Kg. Thus, evidently the imports were at significantly lower prices compared to DI's cost of production. It has been submitted by the domestic industry that in order to retain its market share to the extent possible, it had taken a conscious call to match the import price even at the cost of selling at loss. It is noted that the average selling price of DI in the POI was Rs. ***/Kg (Rs. ***/kg for grade C1214) as against the average landed value of Rs. 129/Kg. This clearly shows that the imports have the effect of benchmarking the prices in the domestic market, and forcing the domestic industry to reduce its selling prices even below its cost.

127. As regards the claim of the interested parties that the injury to the domestic industry is on account of other factors, the Authority notes as under:

i. Penal interest imposed on the Petitioner:

As regards high finance cost of the domestic industry, the same has been examined in terms of the provisions of Annexure-III of the Anti-Dumping Rules and factored reasonably as per the consistent practice of DGTR while determining non-injurious price of the domestic industry.

ii. High shipping cost of raw material

The Authority notes that the shipping cost of raw material would be in the same range as the shipping cost of the imported final products and therefore, does not skew the injury determination in favour of the domestic industry.

iii. The Petitioner has acknowledged that it has been financially impacted by the COVID-19 pandemic

As per the consistent practice of the directorate, the NIP has been determined for the domestic industry based on the optimum cost of production and cost to make & sell the subject goods in India. As such, any abnormal impact, if any, on the cost of production of the domestic industry has not been considered.

iv. Impact due to imposition of export tax on raw material

The market distortion caused on account of imposition of export taxes is being addressed in the parallel CVD investigation being conducted by the Authority. The actual raw material price of DI, as optimized, has been considered for NIP determination.

v. Technology of the petitioner is outdated

It is found that the petitioner is using Lurgi's 3rd generation wax ester technology, and not 1st generation as has been claimed by some of the interested parties. Nonetheless, the investigation has revealed that the conversion cost as well as conversion norms of the domestic industry is comparable to that of the responding exporters.

128. With regard to the contention of non-representative sales made by Edenor group, the same has already been examined in para 44 above.

129. As regards computation of NIP without return and allowing inadequate interest alleged by the domestic industry, it may be noted that NIP is determined as per the provisions of Annexure-III of the Anti-Dumping Rules and consistent practice of DGTR. As far as allowing interest and return on capital employed, the principles of reasonability as provided in the said rules are followed.

130. With regard to loss computed by the authority in case of a related trader alleged by an interested party, it may be noted that profit / loss of the related trader has been determined in accordance with generally accepted accounting principles of the exporting country based on records and information made available by such interested party to the authority. Actual expenses / costs are allowed where those are substantiated with verifiable material evidence and otherwise, they are allocated to product under consideration based on accepted scientific method. The losses so calculated are adjusted with for determining NEP.

131. As regards the submission of ESM on its computed landed value, the final findings have been rectified based on the revised computation of the landed value on considering the submissions filed by ESM.

132. As regards the request made by some of the interested parties to carry out month-wise injury and dumping margin determination, the Authority notes that there has not been any irregular fluctuation in the raw material and utilities prices of the participating exporters, which would warrant a month-wise computation of the dumping margin to be conducted. As regards

the claim that the NIP be computed month-wise, the Authority notes that the domestic industry uses multiple raw materials, both imported and domestically procured, for production of the PUC. It is noted that the cost of raw material and processing time varies for different raw material. As such, month-wise computation of cost of production would not be accurate. Moreover, no significant change in the trade pattern has been pointed out by the interested parties to justify computation of margins on month-wise basis. However, the Authority has the discretion to conduct month-wise examination of the injury and dumping margins in appropriate case, however, the facts of the present case does not warrant such an examination.

133. With regard to the contention of inability of the petitioner to provide mid-cut alcohols to the downstream users, it is noted that that the petitioner had significant unutilized capacity during the POI, which is not the cause rather the consequence of the material injury being caused by the subsidized and dumped imports.

134. The requests for correction in name have been addressed in this finding.

135. As regard the request of Tide Industries for granting actual user exemption, the Authority notes that the claim for exclusion of C12 and C14 pure grades has been rejected not only on the ground that the same can circumvent C1214 imports, but also on the ground that the said grades are "like" product. Moreover, the domestic industry has claimed that it has the capacity to produce C12 pure grade, which has not been refuted by any of the interested party. Further, no evidence has been placed on record to show that the domestic industry had declined to supply C12 (pure) grade during the POI. It is noted that since the domestic industry has the capacity to produce C12 grade, an actual user exemption would defeat the very purpose of the duty, especially considering that the grades are "like" article. In view thereof, the request for user based exclusion is not feasible in the facts and circumstances of the subject investigation.

Public Interest

136. The Authority has examined whether the imposition of the anti-dumping duty on imports of the product under investigation would be against the larger public interest. This determination is based on consideration of information on record and interests of stakeholders, including the domestic industry, importers and consumers of the product.

137. The Authority notes that the total production capacity of the petitioner is *** MT and that of Godrej Industries is around *** MT, as against the demand of approximately *** MT. Evidently, the Indian production capacity is sufficient to meet almost the entire Indian demand by itself. As such, the question of there being a demand supply gap does not arise in the present fact of the case.

138. The Authority further finds that the PUC is an industrial raw material primarily used in manufacture of SLS, SLES or Ethoxylates etc., which are in turn used for manufacturing FMCG products such as soap, shampoos, detergents etc. Being an industrial raw material, it is noted that the duty imposed on the PUC would get passed through to the ultimate end consumer. Therefore, the impact of duty on end consumer is required to be seen. The petitioner has provided a quantified working of the impact of duty on the end consumer, which has not been

controverted by the interested parties. It is seen that the impact of average duties on the price of the end product would be negligible.

139. The importers/users of the subject goods have claimed that the imposition of duty would lead to an inverted duty structure for downstream products such as SLS, SLES and Ethoxylates, as they attract nil import duty under ASEAN FTA. It has been submitted by them that the exporters of the subject countries are forwardly integrated and are expanding their downstream production capacity, significantly in excess of local demand. In these facts, the Authority notes that if the domestic industry is wiped out, the downstream industry would become completely dependent upon imports for their raw material requirement. As the exporters from the subject countries are expanding their downstream capacity, it is imminent that the exports of SFA would, in absence of a domestic SFA supplier, be replaced by exports of value-added downstream products, i.e., SLS, SLES and Ethoxylates. Being dependent on imports for raw material requirement might in fact put the Indian downstream industries in the same situation as that of the domestic industry, where they might have to compete with the cheap downstream products from the subject countries.

140. The uncontroverted fact that has emerged from the investigation is that the domestic industry would not survive unless level playing field is provided to them. It is noted that if the domestic industry is wound up, in absence of any local source of raw material, the downstream manufacturers will be at the complete mercy of exporters who would then be in a position to dictate prices and can simply increase the prices of SFA. Further, given the fact that the subject countries are actively encouraging exports of value-added products through provision of inadmissible subsidies, making the downstream industry completely dependent on imports for their raw material requirement would be catastrophic.

141. The Authority notes that value addition from CPKO (raw material) to SFA is about 70-75%, whereas from SFA to Ethoxylates/SLES is about 10-11%. As such, imposition of duties would encourage value addition in India and would, thus, be in the larger public interest.

142. The Authority further notes that the purpose of imposition of anti-dumping duty, 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 duty would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

143. The Authority further notes that the impact of the proposed measures may have on certain users should be balanced against the risk of a discontinuation of the domestic industry activity as the current situation is not sustainable. Not imposing measures will lead to less reliable and unstable sources of supply and inevitably to price increases in the Indian market. The Authority therefore, concludes that imposition of duty would be in the larger public interest.

K. CONCLUSION

144. Having regard to the contentions raised, submissions made, information provided and facts available before the Authority as recorded above and on the basis of the above analysis

of dumping and consequent injury to the domestic industry, the Authority concludes that:

i. Being a review investigation, the scope of the product under consideration cannot be enhanced and has been kept same as the original investigation. Accordingly, the PUC is being defined as ***"Saturated Fatty Alcohol of carbon chain length C12 to C18 and blends thereof".***

ii. Despite imposition of anti-dumping duty, the imports from the subject countries have continued to increase in absolute terms as well as relative to DI's production and Indian demand.

iii. The domestic industry has continued to face material injury, both volume and price, on account of the subject imports. There has been a considerable decline in the market share, sales, profitability, and return on capital employed of the domestic industry. Further, it is noted that the import prices have consistently remained below the cost of production of the domestic industry. To retain its market share, the domestic industry has been forced to match the import prices and consequently, has not been able to make profitable sales in the entire injury period, despite imposition of anti-dumping duty. There is causal link between dumping of the subject goods and material injury suffered by the domestic industry. The Authority is parallelly conducting anti-subsidy investigation in respect of the PUC being imported from the subject countries. The domestic industry has claimed that they are facing injury on account of dumped as well as subsidized imports from the subject countries. In the present review findings, the Authority has considered the injury on account of current dumping, and the likelihood of continuance or recurrence of dumping and injury on cessation of duty.

iv. The subject countries cumulatively have an installed capacity of about 14.5 lacs MT, as against total Indian demand of about *** lac MT. It is noted that the idle capacity lying with the participating exporters during the POI was about 1.5-2 times of Indian demand. Moreover, the producers in the subject countries are primarily catering to the export markets, with a very small quantity being sold by them domestically. Further, it has been found that the exports being made by the said companies to other countries are also below the NIP of the domestic industry. As such, if the duties are allowed to expire, there is a strong likelihood of continuance and recurrence of dumping and injury to the domestic industry.

v. It is also noted that the facts of the present case warrant enhancement of anti-dumping duty initially imposed, as the same is found to be not adequate to address the injury being faced by the domestic industry. It is noted that the duties initially imposed were nil/negligible, which have resulted in continuation of the dumping and injury despite imposition of the duty. Duties equivalent to the margins determined in the present review investigation are warranted so as to grant adequate protection to the domestic industry, and to give the domestic industry fair chance to compete with the imports.

vi. It is also noted that, even in the present review investigation, the dumping margin computed for most exporters from Indonesia is negative. It is noted that the negative dumping margin is due to lower cost of production of the said companies on account of distorted raw material prices existing in Indonesia (consequent to export tax and levy imposed by Government of Indonesia). Since, the Authority is conducting parallel anti-subsidy investigation in respect of the PUC, to avoid overlapping of duties on account of raw material distortion, the Authority has not made any adjustment to the raw material prices in the present review investigation.

vii. As regards claim of the interested parties that the injury to the domestic industry is on account of its high finance cost and lack of working capital, the Authority notes that the financial condition of the domestic industry is not the cause of the injury but is in fact a consequence of the injury being faced by them. It is noted that the production of the PUC is a cash intensive process, as the raw material itself accounts for approx. 70% of the cost. As such the working capital requirement of the company is comparatively higher. However, since the domestic industry has not been able to make profitable sales, it did not generate any funds, which has resulted in its high finance cost.

viii. It is noted that the petitioner is the sole Indian producer of mid-cut alcohol, which has the highest demand in the Indian market. It is an admitted fact that the financial condition of the petitioner is abysmal, and it would not survive unless level playing field is granted to them. Thus, if the anti-dumping duty is not continued and the quantum of duties is not enhanced, the domestic industry for mid-cut alcohol would be wiped out, thereby making the downstream industries completely dependent on imports for their raw material requirement. Having a viable domestic source of raw material is in the greater interest of the downstream industries.

ix. It is also noted that the PUC is an industrial raw material. As such, the downstream industries would be able to pass on at least a part of duty to the end consumers. It is noted that the impact of even a 35% duty, on the end consumer would be negligible.

x. Further, it is noted that during the injury investigation period, despite imposition of anti-dumping duty, the losses incurred by the domestic industry has increased, whereas, the importer (downstream) industry has been able to increase its profits during the said period. This clearly shows that the duties initially imposed were not adequate, and that the importers were able to pass on the duties to the ultimate consumer.

L. RECOMMENDATIONS

145. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, Embassy of the subject countries, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury, causal link and likelihood of continuation or recurrence of dumping and injury. Having initiated and conducted an investigation into dumping, injury, causal link and likelihood of continuation or recurrence of dumping and injury in terms of Rules and having established positive dumping margin as well material injury to the domestic industry caused by such imports as well as likelihood of continuation of dumping and injury, the Authority is of the view that continuation of anti-dumping duty is necessary. Since, the Authority is conducting parallel anti-subsidy investigation in respect of the PUC and is computing dumping, injury as well as subsidy margins for the same POI, any subsidy duty, if recommended, would be adjusted based on the duties recommended in the present investigation.

146. Therefore, Authority recommends continuation of anti-dumping measure as fixed rate duty. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on imports of the subject goods described at Column 3 of the Duty Table, originating in or exported from Indonesia, Malaysia and Thailand.

DUTY TABLE

S. No.	Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Amount (USD/MT)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	2905.17, 2905.19, 3823.70	Saturated Fatty Alcohol of Carbon chain length C12 to C18 and their blends	Indonesia	Any including Indonesia	M/s PT Ecogreen Oleochemicals	Nil
2.	-do-	-do-	Indonesia	Any including Indonesia	M/s PT Musim Mas	Nil
3.	-do-	-do-	Indonesia	Any including Indonesia	M/s PT Wilmar Nabati Indonesia	240
4.	-do-	-do-	Indonesia	Any including Indonesia	M/s PT. ENERGI SEJAHTERA MAS	Nil

5.	-do-	-do-	Indonesia	Any country including Indonesia	Any other than 1 to 4 above	263
6.	-do-	-do-	Any country other than Indonesia, Malaysia & Thailand	Indonesia	Any	263
7.	-do-	-do-	Malaysia	Any including Malaysia	M/s FPG Oleochemicals Sdn. Bhd.	58
8.	-do-	-do-	Malaysia	Any including Malaysia	M/s KL - Kepong Oleomas Sdn. Bhd.	122
9.	-do-	-do-	Malaysia	Any country including Malaysia	Any other than 7 to 8 above	250
10.	-do-	-do-	Any country other than Indonesia, Malaysia & Thailand	Malaysia	Any	250
11.	-do-	-do-	Thailand	Any including Thailand	M/s Global Green Chemicals Public Company Limited	107
12.	-do-	-do-	Thailand	Any country including Thailand	Any other than 11 above	180
13.	-do-	-do-	Any country other than Indonesia, Malaysia & Thailand	Thailand	Any	180

M. FURTHER PROCEDURE

147. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Anant Swarup)
Joint Secretary & Designated Authority