

To be published in Part-I Section-I of the Gazette of India-Extraordinary

**F. No. 6/01/2024-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building
5, Parliament Street, New Delhi -110001**

Date: 7th March 2025

FINAL FINDINGS

Case No. – AD(OI) – 01/2024

**Subject: Anti-Dumping investigation concerning imports of “Insoluble Sulphur”
originating in or exported from China PR and Japan**

A. BACKGROUND OF THE CASE

(File No. 6/01/2024-DGTR): 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 referred as the “AD Rules”) thereof,

1. Whereas, Oriental Carbon and Chemicals Ltd. (hereinafter referred to as the “applicant” or “domestic industry” or “petitioner”) filed an application before the Designated Authority (hereinafter referred to as the “Authority”), on behalf of the domestic industry, in accordance with the Act and the AD Rules for initiation of an anti-dumping investigation concerning imports of “Insoluble Sulphur” (hereinafter also referred to as the “product under consideration” or the “subject goods” or the “PUC”) originating in or exported from China PR and Japan (hereinafter referred to as the “subject countries”).
2. The Authority, on the basis of sufficient *prima-facie* evidence submitted by the applicant, issued a public notice vide Notification No. 6/01/2024-DGTR dated 27th March 2024 (hereinafter referred to as the “Initiation Notification”), published in the Gazette of India, Extraordinary, initiating the anti-dumping investigation in accordance with Section 9A of the Act read with Rule 5 of the AD Rules to determine the existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the said subject countries, and to recommend the appropriate amount of anti-dumping duty, which, if levied would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described hereinbelow has been followed with regard to the investigation:
- i. The Authority notified the embassies of the subject countries in India about the receipt of the present application before proceeding to initiate the investigation in accordance with Rule 5(5) of the AD Rules.
 - ii. The Authority issued a public notice dated 27th March 2024, published in the Gazette of India, Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from the subject countries.
 - iii. The Authority sent a copy of the initiation notification to the embassies of the subject countries in India, known producers and exporters from the subject countries, known importers / users of the subject goods and other interested parties as per the information provided by the applicant. The interested parties were requested to provide relevant information in the form and manner prescribed in the initiation notification and make their submissions known in writing within the time limits prescribed by the initiation notification and requested them to make their views known in writing within the prescribed time limit.
 - iv. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject countries in India, in accordance with Rule 6(3) of the AD Rules through its email dated 04.04.2024.
 - v. The embassies of the subject countries in India were also requested to advise the exporters/producers from their countries to submit their responses to the questionnaire within the time limit prescribed by the initiation notification. The embassies of the subject countries were also sent a copy of the letter and questionnaire sent to the producers/exporters along with the names and addresses of the known producers /exporters from their respective countries.
 - vi. The Authority sent questionnaires to the known producers/exporters in the subject countries in accordance with Rule 6(4) of the AD Rules.
 - vii. In response to the initiation notification of the subject investigation, the following producers/exporters from the subject countries have responded by filing questionnaire response:
 - i. M/s Shikoku Chemicals Corporation, Japan
 - ii. Mitsubishi Corporation Plastics Ltd., Japan
 - iii. IVICT (Singapore) Pte. Ltd., Singapore
 - viii. None of the producers/exporters from China have responded in the present investigation.

- ix. The producers/exporters from the subject countries who have not submitted the questionnaire response or have not cooperated in the investigation have been treated as non – cooperative in the investigation.
- x. The Authority also sent questionnaires to the known importers/users and user association of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules.
- xi. In response to the initiation notification of the subject investigation, the following importers and users have submitted questionnaire responses to the Authority:
 - i. MRF Limited
- xii. Further, the following interested parties have also made submissions during the investigation:
 - i. Automotive Tyre Manufacturers Association (ATMA)
- xiii. The Authority issued economic interest questionnaire (EIQ) to all interested parties and the concerned ministry. Response to EIQ was submitted by the following interested parties :
 - i. Oriental Carbon and Chemicals Ltd. (“domestic industry”)
 - ii. MRF Limited
- xiv. The period of investigation (hereinafter referred to as the “POI”) for the present investigation is from 1st January 2023 to 31st December 2023 (12 months). The injury investigation for the present investigation is April 2020 to March 2021, April 2021 to March 2022, April 2022 to March 2023 and the POI.
- xv. The Directorate General of Systems & Data Management (DG Systems) was requested to provide transaction-wise details of the imports of the subject goods for the injury investigation period and the period of investigation. The same was received by the Authority and considered at the stage of initiation of the investigation. For the purpose of the present Final Findings, the Authority has relied upon the Directorate General of Systems (hereinafter referred to as “DG System”) import data.
- xvi. The Authority discussed the PUC and the PCN methodology with the interested parties. After receiving inputs and submissions from all the interested parties, the Authority *vide* notification dated 12th August 2024 decided the scope of the PUC and noted that PCNs were not warranted in the case.
- xvii. The Authority made available the non-confidential version of the submissions made by the various interested parties. A list of all the interested parties was uploaded on the DGTR website along with the request therein to all of them to email the non-confidential version of their submissions to all the other interested parties.
- xviii. In accordance with Rule 6(6) of the AD Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 14th January 2025. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally,

followed by rejoinder submissions, if any. The interested parties were further directed to share the non-confidential version of the written submissions submitted by them with the other interested parties.

- xix. The non-injurious price (hereinafter referred to as the ‘NIP’) has been determined based on the cost of production and reasonable return on capital employed for the subject goods in India, based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules so as to ascertain whether anti-dumping duties lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xx. The Authority circulated the disclosure statement containing all essential facts under consideration for making the final recommendations to the Central Government to all interested parties on 18th February 2025. The Authority has examined all the post disclosure comments made by the interested parties in these final findings to the extent deemed relevant. Any submission which was merely a reproduction of the previous submission, and which had been adequately examined by the Authority has not been repeated for the sake of brevity.
- xxi. The information submitted by the applicant has been examined and verified during on-site verification to the extent deemed necessary and has been relied upon for the present Final Findings.
- xxii. The information submitted by M/s Shikoku Chemicals Corporation (SCC) has been examined and verified during on-site verification to the extent deemed necessary and has been relied upon for the present Final Findings.
- xxiii. The information provided by the interested parties on a 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, the parties providing the information on a confidential basis were directed to provide an adequate summary of the confidential version in a non-confidential version.
- xxiv. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported with evidence and considered relevant to the present investigation.
- xxv. 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 this Final Findings on the basis of the facts available.
- xxvi. “***” in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under Rule 7 of AD Rules.

xxvii. The exchange rate adopted by the Authority for the subject investigation is 1 US\$ = Rs. 83.52.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. At the stage of initiation, the product under consideration (herein after also referred to as “PUC”) was defined as follows:

“2. The product under consideration in the present investigation is the “Insoluble Sulphur” hereinafter also referred to as “subject goods” or “product under consideration” or “PUC”.

3. Insoluble sulphur, by definition, is a polymeric sulphur which is insoluble in carbon disulphide (CS₂). Insoluble sulphur is generally used as a vulcanization agent in some rubber applications in order to resist the blooming phenomenon which is detrimental to rubber compound.

4. Insoluble sulphur is an important rubber additive agent. It improves product quality, wearability and resistance to both fatigue and ageing. In addition to being universally recognized as the best vulcanizing agent, it is widely used in the manufacture of tire, tread, shoes, all kinds of automobile rubber parts and other rubber products. Therefore, due to its non-blooming characteristic, Insoluble sulphur is widely used in the manufacture of rubber products in which common sulphur is incorporated in high proportion. Based on the end-user industry, out of the total consumption of Insoluble sulphur in India, more than 90% is used in the tyre industry and the remaining is used in non-tyre industry. The unit of measurement considered in weight of the product reported in kilograms (Kg).”

C.1. Submissions made by the other interested parties

5. The other interested parties have made the following submissions with respect to the product under consideration:

- a. The PUC described in the Initiation Notification is expansive as it includes certain grades which the domestic industry does not manufacture. The scope of PUC encompasses both the grades produced and marketed by the domestic industry and grades that are not domestically manufactured/ available with the domestic industry.
- b. These grades exhibit distinct technical and commercial characteristics in terms of physical characteristics, quality, application and end use, which makes them commercially non-substitutable with the grades produced by the domestic industry. Consequently, the grades not manufactured by the domestic industry do not qualify as a ‘like product’ or a ‘like article’.

- c. The interested parties have sought exclusion of Super High Thermal Stability (hereinafter referred to as “SHTS”) grade from the scope of PUC due to its non-availability with the domestic industry. The imported SHTS grade is priced higher than the ordinary grades, indicating its unique market position and ensuring that its exclusion would not harm the domestic industry’s pricing.
- d. The SHTS grade is a specialized variant used in radial tyres containing steel belts. This grade provides superior adhesion between steel and rubber components, which ordinary PUC grades cannot achieve. The enhanced adhesion property is essential for maintaining tyre durability and stability.
- e. The SHTS grade serves multiple critical functions in radial tyre manufacturing. It improves the structural integrity of tyres and increases their resistance to wear and tear, thereby extending operational life.
- f. Thermal stability is identified as a crucial characteristic of SHTS grade. The grade maintains stability at high temperatures, ensuring consistent quality and performance throughout production. This stability is necessary to meet industry manufacturing standards.
- g. The SHTS grade has the capability for effective sulphur dispersion in compounds. This property is significant in applications requiring high tack (adhesion) and zero tolerance to blooming, as blooming can degrade tyre quality and performance. The thorough dispersion ensures compound uniformity and integrity.
- h. Radial tyres cannot be manufactured using standard or ordinary PUC grades, making SHTS grade indispensable for this application.
- i. The domestic industry has been unable to meet SHTS specifications required by tyre manufacturers. All samples provided by the domestic industry have been found qualitatively inadequate for radial tyre manufacturing. Consequently, MRF has not approved the domestic product for radial tyre manufacturing use.
- j. The domestic industry had offered a substitute grade “Vulcamax OT-10” for the trial purposes. However, this substitute grade has failed in the process standards when evaluated against the reference imported material.
- k. The domestic industry has also offered a substitute grade “Diamond Sulf DS-OT-UHD”. This grade was also found to be not acceptable on the account of poor sulphur dispersion and low pull-out adhesion, which are the essential properties of the PUC required to manufacture radial tyres.
- l. The UHD grade exhibits significant physical/ chemical differences. Due to these fundamental dissimilarities, the UHD grade cannot serve as a direct replacement or interchangeable alternative for the SHTS grade.

- m. The domestic industry's High Dispersible Oil Treated (HD-OT-20) and Oil Treated (OT-20) grades are not substitutes for imported products.
- n. The domestic grade exhibits a yellowish-brown coloration different from imported products. This difference indicates fundamental issues beyond visual appearance, affecting finished product performance. This coloration is attributable to compositional differences and impurities in domestically available PUC. The correspondence between domestic industry and ATMA members along with Comprehensive Corrective & Preventive Action Report were submitted as evidence to shows details of colour variation issues identified during inspection of domestic grades.
- o. Bulk trials with sample grades demonstrate measurable compositional differences. The domestic grade's performance in tyre manufacturing fails to meet tack and blooming specifications required for non-steel coating applications.
- p. Additional complaints report undispersed hard grits contaminating cured tires, creating quality and safety risks including the potential for tensile failure.
- q. Despite multiple technical consultations with domestic industry, significant improvements in domestic grade quality remain unrealized. The physical and technical specifications are mandated by customers, specifically Automobile OEM Manufacturers. The tyre manufacturing companies cannot use these products when their customers reject the differences in domestic grades.
- r. It was later submitted that the “HD-OT-20” and “OT-20” grades are recently being procured by the importers/ users from both imported sources as well as domestic sources. Consequently, exclusion requests against these grades would not be further pressed by ATMA.
- s. MuCron OT-20 HD G (hereinafter referred to as the “specialty grade”) should be excluded from the scope of PUC since it is not a like article to the product produced by the domestic industry. The specialty grade is not produced by the domestic industry and has significant difference in performance and specifications with the grades produced by the domestic industry. The cost and selling price of the specialty grade is also different from the PUC.
- t. In the anti-dumping investigation concerning imports of Flat Rolled Products of Stainless Steel originating in or exported from China PR, Korea RP, European Union, Japan, Taiwan, Indonesia, USA, Thailand, South Africa, UAE, Hong Kong, Singapore, Mexico, Vietnam and Malaysia, the Authority excluded certain grades from the scope of PUC as the domestic industry did not rebut the claim of the exporter that certain grades cannot be produced by the domestic industry and that comparable grades have not been produced and sold by the domestic industry.

- u. In anti-dumping investigation concerning imports of Cold Rolled Flat Products of Stainless Steel from China PR, Japan, Korea, European Union, South Africa, Taiwan (Chinese Taipei), Thailand and USA, the Authority has specifically excluded certain grades from the scope of the investigation as the domestic industry did not show sufficient evidence to prove that they supplied such grades in the POI and did not show equivalence of its grades with the grades that were sought to be excluded by the exporters.
- v. In anti-dumping investigation concerning imports of “Coated Paper” originating in or exported from China PR, European Union and USA, the Authority excluded certain products from the scope of PUC as it was not produced by the domestic industry.
- w. The performance of the specialty grade is significantly better compared to the general grade in terms of thermal stability, bloom resistance and flame test. The speciality grade exhibits higher thermal stability @ 120°C. The speciality grade reduces the risk of sulphur bloom because of less reversion to soluble sulphur during the mixing of rubber compound. The speciality grade is considered as non-hazardous material whereas OT-20 HD grade is considered as hazardous material as per Fire Services Act in Japan. The burning time of speciality grade is significantly less than burning time of OT-20 HD grade. Further, the specialty grade has higher cost and price vis-à-vis regular grades.
- x. The domestic industry admitted during the oral hearing that it does not manufacture this specialty grade and attributed it to lack of demand. The domestic industry’s claim of ‘lack of demand’ is inconsistent with market realities, as producer from Japan has sold the specialty grade in India to meet needs of Indian consumers.
- y. This specialty grade is comparable to the Super High Thermal Stability (hereinafter referred to as “SHTS”) grade, for which the user industry is also requesting an exclusion.

C.2. Submissions made by the domestic industry

- 6. The following submissions have been made on behalf of the domestic industry with regard to the product under consideration:
 - a. None of the interested parties have made any substantiated claim, backed by any positive evidence to support their exclusion request.
 - b. ATMA on behalf of its member company i.e. MRF sought exclusion of SHTS grade claiming non-availability from domestic industry. The domestic industry demonstrated that their UHD grade is equivalent to SHTS grade. The industry maintained that their UHD grade possesses requisite attributes of high thermal stability, effective sulphur dispersion and other requisite properties of this SHTS grade.

- c. The four grades of OT-20 which are universally recognized are: High Dispersibility (hereinafter referred to as “HD”), High Stability (hereinafter referred to as “HS”), Ultra-High Dispersibility (hereinafter referred to as “UHD”), and Normal OT-20. HD and UHD grades are used interchangeably in market practice, and the UHD grade is synonymous with the SHTS grade based on end-user specifications.
- d. Additional parameters such as minimal ash content, low acidity, and controlled heat loss further substantiate the UHD grade’s technical competence. The domestic industry's commitment to meeting market demands is evidenced by its long-standing supply of the UHD grade to other tyre manufacturers.
- e. The domestic industry's UHD grade demonstrates high thermal stability at 105°C and 115°C exceeding MRF’s specification requirements. Domestic industry has provided comprehensive Technical Data Sheet. The Technical Data Sheet specifies that the grade comprises sulphur and coating oil with suitable additives which are characterized as a non-blooming vulcanizing agent used in radial tyre manufacturing.
- f. A comparative analysis sheet demonstrated the equivalence between domestic UHD grade and SHTS specifications required. The analysis covers parameters including insoluble sulphur content, CS₂ insoluble values, total sulphur content, and thermal stability parameters. The domestic industry also provided detailed pull adhesion test results showing their product achieves requisite values against MRF’s specification requirement of, demonstrating technical competence.
- g. It is substantiated that the SHTS product required by two tyre manufacturing companies is identical to the UHD grade offered by the domestic industry. The domestic industry has been supplying this UHD grade to one of these two manufacturing companies since 2018.
- h. The domestic industry argued that most global tyre manufacturers use standard grades of PUC. Only two tyre manufacturers claim the need for SHTS grade for manufacturing radial tyres. The domestic industry supplied evidence showing successful use of their grades by multiple manufacturers who produce radial tyres using standard grades of PUC.
- i. The domestic industry highlighted problems with MRF’s testing approach, particularly different magnification scales used for control sample versus for domestic industry’s product. This creates unfair comparison conditions. The domestic industry sent samples for independent third-party laboratory testing which showed compliance with specifications.
- j. The timeline of events surrounding the grade’s rejection reveals a pattern of procedural misconduct. A premature rejection was communicated by MRF, timed one day before the deadline for filing additional comments/ clarification on PUC scope.
- k. After the rejection, trials on samples was again carried out by a third party independent laboratory. The conclusion of these test reports was that the product of domestic industry is superior to the product required by MRF on various parameters. The independent laboratory test reports shows the domestic

industry's commitment to meeting the highest technical standards and provides evidence of the UHD grade's capabilities.

- l. Accepting an exclusion based on superficial nomenclature (which does not have an industrial recognized standard) would establish a dangerous precedent that could fundamentally undermine the integrity of the investigation.
- m. The domestic industry objected to the baseless and deceptive claims made by ATMA in their attempt to remove the HD-OT-20 and OT-20 grades from the scope of PUC in the subject investigation. The domestic industry regularly supplies the HD-OT-20 and OT-20 grades to customers.
- n. Claims of deficiencies in these supplied grades have no real supporting evidence behind them and any evidence that could substantiate this has been masked with confidentiality.
- o. There was one case where the supplied product had a yellowish-brown colour. However, this was promptly addressed by the domestic industry with the customer. In fact, this particular customer has continued to buy this product consistently from the domestic industry.
- p. There was a receipt of a solitary complaint concerning the presence of hard grits in the PUC. However, this complaint was duly addressed and resolved in a prompt and satisfactory manner. The mere occurrence of a single complaint, which was promptly and effectively resolved, does not constitute a valid ground for the exclusion of the product from the scope of the present investigation.
- q. The issuance of Comprehensive Corrective & Preventive Action Reports (CAPAs) is a standard operating procedure across manufacturing industries to drive continuous improvement and quality assurance - not a sign of major defects.
- r. ATMA has relied on certain exhibits but has opted to mark them as completely confidential, thereby hiding their contents from the domestic industry. These exhibits comprise correspondence exchanged between the domestic industry and downstream users. By designating these exhibits as confidential, domestic industry is precluded from accessing and commenting upon the correspondence that directly pertains to and implicates its interests.
- s. The domestic industry also submitted that the exclusion of MuCron OT 20 HD G ("specialty grade") is unwarranted as SCC has not shown the grade's unique properties or commercial presence. SCC has not provided sufficient information to prove that specialty grade is not a 'like article' to PUC.
- t. Product exclusion requires proof that the grade is neither commercially nor technically substitutable with domestic products. The burden of proof rests with the party seeking exclusion, who must provide concrete evidence of non-substitutability.
- u. SCC has not provided evidence demonstrating that its specialty grade is not substitutable with domestic products. It simply asserted non-production by domestic industry and claimed performance differences without substantiation.
- v. SCC has marked key technical data as confidential for all three parameters - thermal stability, bloom resistance, and flame testing. For thermal stability, while SCC claims better performance at 120°C, all comparative test results are

- confidential. The domestic industry has provided evidence of supplying PUC with required thermal stability to Indian customers through sales invoices and analysis certificates.
- w. On bloom resistance, SCC's test results are confidential. Bloom resistance naturally improves with thermal stability, making separate testing unnecessary.
 - x. For flame testing, SCC referenced the Japanese Fire Services Act, stating its grade is non-hazardous while domestic industry's product is hazardous. However, SCC has not provided translated excerpts of the Act or disclosed burning time data, marking this information as confidential. The domestic industry maintains that hazard classifications from foreign jurisdictions do not determine product scope in Indian investigations. Indian Authorities must apply Indian regulations, regardless of foreign classifications.
 - y. The third-party import data shows SCC exported the specialty grade only to India, with a single shipment in April 2023. The domestic industry notes that a grade cannot be excluded without consistent imports during POI. A single shipment does not justify exclusion. The absence of exports to other markets indicates limited commercial demand both in India and globally.
 - z. The domestic industry cited multiple precedent cases where Authority rejected exclusion requests without substantial imports during POI, including recent decision in Electrical Insulators investigations.
 - aa. When there are no imports, the Authority has consistently rejected exclusion requests. This position was affirmed in the Final Findings in the anti-dumping investigation concerning imports of Isobutylene-Isoprene Rubber (IIR) originating in or exported from China PR, Russia, Saudi Arabia, Singapore and the United States of America.
 - bb. The specialty grade is absent from SCC's corporate website, marketing materials, and other standard product promotion platforms. The domestic industry therefore requested the Authority to reject SCC's exclusion claim, as SCC has not provided evidence of the grade's commercial existence or availability.
 - cc. SCC's grade lacks industry recognition. Adding the letter "G" to the product name does not create an accepted product category. The addition of a letter does not change the product's basic composition or characteristics. Product exclusion requires substantive differences, not merely different nomenclatures. Allowing exclusion based solely on name changes would enable circumvention of trade remedies through simple renaming of products.
 - dd. The Authority, after extensive deliberation, had already clarified that the specialty grade is covered under the scope of PUC finding that SCC's arguments lacked supporting evidence to prove non-substitutability.

C.3. Examination by the Authority

7. The submissions made by the interested parties and the domestic industry with regard to the product under consideration have been examined as hereunder.

8. Pursuant to the initiation, the opportunity to make comments on the scope of the product under consideration and PCN was provided to all the interested parties. Thereafter, upon receiving request for extension of timeline for filing comments on scope of PUC and PCN methodology, the Authority provided additional time to all the interested parties to file their submissions with respect to PUC/PCN.
9. None of the interested parties made proposals to create PCN. Upon receiving comments on the scope of PUC, the Authority instructed the domestic industry to file its response to the comments made by the other interested parties on the scope of PUC.
10. After due examination of the submissions made by the interested parties, the Authority decided that PCNs are not warranted in the present investigation. The relevant extract from the notification dated 12 August 2024 is reproduced below:

“5. After due examination of the submissions made by the parties and the domestic industry, and considering the facts and circumstances of the present investigation, the Authority observes that:

- *The comparison between Vulcamax OT-10 and SHTS (OT-20) is incorrect as OT-20 and OT-10 are fundamentally distinct.*

- *The test results regarding sulphur dispersion reveal methodological inconsistencies in magnification levels. The test results of pull-out adhesion indicate that the performance of the competitor’s product/control is superior, the domestic industry’s UHD product (like article to SHTS) falls within the technical specification requirements of the domestic industry’s customer.*

- *The arguments received from SCC lack supporting evidence and could not substantiate that the product for which exclusion has been sought is neither commercially nor technically substitutable with the like article produced by the domestic industry.*

6. In view of above, the Authority has decided the PUC, and its scope remains same as stated in the initiation notification and does not warrant any PCNs or exclusion...”

11. The Authority has examined the submissions made by interested parties and the domestic industry regarding the request for exclusion of SHTS grade and MuCron OT 20 HD G (“Specialty grade”) from the scope of PUC.
12. With respect to the exclusion of SHTS grade, ATMA on behalf of its member company, i.e., MRF has requested exclusion primarily on grounds that it represents a specialized variant with distinct technical characteristics, which the domestic industry does not manufacture. ATMA argued that SHTS grade provides superior adhesion between steel and rubber components in radial tyres, maintains high thermal stability at high temperatures, and enables effective sulphur dispersion. It further contended that the samples provided by the domestic industry were found qualitatively inadequate for radial tyre manufacturing.

13. The domestic industry, in response to these claims, has submitted that the UHD grade of domestic industry is a like article to the SHTS grade. The domestic industry submitted evidence in the form of lab test reports, technical data sheets, certificate of analysis, etc. to show that the UHD grade of domestic industry closely resembles the SHTS grade.
14. The Authority finds merit in the domestic industry's argument that there is no universally accepted standard defining SHTS grade. The examination of import data shows that PUC with high thermal stability have been imported in various nomenclatures like “Super HTS”, “Highly Dispersible Super Thermal Stability Insoluble Sulphur” etc. The domestic industry has submitted sales invoices proving active sales of grade with high thermal stability, both domestically and internationally, along with technical data sheets detailing its properties. These documents establish that the product of domestic industry comprises sulphur and coating oil with suitable additives and serves as a non-blooming vulcanizing agent in radial tyre manufacturing - the same purpose claimed for SHTS grade.
15. The Authority has also examined the detailed technical specifications submitted by the domestic industry and submitted by ATMA on behalf of its member company, i.e., MRF. The Authority has perused the test results, including the one carried out by an independent laboratory, furnished in the matter. On the basis of material placed on record evidencing comparability in results between the grades, the Authority is unable to accept the argument of lack of interchangeability and likeness advanced by the other interested parties.
16. The Authority has carefully examined the user questionnaire response filed by MRF Limited in relation to the claim made by ATMA that imports of SHTS grades are priced higher than the domestic industry's products. The Authority also checked DG system data and observed that the price of domestically purchased PUC (OT-20 normal grade) is higher than the imported PUC (SHTS grade) from China PR. This is relevant because if MRF is importing primarily SHTS grades from China, as claimed, then there should be substantial price difference between SHTS grades and the domestic industry's products. Therefore, the argument advanced by MRF that SHTS is priced higher than domestic industry's grade is not supported by its own pricing data submitted to the Authority.
17. The Authority considers that accepting an exclusion based on nomenclature alone is not tenable in law. The exclusion of an article needs to be justified on the basis of its distinctiveness and non-likeness to the PUC and not mere labelling.
18. Regarding Specialty grade, the Authority's analysis of import data reveals that the specialty grade was exported to India only once during the injury period. This single shipment fails to show genuine commercial existence or market demand.
19. In examining the technical claims, the interested parties assert superior performance in thermal stability at 120°C. However, the domestic industry, in contrast, has provided evidence through third party lab test reports exhibiting its product can exhibit equivalent or higher thermal stability than specialty grade.
20. With reference to the claim regarding classification under Japanese Fire Services Act, the Authority holds that regulatory requirements in different countries may differ and the mere

fact that a certain grade is not used in a different territory does not mean that domestically produced PUC is not a like article or commercially and technically substitutable.

21. The Authority has also examined the questionnaire response filed by SCC in relation to the claim made by SCC that imports of specialty grade from Japan are priced significantly higher than the normal grades. In this regard, the Authority note that the price difference between two grades does not render them to be treated as different product.
22. Therefore, the Authority concludes that neither SHTS grade nor MuCron OT-20 HD G grade merit exclusion from the scope of the PUC.
23. Regarding exclusion request for OT 20 and OT 20 HD grade, the Authority notes that ATMA *vide* submissions dated 30th July 2024 stated that it does not wish to further press the request for exclusion of these grades as these grades have been supplied by the domestic industry. In line with ATMA's request, the exclusion request is dropped, and these grades are not to be excluded from the scope of PUC.
24. Therefore, the Authority does not find it appropriate to modify the product under consideration scope. Accordingly, the scope of PUC is determined as follows:

"2. The product under consideration is the "Insoluble Sulphur" hereinafter also referred to as "subject goods" or "product under consideration" or "PUC".

3. Insoluble sulphur by definition, is a polymeric sulphur which is insoluble in carbon disulphide (CS₂). Insoluble Sulphur is generally used as a vulcanization agent in some rubber applications in order to resist the blooming phenomenon which is detrimental to rubber compound.

4. Insoluble sulphur is an important rubber additive agent. It improves product quality, wearability and resistance to both fatigue and ageing. In addition to being universally recognized as the best vulcanizing agent, it is widely used in the manufacture of tire, tread, shoes, all kinds of automobile rubber parts and other rubber products. Therefore, due to its non-blooming characteristic, insoluble sulphur is widely used in the manufacture of rubber products in which common sulphur is incorporated in high proportion. Based on the end-user industry, out of the total consumption of insoluble sulphur in India, more than 90% is used in the tyre industry and the remaining is used in non-tyre industry. The unit of measurement considered is weight of the product reported in kilograms (Kg).

5. The product under consideration is classifiable under tariff item 2802 00 10 and 3812 39 30 of the first schedule I to the Customs Tariff Act, 1975. The product under consideration is also imported under tariff item 3824 99 00. However, Customs classifications are indicative only and in no way binding on the scope of this investigation."

25. Further, in view of the foregoing, the product produced by the domestic industry is like article to the goods imported from the subject countries. The product produced by the domestic industry and imported from the subject country are comparable in terms of physical & chemical properties, functions & uses, product specifications, pricing,

distribution & marketing and tariff classification of the goods. The imported goods and the goods produced by the domestic industry are used interchangeably. In view of the same, the product manufactured by the domestic industry is considered as like article to the product imported into India.

D. SCOPE OF THE DOMESTIC INDUSTRY AND STANDING

D.1. Submissions made by the other interested parties

26. The interested parties have not made any submissions on the scope and standing of the domestic industry.

D.2. Submissions made by the domestic industry

27. The following submissions have been made by the applicant with regard to the domestic industry and its standing:
- a. The applicant constitutes domestic industry under Rule 2(b) and Rule 5(3) of the AD Rule by virtue of being the sole producer.
 - b. It is neither an importer of the PUC from the subject countries nor is it related to either the exporter of PUC in the subject countries or the importers of the PUC in India.
 - c. Oriental Carbon & Chemicals Limited underwent a corporate restructuring through a demerger, approved by the NCLT, Ahmedabad Bench through an order dated 10th April 2024.
 - d. The demerger involved the transfer of the Chemical Business Undertaking, which includes PUC and Sulphuric Acid manufacturing and sales, from Oriental Carbon & Chemicals Limited (“Demerged Company”) to OCCL Limited (“Resulting Company”), a subsidiary.
 - e. All assets and liabilities pertaining to the Chemical Business Undertaking got transferred to and vested in the Resulting Company as a going concern, by operation of law under Sections 230-232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the Income Tax Act, 1961.
 - f. OCCL Limited will continue the PUC and sulphuric acid manufacturing and selling activities. Legal proceedings related to the Chemical Business Undertaking, including the anti-dumping investigation, transferred to the Resulting Company.
 - g. The demerger in question came into effect after the POI had already concluded. As such, this corporate restructuring has no bearing on or relevance to the current anti-dumping investigation, since the investigation must analyze the conditions and circumstances that existed during the established POI

D.3. Examination by the Authority

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

“(b) “the domestic industry” means the domestic producer 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 'the domestic industry' may be constructed as referring to the rest of the producers”.

29. The Authority notes that the applicant, Oriental Carbon and Chemicals Limited, went through demerger in post-POI and the chemical business in which the PUC falls has been transferred to OCCL Limited. It is noted that such a demerger has not resulted in any change in the eligibility of the domestic industry.
30. The Authority further notes that Oriental Carbon and Chemicals Limited/OCCL Limited is a sole producer of the product under consideration and constitutes 100% of the total Indian production.
31. It is also seen that the applicant has not imported the product under consideration. Further, it is not related to any producer/exporter from the subject countries and is not related to any importer of the subject goods in India.
32. Therefore, the Authority concludes that Oriental Carbon and Chemicals Limited/OCCL Limited, constitutes the ‘domestic industry’ within the meaning of Rule 2(b) of the AD Rules and considers that the application satisfies the criteria of standing in terms of Rule 5(3) of AD Rules.

E. CONFIDENTIALITY

E.1. Submissions of the other interested parties

33. The following submissions have been made by the other interested parties with regard to the confidentiality:
 - a. The first challenge concerns country-wise export price estimates. While the petitioner provided these estimates, they failed to disclose sources for determining expense adjustments like freight costs and marine insurance. The petitioner merely stated these were adjusted on an "estimated and conservative basis" without supporting evidence, which compromises interested parties' ability to analyze net export price calculations.
 - b. Regarding average industry norms for capacity utilization, the petitioner has completely failed to provide any data despite requirements.
 - c. Concerning sales quantity data, the petitioner has not properly segregated domestic sales between Small Scale Industry (SSI) and non-SSI sectors, export sales, and captive consumption figures.
 - d. Regarding sales value, the submission points out missing breakdowns for domestic sales between SSI and non-SSI categories, export sales, and captive consumption values.
 - e. On sales realization per unit, the petitioner has failed to provide segregated data for domestic sales (SSI and non-SSI), export sales, and captive consumption.

- f. Industry norms for productivity per day have been completely omitted.
- g. Average industry norms for inventory management are absent.
- h. R&D expenses have been withheld despite being available in the petitioner's financial statements.
- i. Information about funds raised through equity, loans and advances, working capital, and other sources has been withheld.
- j. Cost of sales per unit for exports has not been disclosed.
- k. Industry norms for PBIT as percentage of average capital employed are missing.
- l. The Non-Injurious Price (NIP) calculation has been claimed as entirely confidential, without even providing ranges as required by Trade Notice 10/2018.
- m. The entirety of Annexure 6.2 (containing Formats VI-1, VI-2, VI-2R, VI-2T, VI-4, and VI-5) has been marked confidential without providing meaningful non-confidential summaries.
- n. Regarding the allegation on MRF about non-disclosure of trend figures for quantity and value of imports, ATMA explained that disclosure would enable the domestic industry to calculate MRF's purchase data, as the domestic industry is already aware of its own sales to MRF. This information is business-sensitive and its disclosure would impact MRF's interests. ATMA notes that the domestic industry itself has not disclosed exact market share in past investigations to protect production calculations, and requests similar treatment for their business-sensitive information.
- o. Concerning the non-disclosure of sales figures for products using PUC, ATMA clarified that Trade Notice 10/2018 refers to previous questionnaire formats requiring year-on-year trends. However, the current formats require information for a single year only, making it impractical to provide indexed figures across multiple years.
- p. Regarding allegations about non-disclosure of unit details linked to PUC in India, ATMA maintained that this constitutes business-sensitive data. They argued that providing specifics about each unit and their operations could compromise MRF's competitive position and reveal proprietary operational insights.
- q. Regarding the manufacturing process summary, ATMA stated that disclosure is not feasible due to the proprietary nature of techniques and trade secrets critical to their competitive advantage. They note that this information has been provided to the Designated Authority on a confidential basis.
- r. On the matter of PUC comparability between subject country and domestic products, ATMA explained that such information is intricately tied to internal strategies and procurement policies. They argue that public disclosure would reveal internal workings and provide undue advantages to competitors.
- s. ATMA addressed the issue of anti-dumping duties' impact by highlighting multiple ongoing investigations concerning essential raw materials for tyre manufacturing. They note that high anti-dumping duty has already been imposed on Isobutylene-Isoprene Rubber (IIR), and another investigation concerning Halo-butyl rubber (HIIR) is underway. ATMA emphasized that the cumulative impact of duties on multiple raw materials would significantly affect the tyre industry and ultimately burden end consumers.

- t. Regarding utilization details of PUC, ATMA clarified that this information was unavailable for the investigation period, and its non-provision was intentional rather than an oversight. They stated that efforts to compile this information were ongoing.
- u. About marking basic information as confidential, it has been explained that while some information is available online, certain provided details differ from publicly available information and thus warrant confidential treatment. ATMA emphasized that their intention was not to make unnecessary redactions.

E.2. Submissions of the domestic industry

34. The following submissions have been made by domestic industry with regard to the confidentiality:
- a. Following submissions were made regarding excessive confidentiality claimed in MRF Limited's questionnaire response:
 - b. MRF reported purchase quantity and value data in Annexure-5 but failed to categorize this information by country of export. The data was not properly segregated between related and unrelated party purchases, domestic purchases, and imports from subject and non-subject countries.
 - c. MRF claimed excessive confidentiality by not disclosing Total Sales Turnover information, despite being a publicly listed company. The domestic industry emphasizes that MRF failed to provide turnover data specifically for products manufactured using the PUC.
 - d. MRF claimed confidentiality for details of units linked to PUC in India without providing any reasonable non-confidential summary. They neither provided the required information nor furnished statements explaining why summarization was not possible.
 - e. MRF withheld their complete product portfolio information without justification, claiming confidentiality for information that should be publicly accessible.
 - f. The "Utilisation of PUC" section in Annexure-5 of Excel Appendices of MRF's questionnaire response was left blank, which the domestic industry argues appears to be an error even in the confidential version.
 - g. MRF marked even basic information as confidential and did not disclose responses to any questions in Section-IV, except where information was either unavailable or not applicable.
 - h. Following submissions were made regarding excessive confidentiality claimed in SCC, MCPL and IVICT 's questionnaire response:
 - i. SCC marked the entire manufacturing process as confidential without providing any reasonable non-confidential summary, directly contravening Trade Notice requirements. They neither provided a summary nor explained why summarization was impossible.
 - j. SCC failed to disclose the names of raw materials used in manufacturing the PUC in their non-confidential responses, information which cannot be claimed as confidential.

- k. All three companies withheld information about their distribution channels and complete product portfolio. The domestic industry argued this information is crucial for analyzing market presence and business operations.
- l. Reliance was placed on *T. Takano vs. SEBI [(2022) 8 SCC 162]* for importance of information disclosure for enabling effective participation and on *H & R Johnson (India) Ltd. v. Designated Authority [2005 (185) E.L.T. 125 (Tri. - Del.)]* which clarifies that confidentiality cannot be mechanically granted merely because information is submitted on a confidential basis.
- m. The domestic industry also responded addressing confidentiality concerns raised by other interested parties.
- n. In response to the confidentiality issues raised about country-wise Export Price estimates, the domestic industry explained its methodology for adjusting expenses. It was stated that they have provided country-wise estimates for each country and have adjusted expenses such as freight costs and marine insurance on an estimated basis to determine net export prices.
- o. Concerning the Average Industry Norm for Capacity Utilisation, the domestic industry stated this information is not required under Trade Notice No. 05/2021. This position is maintained for several other challenged items including sales quantity data segregation between SSI and non-SSI sectors, sales value categorization, sales realization per unit data, industry norms for productivity and inventory, R&D expenses, and funds raised through various sources.
- p. The domestic industry addressed the confidentiality of Formats VI-1, VI-2, VI-2R, VI-2T, VI-4, and VI-5 by explaining that this information contains sensitive business data where summarization is not feasible.
- q. On the issue of anti-dumping duties' impact on the tyre manufacturing industry, the domestic industry submitted information based on SION norms issued by DGFT. Specific calculations show that for every 100kg of Automobile Tyres and Tubes, only 0.50kg of Insoluble Sulphur is used. The share of Insoluble Sulphur in tyre manufacturing is minimal, leading to the conclusion that any impact of anti-dumping duties would be negligible on the end product.
- r. The domestic industry has also disclosed the Non-Injurious Price range as USD 1500-2000 per MT. This disclosure was made despite contending that such disclosure is not mandatory under Trade Notice 10/2018.
- s. General statements about errors and impairment of rights, without concrete examples, do not provide a basis for modification of their confidentiality approaches.
- t. The domestic industry also highlighted issues with MRF's confidentiality claims. MRF left "Utilization of PUC" blank in Annexure-5 and marked basic information confidential in economic interest questionnaire. This limits the industry's ability to analyze MRF's claims.

E.3. Examination by the Authority

35. The submissions made by the other interested parties and the domestic industry with regard to the confidentiality have been examined as under-

36. The Authority made available non-confidential version of the information provided by various parties to all interested parties as per Rule 6(7) of the AD Rules.
37. With regard to confidentiality of information, Rule 7 of AD Rules provides as follows:

“7. Confidential Information:

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

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

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

38. The domestic industry and other interested parties have raised the issues of confidentiality claims. The information provided by the domestic industry and other interested parties on confidential basis was examined with regard to 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.

F. MISCELLANEOUS ISSUES

F.1. Submissions made by the other interested parties

39. The other interested parties have made the following miscellaneous submissions in the present investigation:
- a. SCC has submitted regarding non-provision of transaction-wise import data. Reliance has been placed on the CESTAT decision in Exotic Décor Pvt. Ltd. and Ors. v.

Designated Authority, which established that the Authority must provide import data in the same form and manner as taken on record during investigation.

- b. SCC referenced clause 2(vi) of Trade Notice No. 7/2018, which permits interested parties to access transaction-wise import data submitted by Petitioner after providing an undertaking in Annex-I to the investigation officer.
- c. It has been stated that SCC filed a request on 08 October 2024, under Trade Notice No. 7/2018 seeking sorted/unordered transaction-wise import data as filed by Petitioner. However, the Authority has not provided this data in the form and manner as taken on record. Non-provision of data in editable format (excel) impairs SCC's ability to comment on injury claims.

F.2. Submissions made by the domestic industry

40. The domestic industry has not made any miscellaneous submissions in the present investigation.

F.3. Examination by the Authority

41. The miscellaneous submissions made by the other interested parties and the domestic industry have been examined as below-
42. Section 135AA of the Customs Act, 1962, deals with protection of confidential data:

“135AA. (1) If a person publishes any information, that is furnished to customs by an exporter or importer under this Act, relating to the value or classification or quantity of goods entered for export from India, or import into India, along with the identity of the persons involved or in a manner that leads to disclosure of such identity, unless required so to do under any law for the time being in force or by specific authorisation of such exporter or importer, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.

(2) Nothing contained in this section shall apply to-

(a) any publication made by or on behalf of the Central Government;

(b) data sourced from any publication made by or on behalf of the Central Government for analysis of trends in India's international trade and dissemination thereof.

Explanation.—*For the purposes of this section, the expression “publishes” includes reproducing the information in printed or electronic form and making it available for the public”*

43. The Authority notes that by introduction of Section 135AA of Customs Act, 1962, there is a prohibition imposed on disclosure of import value, classification, quantity of goods exported from India, or imported into India, along with the identity of persons involved, etc. Therefore, the Authority cannot share the transaction-wise import data with any interested party.

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

G.1. Submissions made by the other interested parties

44. The following submissions have been made by the other interested parties regarding normal value, export price and dumping margin:
- a. On normal value calculation for Japan, the Petitioner computed normal value using raw material costs, utilities, wages, salaries, manufacturing costs, administrative overheads and profit margin. The Petitioner has not provided a summary of production costs used for normal value construction. Since costs were based on Japan market data, this information cannot be proprietary to any producer.
 - b. Legible copies were requested to verify if data regarding wages and electricity costs corresponds to the POI.
 - c. On quantification of freight and expense impacts on export price there is no disclosure of estimation basis or data sources.
 - d. On normal value for China PR, ATMA has challenged surrogate country selection. It challenges USA's selection for China PR calculations. Paragraph 7 of Annexure 1 of AD Rules was cited which requires consideration of development levels. USA's economy does not match China's development status. Malaysia was proposed as a surrogate based on geography and development level.
 - e. Diethyl Thio Phosphoryl Chloride investigation was referred where Denmark was rejected as surrogate due to development status. Peroxosulphates investigation was also relied upon where USA was not used due to cost differences.
 - f. Request for reconsideration of USA as surrogate country was made and it was suggested that instead Malaysia may be considered based on development level alignment. This would meet AD Rules requirements for surrogate selection.

G.2. Submissions made by the domestic industry

45. The following submissions have been made by the domestic industry regarding normal value, export price and dumping margin in the present investigation:
- a. As per Article 15 (d) of the Accession Protocol, the expiration of the provisions of Article 15(a) subparagraph (ii) does not lead to an automatic conclusion that China PR would be granted a Market Economy Status. China PR obligation to establish, under the national law of the importing WTO Member that it is a market economy, for the provisions of subparagraph (a) to be terminated has not yet been discharged.
 - b. China PR has been consistently treated as an NME both by the Indian Authority and investigating authorities in other countries in all anti-dumping investigations in the last three years. On this basis, China PR may be validly treated as an NME for the purposes of the present investigation and Authority should determine normal value for China

under NME conditions, unless proved otherwise by specific producers/ exporters from China.

- c. On normal value methodology, Para 7 of Annexure I provides hierarchical options: price/constructed value in market economy third country, price from third country to others including India, or other reasonable basis. Reliance was placed on the Supreme Court judgment in Shenyang Matsushita case mandating exhaustion of first method before alternatives.
- d. Multiple recent investigations were relied upon where the Authority has treated USA as relevant third country for China PR, including cases on *Glazed/Unglazed Porcelain Tiles* and *1 1 1 2 Tetrafluoroethane or R 134a*.
- e. No Chinese producer/exporter has participated by filing questionnaire responses within deadlines. The Authority must rely on facts available under Section 9A(6A) read with Rule 6(8). USA represents appropriate third country methodology within facts available framework.
- f. The submission concludes by arguing that non-participation of Chinese producers creates information vacuum requiring third country methodology. They request the Authority to determine normal value using USA data based on established practice and available facts.
- g. On normal value from Japan, the Authority may calculate the normal value based on the submissions made by the participating producer/ exporters from Japan after duly verifying the data submitted by them.

G.3. Examination by the Authority

G.3.1 Determination of normal value

Examination of Market Economy Treatment

46. The submissions made by the domestic industry and the other interested parties have been examined as below-
47. 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 groups of producers/exporters from Japan have filed response to the exporter's questionnaires:
 - i. Shikoku Chemicals Corporation (producer), Mitsubishi Corporation Plastics Ltd. (exporter) and IVICT (Singapore) Pte Ltd (exporter)
48. The Authority notes that none of the producers/exporters from China PR have participated in the present investigation and have not filed a response to the relevant questionnaire to claim market economy treatment.

Normal value for China PR

49. Article 15 of China's Accession Protocol to the WTO provides as follows:

“Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

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

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions

prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

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

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

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market

economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.

50. The applicant has relied upon Article 15(a)(i) of China's the Accession Protocol as well as para 7 of the Annexure I. The applicant has claimed that producers in China PR must be asked to demonstrate that market economy conditions prevail in their industry producing the like product with regard to the manufacture, production and sale of the product under consideration. It has been stated by the applicant that in case the Chinese producers have not participated and thereby have not been able to demonstrate that their costs and price information are market-driven, the normal value should be calculated in terms of provisions of Para 7 and 8 of Annexure- I to the AD Rules.
51. It is noted that while the provision contained in Section 15 (a)(ii) has expired on 11 December 2016, the provision under Article 2.2.1.1 of WTO Anti-dumping Agreement read with the obligation under Section 15(a)(i) of the Accession Protocol require criterion stipulated in paragraph 8 of Annexure I of the AD Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming market economy treatment. It is noted that there are no responding producers/exporters from China PR and thereby there is no response to the supplementary questionnaire therefore the normal value computation is required to be done as per the provisions of paragraph 7 of Annexure I of the AD Rules.
52. As none of the producers from China PR have participated, the normal value has been determined in accordance with paragraph 7 of Annexure I of the AD Rules, which reads as under:

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

53. The Authority notes that under the provisions of para (7) of Annexure I, the normal value may be determined on the basis of price or constructed value in a third country, or the price from such country to other countries, including India. However, when such basis is not possible, only then the Authority can determine normal value on any other reasonable basis, including the price paid or payable in India.
54. As per paragraph 7 of Annexure I to the AD Rules, the Authority may move to the third method of determining normal value on any reasonable basis, when it has exhausted the first method, that is, price or constructed value in third country, and second method, that is, price from third country to other countries, including India. However, it is noted that the domestic industry has proposed to calculate the normal value on the basis of the '*price from such a third country to other countries*'. The domestic industry has proposed to take USA as the relevant third country. ATMA has proposed to take Malaysia as the relevant third country owing to the difference in level of development in USA and China PR. Upon examining the submissions and the DG Systems imports data and considering the level of development and significant imports from Malaysia in the POI, the Authority decides it appropriate to construct normal value based on the import price of PUC from Malaysia to India, i.e., *price from such a third country to other countries*. The necessary adjustments have been made to arrive at the normal value at ex-factory level. The normal value so determined is provided in the dumping margin table below.

Normal value for Japan

a. Normal Value for Shikoku Chemicals Corporation, Mitsubishi Corporation Plastics Ltd. and IVICT (Singapore) Pte Ltd

55. During the POI, SCC was involved in the production of PUC. The questionnaire response was filed on behalf of SCC, Mitsubishi Corporation Plastics Ltd. and IVICT (Singapore) Pte Ltd .
56. The domestic sales made by SCC are in sufficient volumes when compared with exports to India.
57. 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 the subject goods. Since the profit-making transactions were more than 80%, the Authority has considered all the transactions in the domestic market for the determination of the normal value.
58. SCC has claimed adjustments on account of inland freight and credit cost. The Authority has accepted adjustments after verification of the same. The normal value at ex-factory level has been determined accordingly, and the same is shown in the Dumping Margin Table.

b. Normal value for all non-cooperative producers/exporters from Japan

59. The normal value all other non-cooperating producers and exporters of Japan has been determined as per the facts available and the same are mentioned in the Dumping Margin Table.

G.3.2 Determination of Export Price

Export Price for China PR

60. Since no producers/ exporters from China PR have participated in the present investigation, export price has been determined based on facts available and the same is mentioned in the dumping margin table below.

Export Price for Japan

a. Export price for cooperating producers/ exporters

i. SCC, MCPL and IVICT (Producer/ exporter)

61. SCC is a producer of the subject goods in Japan and has exported the subject goods through unrelated traders, Mitsubishi Corporation Plastics Ltd. (exporter) and IVICT (Singapore) Pte Ltd (exporter), to unrelated customers in India. The table below shows SCC sales channel to exports to India-

| Trade Channel | Exports to India (MT) | Invoice value (USD) |
|---------------------------|------------------------------|----------------------------|
| SCC-->MCP-->IVICT-->India | *** | *** |
| SCC-->MCP-->India | *** | *** |
| Total | *** | *** |

62. During the POI, SCC has exported *** MT of invoice value ***US\$ of subject goods to India through Mitsubishi Corporation Plastics Ltd. SCC has also exported *** MT of invoice value ***US\$ of subject goods to India through Mitsubishi Corporation Plastics Ltd and IVICT (Singapore) Pte Ltd. The producer has claimed adjustments on accounts of inland freight, shipping cost and credit cost. Accordingly, the net export price at ex-factory level so determined is as shown in the Dumping Margin table below:

b. Export price for non-cooperating producers/exporters from Japan

63. The export price for all other producers and exporters that have not participated in the present investigation has been determined on the basis of facts available.

G.3.3. Determination of Dumping Margin

64. Considering the normal value and export price for the subject goods, the dumping margin for the subject goods from the subject countries is determined as follows:

Dumping Margin Table

| S. No. | Particulars | Normal Value (USD/MT) | Export Price (USD/MT) | Dumping Margin (USD/MT) | Dumping Margin (%) | Dumping Margin (Range) |
|---------------------|--|-----------------------|-----------------------|-------------------------|--------------------|------------------------|
| FOR CHINA PR | | | | | | |
| 1 | All | *** | *** | *** | *** | 30-40 |
| FOR JAPAN | | | | | | |
| 1 | Shikoku Chemicals Corporation (producer), Mitsubishi Corporation Plastics Ltd. (exporter) and IVICT (Singapore) Pte Ltd (exporter) | *** | *** | *** | *** | 20-30 |
| 2 | Others | *** | *** | *** | *** | 35-45 |

65. The dumping margin is more than de-minimis for the producer/exporters from Japan and China.

H. EXAMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions made by the other interested parties

66. The following submissions have been made by the other interested parties on the issue of cumulative assessment, injury, and causal link:
- a. Due to the existence of the word “and” in the Annexure II clause (iii) of the AD Rules, it becomes necessary that all the three elements co-exist to justify the determination of cumulative assessment of the effect of subject imports on the domestic industry. Even if one of the above elements does not exist, the Authority should not cumulatively assess the effect of imports from subject countries on domestic industry.
 - b. Imports from Japan should not be cumulatively assessed with those from China as these imports are much lower than Chinese imports, the prices from Japan are significantly higher prices than Chinese prices, the prices from Japan have increased over the injury period and the volume post covid has increased at a normal pace, and the price undercutting is negative for Japan. Hence, there is no material injury to the petitioner on account of imports from Japan.
 - c. The volume of imports from Japan have been far less as compared to China. Accordingly, the injury faced by the petitioner, if any, is on account of the sharp spike in imports from other countries, particularly China.

- d. The petitioner has not supplied data on the market share of each subject country, which limits the interested parties' ability to make meaningful comments.
- e. The volume of imports from China, vis-a-vis the total imports of the PUC from Japan have substantially increased in FY 2022-23 and POI.
- f. The decline in the market share of the petitioner, if any, should be on account of the high volume of imports from China.
- g. In the petition, the domestic industry has admitted that the price undercutting is negative for the majority of the injury investigation period including the POI.
- h. The exporter's price undercutting in the base year and in the POI is the same, whereas the petitioner was profitable in the base year but experienced a substantial decline in profits during the POI. As a result, the exporter's landed value is not the cause behind any negative price effect on the petitioner.
- i. The price of imports from Japan has consistently increased throughout the injury period and POI. Any alleged price undercutting to the domestic industry is due to Chinese imports of the PUC.
- j. With respect to Japan, the import price increased from Rs. 109,860 per MT in the base year to Rs. 121,459 per MT in the POI - this increase in price is despite the 0% BCD in the POI, thereby reflecting that Japan's CIF prices have increased. During the same period, the price undercutting from Japan is negative. Therefore, the domestic industry cannot be facing price pressure due to imports from Japan, and any injury is attributable to other aspects such as the global decline in prices of the PUC.
- k. The domestic industry alleged that to maintain its market share, it was compelled to sell at prices that were more competitive than those of the subject imports. However, the global pricing trends for chemicals, including Insoluble Sulphur, have experienced a downward adjustment during the FY 2023-24 which is attributable to a correction in both freight and raw material prices as also stated in Annual Report for FY 2023-2024.
- l. The price patterns of the domestic industry's export sales and the import prices from non-subject countries, where no dumping is present, substantiate this trend of reduced prices in the global market.
- m. Further, domestic industry's positive PBDIT and cash profits indicate that the domestic industry is not incurring losses on its sales. The domestic industry also stated in its Annual Report that they were able to remain profitable even during the global insoluble sulphur industry slowdown.
- n. The domestic industry is currently serving a substantial portion of the total market demand, specifically 60%, equating to 14,400 MT out of the total 24,000 MT annual demand.

- o. DI's production capacity is 17,500 MT, which means the DI is operating at approximately 83% of its total capacity. This high level of capacity utilization clearly demonstrates the DI's ability to serve the market, maximizing its output and efficiency effectively.
- p. A significant portion of the alleged dumped imports namely 1,890 MT pertain to the SHTS grade, which the domestic industry is not supplying. The volume of these specific imports cannot be reasonably linked to any impact on the domestic industry's sales or market share, as the domestic industry is not able to supply this particular grade.
- q. The domestic industry has maintained a consistent market share between the base year and the POI, even as the overall market size has expanded.
- r. The domestic industry has not suffered any volume injury as a result of the alleged dumped imports. The domestic industry's market share has remained stable, its production capacity is being utilized efficiently, and the imports of the SHTS grade (which the domestic industry cannot supply) have not adversely affected the domestic industry's competitive position.
- s. The import volume of 2,927 MT during POI translates to a mere 12% market share, compared to the DI's 60% market share. Such a small volume of imports is insufficient to exert price suppressing pressure on the domestic industry's sales.
- t. If the imports of SHTS grades are excluded (1,890 MT) that the DI is not approved to supply (particularly, for MRF Limited), the remaining import volume of 1,037 MT accounts for just 4% of the total market.
- u. The economic parameters including capacity, production, sales volume, selling price per unit, wages, productivity per day, capital employed, etc. have shown a positive trend in the POI in comparison to the base year.
- v. If the domestic industry is operating at 55–65% capacity utilization, it would not be possible for it to achieve 60% market share, as claimed in the application. Thus, the domestic industry's claim of having 55-65% capacity utilization is incorrect and misleading.
- w. The only plausible explanation for the underutilized capacity could be that it is unable to produce certain specific grades of PUC that constitute a substantial portion of the demand in the Indian market.
- x. The production quantity of the domestic industry has increased by 26% in the POI as compared to the base year. Thus, it can be clearly observed that the performance of the domestic industry has improved in terms of production despite the fact that it has been apparently facing injury from dumped imports.

- y. The domestic sales of the domestic industry have increased by 30% in the POI as compared to the base year. The increase in sales is consistent with the increase in the market demand in India.
- z. The petitioner, in its annual reports, has also acknowledged that sales and volumes have increased in FY 2022-23 by saying that, “The company reported a 20% growth in sales revenue to H46,486 Lakh. This growth was mainly on account of an increase in sales realizations to cover increased input costs. The revenues reported by the company were the highest ever”.
- aa. The domestic industry’s net fixed assets and working capital have increased to 172 indexed points and 183 indexed points respectively in POI as compared to 100 indexed points in the base year. This read in conjunction with the significantly rising interest costs and increase in installed capacity could be understood that DI is not facing any issues raising capital.
- bb. The petitioner has relied on the data and activities of a Chinese producer, China Sunshine, while claiming threat of material injury. The petition lacks any substantial evidence indicating that Japanese producers pose a similar threat as claimed in the Petition.
- cc. It is well settled that the burden of proof is with the applicants to establish that the factors enumerated under Annexure II clause (vii) of the Anti-dumping Rules exist. However, the petitioner has failed to provide any positive evidence regarding the threat of material injury particularly from Japan.
- dd. There is a huge demand-supply gap in the Indian Market, and any increase in the imports from the subject countries is on account of the non-availability of the required grades.
- ee. DI has repeatedly alleged that China has increased its installed capacities for the PUC; however, it has not provided reliable data to showcase that these increased capacities are specifically targeted at the Indian market.
- ff. The economic activities during the injury period were severely affected by the COVID-19 pandemic. The period saw disruptions of supply chains and increased raw material prices as also stated in Petitioner’s Annual Report 2021-22.
- gg. The downstream industry i.e., the tyre industry, witnessed an economic slowdown during the injury period as also mentioned in Petitioner’s Annual Report for FY 2022-23.
- hh. The decline in output within the tyre industry, resulting from these economic pressures, is a key factor contributing to the capacity utilization challenges faced by the Petitioner. Consequently, the alleged injury cannot be attributed to imports. It is because of the broader economic conditions affecting the industry as a whole.

- ii. The exporter submits that any fall in profitability of the petitioner is attributed to price fluctuations in the upstream value chain of the PUC as can also be understood from the Annual Report of the petitioner of 2021-22.
- jj. The price of crude oil fluctuated substantially during the injury period. It doubled during the POI compared to the base year 2020-21 which impacts costs of sulphur as it is a primary raw material in manufacturing of the PUC. Thus, the raw material costs have increased rapidly throughout the injury period.
- kk. The petitioner's export volume is significant and exceeds their domestic sales in FY 2022-23 and any alleged reduction in the petitioner sales can be attributed to their focus on increasing their export sales.
- ll. As per the data shared by the petitioner, they have made a gradual decline in profitability not only with their DTA unit, but also in their SEZ unit. However, they have acknowledged in the oral hearing that they had expanded the capacities of their SEZ unit to 22,000 MT.
- mm. The impact on the domestic industry's realization is mainly on account of reduced prices globally.
- nn. The domestic industry's production capacity at the time of commencing commercial production was 3,000 MT per annum. The capacity subsequently increased to 12,000 MT per annum before the POI and further expanded to 17,500 MT per annum during the POI.
- oo. DI is unable to meet the total Indian demand for insoluble sulfur, which stands at 24,000 MT. With a production capacity of only 17,500 MT, DI faces a significant supply shortfall, necessitating imports to bridge the gap and meet domestic requirements.
- pp. Petitioner's fall in profits can be attributed to their high depreciation and interest cost recorded in the injury period and the POI.
- qq. As per the data submitted by the petitioner, their depreciation and interest costs have increased substantially, which can be linked to their expanded capacities. It expanded its capacities in 2021, which involves significant capital investments, which in turn lead to higher depreciation expenses as the value of new equipment and facilities is allocated over time. High depreciation and interest costs should be adjusted when assessing NIP and injury claims of the domestic industry.
- rr. The pressure faced by the petitioner is not indicative of injury but rather a consequence of their own operational choices and the associated costs of expansion.
- ss. Such depreciation and interest cost should not be allowed when comparing it with a well-established company such as SCC as it has been operational since 1984 and has not recently expanded its capacities, resulting in significantly lower depreciation and

interest costs. Thus, making a comparison between the domestic industry and SCC is inequitable.

- tt. The petitioner has relied on the data and activities of a Chinese producer, China Sunshine, while claiming threat of material injury. The petition lacks any substantial evidence indicating that Japanese producers pose a similar threat as claimed in the Petition.
- uu. It is well settled that the burden of proof is with the applicants to establish that the factors enumerated under Annexure II clause (vii) of the Anti-dumping Rules exist. However, the petitioner has failed to provide any positive evidence regarding the threat of material injury particularly from Japan.
- vv. The DI has not provided any evidence/ data to demonstrate that Japan has excess capacities or that its installed capacities are intended to target the Indian market.
- ww. DI has repeatedly alleged that China has increased its installed capacities for the PUC; however, it has not provided reliable data to showcase that these increased capacities are specifically targeted at the Indian market.
- xx. The petitioner has also acknowledged in its Annual Report for the FY 2022-23 that there is threat particularly from China. The same is also held in the report of a third-party rating agency i.e., ICRA saying that Chinese low priced insoluble sulphur are a threat to OCCL.

H.2. Submissions made by the domestic industry

- 67. The following submissions have been made by the domestic industry on the issue of cumulative assessment, injury, and causal link:
 - a. The question of cumulative assessment of injury does not depend on uniform volume trends from all subject countries. In the IIR Investigation, the Authority undertook cumulative assessment analysis for examining injury to the domestic industry, even after the existence of variation in import volumes from subject countries.
 - b. It is also established in the WTO Appellate Body ruling in EC – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil, that a cumulative analysis is based on the recognition that domestic industry faces the impact of dumped imports as a whole, regardless of their individual country-specific volumes. Requiring country-specific analysis of import volumes would undermine the very concept of cumulation.
 - c. In the present case, the margin of dumping for China PR and Japan is above 2% and the volume of imports from China PR and Japan are 32% and 9% respectively.
 - d. The last requirement regarding conditions of competition is also met as there is no difference in the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic products.

- e. The other interested parties have not provided any positive evidence to justify the decumulation of imports from Japan.
- f. The imports from subject countries have increased significantly in absolute terms and in relation to production and consumption in India throughout the proposed injury period and causing injury to the domestic industry.
- g. The rate of increase in imports from subject countries is much higher than the rate of increase in the Indian Demand.
- h. The contention that injury to domestic industry stems solely from Chinese imports cannot be accepted as exports of PUC to India made by SCC increased from 100 index points in the base year to 760 index points in the POI.
- i. The market share of subject countries has been significantly increasing inspite of the sufficient capacities in India.
- j. Almost half capacities of the domestic industry are lying idle despite significant demand of the PUC in India. The domestic industry has not been able to utilize its full capacity and is operating in the range of only 55-65% over the injury period.
- k. During the POI, the subject countries' imports increased significantly and reached to 2,927 MT. The domestic industry reduced prices further despite mounting losses to prevent additional market share loss and sold at a price below than the import prices resulting in negative price undercutting.
- l. The domestic industry was continuously facing the huge price pressure from the subject imports and was forced to sell at a more competitive price than the subject imports to retain its market share. Therefore, the domestic industry faced suppression impact on its selling prices.
- m. The customers of the petitioner are aggressively negotiating prices of the PUC. The customers of the petitioner are quoting prices offered by the suppliers from the subject countries and asking the petitioner to match the prices with the dumped imports. In order to retain the market share and secure orders from its customers, the petitioner is forced to sell its product below the dumped prices causing major price suppression and negative price undercutting.
- n. The output, production and sales volumes decreased in the POI compared to the previous year due to rise in imports at dumped prices from subject countries. The capacity utilization declined during the injury period.
- o. The data shows a reduction in domestic industry's market share from [***] in the base year to [***] in the POI, despite having production capacity to meet domestic demand.
- p. In contrast, the market share of subject countries increased through the injury period.
- q. The profit, cash profits and ROI of the petitioner has been consistently declining during the injury period and turned into losses in 2022-23 and losses further aggravated in the POI.

- r. With respect to ATMA's contention that the domestic industry generates profits based on its Annual Report, the profits reported in the Annual Report reflect the financial performance of the company as a whole, rather than the specific profits from production and sales of the PUC from the DTA unit of the domestic industry.
- s. The average inventory of the petitioner has been consistently increasing during the injury period and slightly declined in the POI.
- t. All the volume and price parameters of the domestic industry show negative growth in the POI except average inventory which has declined insignificantly in the POI.
- u. While the subject imports have intensified, the domestic industry's losses and average inventory have further increased, and growth has decreased in the post POI period.
- v. As per the latest half year report of the largest producer of PUC in China, China Sunline Chemical Holdings Ltd. ("China Sunline"), it exports 40% of its total output to the global market which substantiates that the goal of China Sunline is to dominate the global market by increasing its export volumes. It also states that it caters to 75% of the global tyre manufacturers.
- w. Other manufacturers in subject countries are envisioning growth in similar direction wherein they will dump the products into Asian countries especially India at lower prices to gain global market share.
- x. SCC's exports to other countries have remained stable, moving from 100 index points in the base year to only 116 index points in the POI, while the value of exports to other countries showed similar stability, increasing from 100 index points to 130 index points. This highlights that it is exclusively the exports to India that have experienced an extraordinary growth of more than seven-fold.
- y. The exporters from China have significant unutilized capacities, which are likely to be utilized by way of increasing the exports at dumped prices and they are still planning to add more capacities.
- z. China Sunline recently completed an expansion project by installing additional capacity of 30,000 MT in December 2021. The next phase of this expansion project is scheduled to be completed by the first half of 2024. The next phase will add an additional capacity of 30,000 MT by 2024.
- aa. The exporters and producers from subject countries have significant inventories, that may be dumped into India. The same can be verified by the Authority from the responses filed by the producers/exporters.
- bb. There has been no injury caused to the domestic industry on account of change in technology.
- cc. The export performance of the petitioner has not been taken into consideration when determining the effect of the dumped imports and the extent of the injury. Therefore, the injury claimed in the petition cannot be attributed to the export performance.

- dd. The domestic industry disputed ATMA's use of Annual Report figures, stating these are estimated and projected values for market overview. The demand figures come from a Notch Consulting Inc. report "World Markets for Insoluble Sulfur" on global insoluble sulfur market for tyre and rubber industry. These projections differ from verified data required in anti-dumping proceedings.
- ee. Regarding ATMA's sales calculations, the industry states deriving actual sales volumes from projected market data creates unreliable conclusions for anti-dumping investigations. The domestic industry has two manufacturing plants- one in Domestic Tariff Area (DTA) and another in Special Economic Zone (SEZ). The DTA unit maintains production capacity through operational efficiencies. The SEZ unit, although meant for exports, also holds capacity which can be used to cater domestic demand when needed. This setup allows market requirement flexibility and adequate supply in case of any demand-supply gap.
- ff. Performance in meeting customer commitments and investments in capacity expansion and technology shows commitment of domestic industry to the Indian market. Demand-supply gap does not justify dumping, as foreign producers can meet Indian demand through undumped prices. This position draws support from findings in the aniline anti-dumping investigation from China PR.

H.3. Examination by the Authority

- 68. Rule 11 of the AD Rules read with Annexure II to the AD Rules, 1995 provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...*”. Further, 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.
- 69. 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.
- 70. As regards to the various arguments of other interested parties based on the statements and data provided by the domestic industry, it is noted that the findings of the Authority are based on the verified data.

71. As regards to the submission of other interested parties that a significant portion of the alleged dumped imports pertains to SHTS grade which the domestic industry cannot supply, the Authority notes that the domestic industry has well established that they are supplying the equivalent grade of SHTS to other customers in India and global market. In support of their claim, the domestic industry has provided the invoices.
72. As regards to the submissions of the other interested parties that there exists demand-supply gap in the country for the PUC and imports are necessary to bridge the gap and meet domestic requirements, the Authority notes that the domestic industry is capable of serving the majority demand of the PUC from its DTA unit. Further, it is noted that the imposition of ADD will only ensure a level playing field to the domestic industry. It will not lead to stoppage of imports into India. The demand supply gap is no justification for dumping. The Authority notes that the imposition of ADD does not restrict the imports but only ensures that the imports are not at dumped prices.
73. As regards to the claim of high interest and depreciation cost, the Authority notes that due to expansion carried out by the domestic industry, the depreciation and interest cost show increase. It is further noted that increase in depreciation and interest cost is a normal phenomenon in case of an expansion. The Authority notes that even if the depreciation and interest cost is not considered, the PBDIT shows a declining trend. The table below demonstrates the same:

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|-------------|----------|---------|---------|---------|-----|
| PBDIT | Rs. Lacs | *** | *** | *** | *** |
| Trend | Indexed | 100 | 90 | 104 | 64 |

74. As regards to the claim that the high depreciation and interest costs should be adjusted when assessing NIP and injury claims of the domestic industry, it is noted that the Authority calculates the NIP as per Annexure-III of AD Rules and the same has been followed in the present case.
75. As regards to the claim of other interested parties that prices of the PUC declined due to decline in the raw material prices and decline in the prices of the PUC in the global market and not due to dumped imports, the Authority notes that the decline in the prices of the PUC of the domestic industry was more than the decline in Sulphur prices, a major raw material during the POI. The table below demonstrates the same:

| SN | Particulars | UOM | 2022-23 | POI |
|----|-------------------------------------|-------|----------|----------|
| 1 | Sulphur Prices | Rs/MT | *** | *** |
| 2 | Consumption factor | Rs/MT | *** | *** |
| 3 | Sulphur cost | Rs/MT | *** | *** |
| 4 | DI Selling Price | Rs/MT | *** | *** |
| 5 | Landed Price from subject countries | Rs/MT | 1,36,864 | 1,15,340 |
| 6 | Decline in | | | |
| A | Sulphur Prices | Rs/MT | | *** |

| | | | | |
|---|-------------------------------------|-------|--|----------|
| B | Sulphur Cost | Rs/MT | | *** |
| C | DI Selling Price | Rs/MT | | *** |
| D | Landed Price from subject countries | Rs/MT | | (21,524) |

76. This data clearly shows that decline in the selling price of the domestic industry is more than the decline in the Sulphur prices. Further, the decline in the landed price of imports is more than the decline in the raw material prices, forcing the domestic industry to sell at unremunerative prices.
77. As regards the submissions that the statements from the domestic industry's own Annual Reports strongly affirm its ability to maintain profitability, even amidst global market challenges, further undermining any claim of price suppression, the Authority notes that the profitability reported in the Annual Report of any petitioner company cannot be compared with the profitability from PUC business especially if the petitioner company is involved in manufacturing and selling of more than one product and even more so when the petitioner company has unit in SEZ and is significantly exporting the PUC. In the present investigation, the domestic industry is involved in manufacturing and selling of PUC and Sulphuric Acid. In case of PUC also, the domestic industry has two units and one of them is SEZ which is involved majorly in exports. Therefore, the comparison of profitability of the domestic industry reported in the Annual report with the profitability from PUC business for domestic market as reported in the antidumping formats, will give misleading analysis.
78. As regards the submissions that the downstream industry i.e., the tyre industry, witnessed an economic slowdown during the injury period, the Authority notes that the data on record shows that the demand for the PUC has increased over the injury period.
79. The Authority notes that after examining the data on record, the export sales of the domestic industry from DTA unit have declined over the injury period and the reduction in the domestic sales volume cannot be attributed to the focus on increasing the export sales of the domestic industry.
80. As regards the submissions that the domestic industry has made a gradual decline in profitability not only in their DTA unit, but also in their SEZ unit, the Authority notes that the profitability of the domestic industry with respect to the DTA unit shows decline over the injury period. Even the profits of the domestic industry in DTA unit in the base year turned into losses in the POI. On the other hand, the profitability of SEZ unit of the domestic industry shows improvement in the POI as compared to 2021-22 and 2022-23.

H.3.1 Cumulative assessment of injury

81. Article 3.3 of WTO agreement and para (iii) of Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:

- a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
 - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
82. The other interested parties have raised the following issues before the Authority with respect to cumulative assessment of the dumped imports from the subject countries:
- a. Whether cumulative assessment is appropriate in view of the difference in import volume and import price of the subject goods from the subject countries?
 - b. Whether cumulative assessment is appropriate in view of the difference in conditions of competition between the subject imports from the subject countries?

Difference in the import volume and import prices of the subject goods from the subject countries

83. SCC has argued that given the difference in volume and prices of the subject goods from the subject countries, the Authority should not cumulatively examine the impact of dumped imports from Japan along with the dumped imports from China. It has further been submitted that the import volume from Japan is much lower than Chinese imports and the prices from Japan are significantly at higher prices than Chinese import prices. It has also been contested that price undercutting from Japan is negative and higher than the negative price undercutting from China as per the application and therefore, cumulative analysis is not warranted.
84. In this regard, the domestic industry submitted that the question of cumulative assessment of injury does not depend on uniform volume trends from all subject countries. The domestic industry has relied upon the final finding issued in the Anti-Dumping Investigation concerning imports of Isobutylene-Isoprene Rubber (IIR) and the WTO Appellate Body ruling in EC – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil (WT/DS219/AB/R), which states that a cumulative analysis is based on the recognition that domestic industry faces the impact of dumped imports as a whole, regardless of their individual country-specific volumes. Requiring country-specific analysis of import volumes would undermine the very concept of cumulation.
85. The Authority notes that neither para (iii) to Annexure II to the AD Rules, 1995 nor Article 3.3 of the WTO Agreement on Anti – dumping, 1994 lays down, the difference in price of the subject imports as a factor for rejection of cumulative analysis of subject imports. It is noted that the volume of subject goods and dumping margin from the subject countries is above the de – minimis requirement. Thus, the first limb of the cumulative analysis requirement as specified under AD Rules, 1995 is satisfied.

Difference in conditions of competition between the subject imports from the subject countries

86. SCC has argued that there is a significant price variation in prices and price undercutting from China and Japan, these distinctions underscore that the conditions of competition between imports from Japan and China are not comparable. Consequently, the element of "conditions of competition" required for cumulative assessment under Annexure II of the Antidumping Rules is not satisfied.
87. In this regard, the domestic industry submitted that there is no difference in the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic products. Furthermore, Exporters have not provided any positive evidence to justify the decumulation of imports from Japan.
88. With respect to the same, the Authority has examined the parameters explained above and has drawn the following conclusions:
- a. It is noted that subject goods imported from the subject countries are 'like article' to each other. Further, the user industry has imported the subject goods from one or more subject countries.
 - b. It is noted that considering the material on record, the Authority is unable to accept that the subject goods imported from the subject countries and the goods produced by the domestic industry are not like article to each other and are, therefore, not interchangeable.
 - c. The table below shows the import volumes from the subject countries over the injury period.

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|--------------------|-------------|----------------|----------------|----------------|------------|
| China | MT | 277 | 494 | 1,660 | 2,175 |
| Japan | MT | 144 | 480 | 672 | 688 |

- d. It is seen that the import volume from the individual subject countries has moved in tandem with each other. The import volume from the subject countries have increased in the injury period which shows the degree of competition between the imports from various sources.
- e. It is further noted that the consumers are using domestic material and imported material interchangeably and the exporter and the domestic industry have sold the same product to same set of customers.
- f. The price of the subject goods from the subject countries in the POI have increased as compared to the base year. Further, as compared to the immediately preceding year, the import price from both the subject countries has declined in the period of investigation.

89. In view of the above, the second limb of the cumulative analysis requirement as specified under AD Rules, 1995 is satisfied.
90. The Authority, therefore, finds it appropriate to cumulatively assess the impact of the subject goods from the subject countries on the economic and financial parameters of the domestic industry.

H.3.2. Volume effect of the dumped imports

a) Assessment of demand/apparent consumption

91. With regard to the volume of the dumped 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. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DG Systems. The demand/apparent consumption so calculated is as under:

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|----------------------------------|-------------|----------------|----------------|----------------|------------|
| Imports from subject countries | MT | 421 | 974 | 2,332 | 2,863 |
| China | MT | 277 | 494 | 1,660 | 2,175 |
| Japan | MT | 144 | 480 | 672 | 688 |
| Imports from other countries | MT | 3,934 | 4,441 | 4,198 | 4,432 |
| Total Imports | MT | 4,355 | 5,415 | 6,530 | 7,295 |
| Sale of the domestic industry | MT | *** | *** | *** | *** |
| Trend | Indexed | 100 | 118 | 131 | 130 |
| Imports from SEZ plant | MT | *** | *** | *** | *** |
| Trend | Indexed | 100 | 95 | 78 | 68 |
| Sale of other domestic producers | MT | - | - | - | - |
| Total Demand/Consumption | MT | *** | *** | *** | *** |
| Trend | Indexed | 100 | 117 | 131 | 135 |

92. It is seen that the demand of the PUC shows growth in the injury period. The sales of the domestic industry have increased till 2022-23 and declined slightly in the POI. However, the sales of the domestic industry have not increased commensurate to the increase in demand. Over the injury period, a significant demand has been met by dumped imports despite the idle capacities lying with domestic industry.

b) Import volume from the subject countries relative to production and consumption in India

93. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute

terms or relative to production or consumption in India. The import volumes of the subject goods from the subject countries and share of subject imports during the injury investigation period are as follows:

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|--|----------------|----------------|----------------|----------------|------------|
| Imports from subject countries | MT | 421 | 974 | 2,332 | 2,863 |
| China | MT | 277 | 494 | 1,660 | 2,175 |
| Japan | MT | 144 | 480 | 672 | 688 |
| Imports from other countries | MT | 3,934 | 4,441 | 4,198 | 4,432 |
| Total imports | MT | 4,355 | 5,415 | 6,530 | 7,295 |
| Production | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | <i>100</i> | <i>112</i> | <i>137</i> | <i>126</i> |
| Demand/Consumption | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | <i>100</i> | <i>117</i> | <i>131</i> | <i>135</i> |
| Subject imports in relation to: | | | | | |
| Total imports | % | 10% | 18% | 36% | 39% |
| Production | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | <i>100</i> | <i>206</i> | <i>403</i> | <i>540</i> |
| Demand/Consumption | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | <i>100</i> | <i>197</i> | <i>423</i> | <i>504</i> |

94. It is seen that the volume of imports from subject countries have increased over the injury period from 10% in the base year to 39% in the POI. The imports from the subject countries have also increased over the injury period in relation to Indian production and consumption.

H.3.3. Price effect of the dumped imports

95. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

a) Price undercutting

96. Price undercutting has been determined by comparing the net sales realization of the domestic industry with the landed price of the imports for the period of investigation.
97. It is noted that the domestic industry is selling at a price below the landed price of the imports due to the price pressure and as a result the price undercutting is negative for subject countries as a whole.

| SN | Particulars | UOM | POI |
|-----------|--------------------|------------|------------|
| 1 | Net Selling Price | Rs/MT | *** |

| | | | |
|-----|-------------------------------------|-------|----------|
| 2 | Subject Countries as a whole | | |
| i | Landed Price | Rs/MT | 1,15,340 |
| ii | Price Undercutting | Rs/MT | (***) |
| iii | Price Undercutting | % | (0-10%) |
| 3 | China PR | | |
| i | Landed Price | Rs/MT | 1,16,324 |
| ii | Price Undercutting | Rs/MT | (***) |
| iii | Price Undercutting | % | (0-10%) |
| 4 | Japan | | |
| i | Landed Price | Rs/MT | 1,12,228 |
| ii | Price Undercutting | Rs/MT | *** |
| iii | Price Undercutting | % | 0-10% |

b) Price suppression/depression

98. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the Authority has compared the cost of sales & selling price of the domestic industry with the landed price of subject goods.

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|----------------------------|-------|---------|----------|----------|----------|
| Cost of Sales | Rs/MT | *** | *** | *** | *** |
| Selling Price | Rs/MT | *** | *** | *** | *** |
| Landed Price | Rs/MT | 99,102 | 1,20,813 | 1,36,864 | 1,15,340 |
| Increase/(decrease) | | | | | |
| Cost of Sales | Rs/MT | | *** | *** | *** |
| Selling Price | Rs/MT | | *** | *** | *** |
| Landed Price | Rs/MT | | 21,711 | 16,052 | -21,524 |

99. It is seen that while the cost of sales of the domestic industry declined by INR *** per MT in the POI and the selling price declined by INR *** per MT. The decline in landed price is INR 21,524 per MT and is significantly depressing the prices of the domestic industry.

H.3.4 Economic parameters of the domestic industry

100. Annexure II to the Rules require that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the

magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed herein below.

a) Production, capacity, capacity utilization and sales volumes

101. Capacity, production, sales and capacity utilization of the domestic industry over the injury period were as below:

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|----------------------|---------|---------|---------|---------|-----|
| Capacity | MT | *** | *** | *** | *** |
| Trend | Indexed | 100 | 114 | 150 | 150 |
| Production | MT | *** | *** | *** | *** |
| Trend | Indexed | 100 | 112 | 137 | 126 |
| Capacity Utilization | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 99 | 92 | 84 |
| Domestic sales | MT | *** | *** | *** | *** |
| Trend | Indexed | 100 | 118 | 131 | 130 |

102. It is seen that the domestic industry has expanded its capacity which was operational from Dec 21. It is seen that the production and sales of the PUC of the domestic industry increased till 2022-23 and declined in the POI in spite of the demand in the country.

b) Markert share

103. Market share of the domestic industry and of imports is shown in table below:

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|---------------------------------|---------|---------|---------|---------|-----|
| Share of the domestic industry | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 100 | 100 | 97 |
| Share of imports from SEZ | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 81 | 60 | 50 |
| Share of other Indian producers | % | *** | *** | *** | *** |
| Trend | Indexed | - | - | - | - |
| Share of Subject countries | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 197 | 423 | 504 |

| | | | | | |
|--------------------------|---------|-----|-----|-----|-----|
| Share of Other countries | % | *** | *** | *** | *** |
| Trend | Indexed | 100 | 96 | 81 | 84 |

104. It is noted that the market share of the domestic industry declined in the POI despite having adequate capacity to meet the domestic demand in the country.
105. Further, it is also evident that the market share of imports from other countries has been on a declining trend while it is only the market share of subject countries that has been consistently increasing throughout the injury period.

c) Inventories

106. Inventory position of the domestic industry over the injury period is given in the table below:

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|--------------|----------------|------------|------------|------------|------------|
| Opening | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | <i>100</i> | <i>119</i> | <i>108</i> | <i>158</i> |
| Closing | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | <i>100</i> | <i>91</i> | <i>143</i> | <i>96</i> |
| Average | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | <i>100</i> | <i>104</i> | <i>127</i> | <i>124</i> |

107. It is seen that the inventory of the domestic industry has increased over the injury period with slight decline in the POI.

d) Profitability, cash profits and return on capital employed

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

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|---------------------------------------|----------|---------|---------|---------|-------|
| Profit before Tax (PBT) | Rs. Lacs | *** | *** | *** | (***) |
| Trend | Indexed | 100 | 40 | - | (65) |
| Profit before Interest and Tax (PBIT) | Rs. Lacs | *** | *** | *** | (***) |
| Trend | Indexed | 100 | 60 | 56 | (6) |
| Cash profit | Rs. Lacs | *** | *** | *** | *** |
| Trend | Indexed | 100 | 78 | 69 | 29 |
| Return on investment | % | *** | *** | *** | (***) |
| Trend | Indexed | 100 | 35 | 32 | (3) |

109. It is seen that the profit, cash profits and ROI of the domestic industry have been consistently declining during the injury period. In fact, the domestic industry started incurring losses in the 2022-23 and the losses increased sharply in the POI.

e) **Employment, productivity and wages**

110. The Authority has examined the information relating to employment, wages and productivity, as given below.

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|---------------------------|----------|---------|---------|---------|-----|
| Production | MT | *** | *** | *** | *** |
| Trend | Indexed | 100 | 112 | 137 | 126 |
| Employees | Nos | *** | *** | *** | *** |
| Trend | Indexed | 100 | 97 | 100 | 98 |
| Productivity per employee | MT/Nos | *** | *** | *** | *** |
| Trend | Indexed | 100 | 116 | 137 | 128 |
| Salary & Wages | Rs. Lacs | *** | *** | *** | *** |
| Trend | Indexed | 100 | 105 | 114 | 120 |

111. It is noted that the number of employees remained more or less same during the injury period. The salary and wages of the domestic industry has increased over the injury period. The productivity per employee shows consistent improvement with a slight decline in the POI due to lesser production levels.

f) **Growth**

| Particulars | Unit | 2020-21 | 2021-22 | 2022-23 | POI |
|-----------------------|------|---------|---------|---------|-------|
| Production (MT) | Y/Y | | *** | *** | (***) |
| Domestic Sales (MT) | Y/Y | | *** | *** | (***) |
| PBT (Rs Lacs) | Y/Y | | (***) | (***) | (***) |
| Inventory (MT) | Y/Y | | *** | *** | (***) |
| Market Share (%) | Y/Y | | *** | (***) | (***) |
| Cash Profit (Rs Lacs) | Y/Y | | (***) | (***) | (***) |
| ROI (%) | Y/Y | | (***) | (***) | (***) |

112. It is noted that the volume parameters of the domestic industry show negative growth in the POI. Further, all the price parameters of the domestic industry show negative growth over the injury period and POI. The market share of the domestic industry also shows negative growth.

g) **Impact on the ability to raise capital investments**

113. The Authority notes that the even though the domestic industry has made new investments to increase its capacities to cater to the increasing demand of PUC in India, the domestic industry has been unable to utilize its capacities and is facing losses due to dumped imports.

h) **Factors affecting prices**

114. The Authority notes that the volume of imports during the POI was significant and such imports were at prices significantly below the cost of production of the domestic industry. Selling price of the domestic industry has been severely affected by the subject imports.

i) Magnitude of dumping

115. It is noted that the dumping margin from the subject countries is significant and indicative of the aggressive pricing of the subject goods.

I. NON-ATTRIBUTION ANALYSIS

116. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, the Authority has examined whether injury to the domestic industry can be attributed to any factor, other than the dumped imports, as listed under the Rules.

a) Volume and value of imports from third countries

117. It is noted that the imports from subject countries constitute 39% of the total imports into India. There are significant imports from Malaysia and USA and are around 61% of the total imports into India. The imports from Malaysia and USA are at much higher prices than subject countries. Therefore, imports from other countries cannot be a cause of injury to the domestic industry.

b) Contraction in demand

118. The demand for the product under consideration has steadily increased in the injury period. The domestic industry has not suffered injury due to possible contraction in demand.

c) Pattern of consumption

119. It is noted that there has been no material change in the pattern of consumption of the product under consideration, which could have caused injury to the domestic industry.

d) Conditions of competition and trade restrictive practices

120. The Authority notes that there is no evidence of conditions of competition or trade restrictive practices that are responsible for the claimed injury to the domestic industry.

e) Developments in technology

121. There has been no change in technology for production of the subject goods. The domestic industry has even expanded its capacities for the production of the subject goods.

f) Productivity

122. The Authority notes that the productivity of the domestic industry has slightly declined in the POI due to decline in the production. The slight decline in the productivity cannot be the reason of injury to the domestic industry on this account.

g) Export performance of the domestic industry

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

h) Performance of other products

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

J. MAGNITUDE OF INJURY MARGIN

125. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the Rules has been compared with the landed value of the exports from the subject countries for determination of injury margin during the period of investigation and the injury margin so worked out is as under:

Injury Margin Table

| S. No. | Particulars | Non-injurious price (USD/MT) | Landed Price (USD/MT) | Injury Margin (USD/MT) | Injury Margin (%) | Injury Margin (Range) |
|---------------------|---|------------------------------|-----------------------|------------------------|-------------------|-----------------------|
| FOR CHINA PR | | | | | | |
| 1 | All | *** | *** | *** | *** | 20-30 |
| FOR JAPAN | | | | | | |
| 1 | Shikoku Chemicals Corporation, Mitsubishi Corporation Plastics Ltd. and IVICT (Singapore) Pte Ltd | *** | *** | *** | *** | 15-25 |
| 2 | All others | *** | *** | *** | *** | 30-40 |

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

K.1. Submissions made by other interested parties

126. The other interested parties have made the following submissions regarding the Indian industry interest:
- a. The domestic industry's economic interest questionnaire response acknowledged lack of awareness about tyre production costs and consequent inability to calculate anti-dumping duty impact. The interested parties noted that while the domestic industry claims to have calculated duty impact, no data sources or methodology have been disclosed, significantly prejudicing other parties' ability to verify claims or provide meaningful comments. While the domestic industry claims the impact of anti-dumping duty on downstream users would be negligible, they have not provided calculations supporting this assertion.
 - b. There are existing anti-dumping duties on IIR imports, anticipated duties on HIIR imports, and new investigations concerning other raw materials used in tyre manufacture. The combined effect of these duties would increase production costs by 10-15% per tyre, significantly affecting downstream industry's competitiveness.
 - c. While acknowledging distinct purposes of different raw materials, emphasis was placed on the need to consider the collective burden of multiple duties. This approach provides a more accurate assessment of impact on downstream industry's competitiveness in both domestic and export markets, where manufacturers face competition from countries with access to competitively priced raw materials.
 - d. Anti-dumping duty imposition would grant the domestic industry autonomous discretion in determining PUC supply quantities and pricing. This would leave Indian consumers vulnerable to potential market manipulation and price increases. The increased costs would likely be passed through the value chain, ultimately affecting end consumers through higher tyre prices.
 - e. Anti-dumping duty imposition would compound existing challenges of increased raw material prices and operational expenses. There could be potential impacts on innovation and investment in the tyre sector, along with risks to India's export competitiveness.

K.2. Submissions made by the domestic industry

127. The domestic industry has made the following submissions regarding the Indian industry interest:

- a. On SHTS grade supply, the domestic industry exhibits capability through UHD grade meeting technical specifications. ATMA's claims on duty impact were addressed using SION norms from DGFT wherein it is stated that for 100 kgs of tyre production 0.05 kgs of PUC is used. This shows cost impact of 0.01% to 0.04% on different tyre types.
- b. ATMA's aggregation of various anti-dumping duties' impact on different products is refuted. Each investigation examines distinct products with specific market conditions, pricing, and injury parameters. The purpose focuses on addressing unfair trade practices for specific products.
- c. Regarding exporters' claims, the domestic industry addressed arguments about duty calculation data sources, the industry states it provided detailed calculations on anti-dumping duties' impact on PUC in tyre industry with evidence.
- d. With regards to claim on monopolistic situation in Indian market, it was stated that ADD does not restrict imports but ensures fair prices. The user industry has not proven domestic industry's monopolistic position. The Authority has recommended anti-dumping duties in multiple cases with sole producers. Reliance was placed on *anti-dumping investigation concerning imports of "Isobutylene-Isoprene Rubber ("IIR"), originating in or exported from China PR, Japan and Korea RP* and *anti-dumping investigation concerning Imports of "Halobutyl-Rubber (HIIR), originating in or exported from Japan, Russia, Singapore, the United Kingdom and the United States of America*.
- e. On questionnaire responses, MRF Limited filed responses to User Questionnaire and Economic Interest Questionnaire but claimed that it was collating information on duty impact. The requisite information should have been filed timely in the Questionnaire Response.
- f. The domestic industry cites WTO considerations on timely opportunity and strict time restrictions. Reference was placed on *US — Hot-Rolled Steel* case where authorities rejected late Japanese exporter submissions. The Appellate Body supported establishing deadlines for investigation control.
- g. Financial data shows MRF's profitability from 2019-20 to 2023-24, while domestic industry faces losses from dumped imports. The document included specific data on user industry performance, with MRF Limited's revenue increasing from Rs. 15,991.14 Crore in 2019-20 to projected Rs. 24,673.68 Crore in 2023-24, demonstrating growth despite claimed concerns about ADD impact.
- h. The purpose of ADD is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

K.3. Examination by the Authority

128. The Authority 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 measures does not aim to restrict imports from the subject countries in any way. Trade remedial investigations are intended to restore equal competitive opportunities in the domestic market by ensuring a level playing field for domestic producers by the imposition of appropriate duties against trade distorting imports. At the same time, the Authority is aware that the impact of such duties is not limited to only the domestic producers of the PUC but also affects the users and consumers of the PUC.
129. The Authority notes that the data provided by MRF shows that the share of the PUC is 0.17% of the total cost of a tyre, which implies that the impact of antidumping duty, if imposed will have minimal impact on tyre industry.
130. While interested parties argued that the combined effect of duties on multiple raw materials of tyres should be taken into consideration, the Authority notes that each investigation must be conducted independently based on specific facts. An anti-dumping investigation focuses on addressing injury from specific dumped imports rather than cumulative economic impact of different trade measures.
131. The Authority notes that the imposition of ADD will only ensure a fair playing field to the domestic industry. It will not lead to stoppage of imports into India. Demand supply gap is no justification for non-imposition of ADD.

L. POST DISCLOSURE COMMENTS

L.1. Submissions by other interested parties

132. The following post disclosure submissions have been made by other interested parties:
- a. Exporter never claimed that the export prices of the MuCron OT-20-HD-G” (“specialty grade”) of PUC are significantly higher than the prices of the PUC sold by the Domestic Industry. Instead, the Exporter had submitted that prices of the exports of the specialty grade are significantly higher than the non-specialty grades or regular grades exported by the Exporter. As,submitted earlier in the written submissions, specialty grade’s price is 9% and cost is 5% higher than standard grades i.e. MuCron OT-20-HD. The assertion that the difference is slight and not significant is subjective and lacks supporting rationale.
 - b. The report relied upon by the Authority to observe that the domestically produced grades can exhibit equivalent or higher thermal stability than specialty grade has not been shared with the interested parties impeding the Exporter’s right to assess the report and make meaningful comments.
 - c. The Authority has solely considered thermal stability while overlooking the crucial distinction of superior bloom resistance between the specialty grade and the regular grade or PUC.

- d. The Petitioner's claim of lack of demand is inconsistent with market realities, as SCC has sold the specialty grade in India to meet needs of Indian consumers.
- e. Imports from Japan should be decumulated as the imports from Japan are much lower than Chinese imports. The CIF prices from Japan are significantly higher prices than Chinese imports. As per the data provided in the petition, the prices from Japan have increased over the injury period and the volume post covid has increased at a normal pace.
- f. The price undercutting is negative for Japan. Hence, no material injury to the petitioner on account of imports from Japan.
- g. Import volume of the subject countries is extremely low compared to the imports from other countries. Volume of imports from Japan have been far less as compared to China. Volume of imports from China, vis-a-vis the total imports of the PUC from Japan have substantially increased in FY 2022-23 and POI.
- h. Injury faced by the Petitioner, if any, is on account of the sharp spike in imports from other countries, particularly China.
- i. There is negative price undercutting for Japan in the POI. Price undercutting in the base year and in the POI is the same, whereas the Petitioner was profitable in the base year but has experienced a substantial decline in profits during the POI. Hence, the exporter's landed value is not the cause behind any negative price effect on the Petitioner.
- j. The price of imports from Japan has consistently increased throughout the injury period and POI. From Japan, import price increased from Rs. 109,860 per MT in the base year to Rs. 121,459 per MT in the POI - this increase in price is despite the 0% BCD in the POI, when the price undercutting was negative.
- k. The Petitioner's claim that they are facing price pressure from their customers based on some communication with their customers has been kept confidential. The authority should determine whether the customer orders pertain to the POI and to what extent, if any, to the imports from Japan.
- l. Petitioner is not suffering any injury in light of the various economic factors as per Annexure II (iv) of the AD Rules. All the economic parameters including capacity, production, sales volume, selling price per unit, wages, productivity per day, capital employed, etc. have shown a positive trend in the POI in comparison to the base year. Minor changes in performance parameters are inconsequential and do not evince any "material injury".
- m. The petitioner, in its annual reports, has also acknowledged that sales and volumes have increased in FY 2022-23.
- n. The Authority being a quasi-judicial body, is mandated to ensure that due process is followed and is required to provide reasons before rejecting the submissions of the interested parties.
- o. Acknowledgement in petitioner's Annual Report for FY 2022-23 that there is threat particularly from China, also mentioned by a third-party rating agency i.e., ICRA.
- p. COVID-19 saw disruptions of supply chains and increased raw material prices also evidenced from petitioner's Annual Report 2021-22.

- q. The downstream industry i.e., the tyre industry, witnessed an economic slowdown during the injury period also evidenced from the petitioner's Annual Report for FY 2022-23.
- r. Fall in profitability is attributed to price fluctuations in the upstream value chain of the PUC, also evidenced from petitioner's Annual Report 2021-22.
- s. Crude price had doubled during the POI compared to the base year 2020-21. The cost of crude impacts the costs of sulphur which is a primary raw material in manufacturing of the PUC.
- t. Alleged reduction in the petitioner's sales can be attributed to their focus on increasing their export sales.
- u. Even though petitioner expanded the capacities of their SEZ unit to 22,000 MT, DI's realizations is mainly on account of reduced prices globally. Hence, injury stemmed from the petitioner's own operational inefficiencies and management decisions.
- v. With a production capacity of only 17,500 MT, the DI faces a significant supply shortfall to cater to demand of 24,000 MT, necessitating imports to bridge the gap and meet domestic requirements.
- w. DI undertook capacity expansion in FY 2022-23, which involved substantial capital expenditures that led to increase in depreciation and interest costs. High depreciation and interest costs should be adjusted when assessing NIP and injury claims of the DI.
- x. Comparison between DI and SCC is inequitable as SCC has been operational since 1984 and has not expanded its capacities during the injury period or the POI, resulting in significantly lower depreciation and interest costs.
- y. High depreciation and interest costs should be adjusted when assessing NIP and injury claims of the DI.
- z. Imposition of duties will impact per tyre by 10-15%. If ADDs are imposed, it would force the user industry to pay a high price for importing major raw material on account of the demand-supply gap in the domestic market which will cause a domino effect and ultimately increase the burden on the end consumers of the paint industry. If ADDs are imposed, it would lead to monopoly.
- aa. The Authority finalized PUC/PCN Methodology vide Notice dated 12 August 2024, without considering the submissions filed by respondent on 30th July 2024.
- bb. The Authority's observation and reasoning that DI's UHD grade conforms to the specifications required by the end-users of SHTS and that interchangeability exists between DI's grades and imported grades of the PUC is inherently flawed.
- cc. While SHTS is a general description, the requirements concerning specific parameters for SHTS vary depending on the customer (tyre manufacturer). Accordingly, MRF expects that its raw material meets the specified requirements based on its unique production processes and performance standards as set under M2631 (DHTS).
- dd. Merely noting that some companies may have purchased the DI's UHD grade does not establish interchangeability for all users as there are tyre manufacturers that continue to rely exclusively on imported SHTS due to the technical deficiencies in the DI's product. Hence, the Hon'ble DA's observations fail to prove that the DI's grade is a viable substitute for all users of this grade.

- ee. The Hon'ble DA has not explicitly observed whether UHD grades sold by the DI to other customers were in commercial quantities. In the absence of such a determination, evidence of these sales cannot be relied upon to establish the inclusion of UHD grades within the Scope of the PUC.
- ff. The inclusion of an unapproved trial product in the Scope of the PUC has distorted injury analysis, artificially inflating the DI's claims of injury by assuming that it was competing in a market where it had no actual sales. Such an approach violates fundamental principles of trade remedial investigations such as injury to the DI on account of imports of 'like article' and ignores the commercial realities of the industry.
- gg. The Hon'ble DA, in Para 17 of the DS, has stated that it has carefully examined the User Questionnaire Response ('UQR') and the DG Systems data, concluding that the price of the DI's grade is higher than the imported SHTS grade of the PUC. However, this conclusion is fundamentally flawed and misleading.
- hh. DI's grade was never commercially sold to MRF Limited during the POI, it remains unclear what data the Hon'ble DA has relied upon for price comparison. In the absence of any actual POI sales data, the basis of the Hon'ble DA's price comparison is inherently unsubstantiated.
- ii. SHTS's commercial and industrial relevance is evident from transaction-wise import data that confirms that it is widely traded as a distinct grade.
- jj. Low volume of imports of SHTS shows its niche application, not the absence of demand.
- kk. The transaction-wise import data of the SHTS grade confirms its international market presence and further reinforces its distinctiveness.
- ll. Acceptance of the Respondent's proposal to take Malaysia as the relevant third country owing to the difference in the level of development in the USA and China PR. The Authority's conclusion that while a demand-supply gap exists, the DI can meet most of the demand through its DTA unit is wrong.
- mm. DI's Annual Report for FY 2022-23 shows that the total domestic demand for the PUC is 24,000 MT, while the DI's production capacity stands is only 17,500 MT per annum, creating a significant shortfall of approximately 6,500 MT.
- nn. Assessment of injury must align with the DI's actual ability to serve the market, which is limited to 17,500 MT against a demand of 24,000 MT.
- oo. Acknowledgement that the DI is operating profitably with a strong PBDIT, weakening the case for the imposition of any ADDs.
- pp. While it is acknowledged that a portion of the DI's operations may be linked to its SEZ unit, this does not undermine the consistent profitability of the Insoluble Sulphur division.
- qq. The demand for the PUC during the POI increased by 35 indexed points as compared to the base year, while DI's sales grew by 30 indexed points during the same period, demonstrating proportional growth.
- rr. DI's own Annual Report confirms that it has consistently maintained a market share of 60% in both 2023-24 and 2020-21.
- ss. Despite its recent expansion, the DI's total installed capacity is limited to 17,500 MT, while the total demand is 24,000 MT. Even under 100% capacity utilization, the DI would be incapable of catering to the entire Indian market.

- tt. Moreover, certain grades of the PUC, such as SHTS, cannot be supplied by the DI during the POI as the DI did not even approach the user industry for product approvals during the POI and trials were commenced post POI.
- uu. Despite the 39% increase in imports, the DI has continued to expand and sustain its market position by 30% increase in sales in the POI and 60% market share.
- vv. Rise in imports is due to the additional demand which the DI is unable to fulfil and the unavailability of certain approved grades of the PUC.
- ww. The Authority's observation of negative price undercutting should be reaffirmed in final finding.
- xx. With respect to DI's selling price being lower than the landed price of imports, DI is still financially stable, with positive PBDIT, as noted in Annual Report for FY 2022- 23 and FY 2023-24, its petition, and the DS. Further, the DI also has positive cash profit which implies that the DI is able to sell its product in the Indian market above its cost of product and therefore there is no injury the domestic industry
- yy. The Exporter submits that due to the increase in capacity, the Domestic Industry's depreciation and interest cost has increased. The Exporter requests that high depreciation and interest costs be adjusted when assessing NIP and injury claims of the Domestic Industry.
- zz. The Exporter further submits that such depreciation and interest cost should not be allowed when comparing it with a well-established company such as SCC. SCC has been operational since 1984 and has not expanded its capacities during the injury period or the POI, resulting in significantly lower depreciation and interest costs. Thus, making a comparison between the Domestic Industry and SCC is inequitable.
- aaa. As DI continues to operate profitably, the Authority should terminate the investigation, as its continuation in profits lacks both a valid legal and economic basis.
- bbb. The Exporter's price undercutting in the base year and in the POI is the same, whereas the Petitioner was profitable in the base year but experienced a substantial decline in profits during the POI. As a result, the exporter's landed value is not the cause behind any negative price effect on the Petitioner. Further, Japan's prices have consistently increased over the injury period and POI, and thus the Petitioner does not suffer from price injury caused by Japanese imports.
- ccc. DI's domestic selling price, its export price, and the landed price of imports from non-subject countries, all independent of alleged dumping have followed a similar downward trend. Hence, price reduction is a consequence of global market conditions, not competitive pressure from subject imports.
- ddd. Claim of price suppression/depression by the domestic industry must be supported by evidence of financial distress. However, DI's financial performance demonstrates continued profitability, as confirmed by positive PBDIT and consistent cash profits as also evidenced by its Annual Reports of FY 2022-23 and FY 2023-24.
- eee. Volume of subject imports is too small to exert sizeable price pressure. During the POI, total imports stood at 2,927 MT, accounting for just 12% of the market, while the DI held a dominant 60% share.

- fff. Furthermore, if 1,890 MT of SHTS grade imports is excluded, the remaining subject imports amount to just 1,037 MT, or a mere 4% of the total market which cannot suppress or depress the DI's pricing, especially given its strong market position and sustained profitability.
- ggg. With respect to reduced production and sales of DI in the POI, it should be observed that the DI undertook a significant capacity expansion in FY 2022- 23, which became operational in December 2021, which is a reason for decline in its production and sale.
- hhh. While such an expansion should have led to higher capacity utilization and increased production and sales, DI's production and sales declined which suggests that factors other than subject imports played a role in this.
- iii. The progressive decline in capacity utilization shows that DI has been unable to fully utilize its expanded capacity, which could be attributed to internal inefficiencies, changes in production planning, or other operational challenges and not to imports.
- jjj. The alleged decline in the DI's market share is merely 3 indexed points, which is insignificant to indicate any material injury. Moreover, Annual Reports of the DI depict that it has a market share of 60%.
- kkk. Subject imports are not displacing DI's sales but are fulfilling the increasing demand and supplying grades of the PUC that are unavailable or unapproved in the domestic market.
- lll. With respect to decline in profit and ROI, DI undertook capacity expansion in FY 2022-23, which involved substantial capital expenditures that led to increase in depreciation and interest costs, both of which are non-recurring in nature. The increase in depreciation and interest cost may be the reason for losses to the domestic industry.
- mmm. A more appropriate and accurate measure of financial stability would be an evaluation of PBDIT, which reflects operational profitability without distortions from non-cash expenses. DI's PBDIT remained positive, as confirmed in its Annual Reports for FY 2022-23 and FY 2023-24.
- nnn. Due to DI's enhanced capacities, its interest costs have increased by more than 9 times in the POI as compared to the base year and depreciation costs have almost doubled in the POI as compared to the base year.
- ooo. As evidenced from the Petitioner's Annual Report 2021-22, the economic activities during the injury period were severely affected by the COVID19 pandemic. The period saw disruptions of supply chains and increased raw material prices.
- ppp. The global price correction, influenced by market dynamics, naturally led to lower revenues, despite stable sales volumes. Hence, injury of the DI should be attributed to the global fluctuation in prices, and not imports of the PUC.
- qqq. Injury attributed to imports of SHTS should be excluded from the scope of the investigation.
- rrr. Volume of subject imports is too small to affect DI. During the POI, total imports stood at 2,927 MT, accounting for just 12% of the market, while the DI held a dominant 60% share. Furthermore, if 1,890 MT of SHTS grade imports is

- excluded, the remaining subject imports amount to just 1,037 MT, or a mere 4% of the total market.
- sss. ADDs should not be imposed without addressing the demand-supply deficit, as it would negatively impact downstream industries that rely on stable and adequate raw material availability.
 - ttt. The imposition of ADD on grades that are not manufactured domestically, such as SHTS, places an unnecessary burden on essential imports as it disrupts supply chains and creates undue hardship for industries reliant on these imports.
 - uuu. The Authority has failed to conduct a comprehensive evaluation of the user industry's concerns, instead asserted that each investigation must be independently assessed. While this principle is acknowledged, it does not diminish the importance of considering the broader economic consequences of ADD imposition.
 - vvv. The objective of NIP is to enable the DI to recover its cost of production and earn a reasonable profit, but NIP should not provide excessive protection or confer an undue advantage to the DI.
 - www. DI is already selling the PUC at prices above its cost of production while maintaining positive PBDIT and cash profits, showing financial stability.
 - xxx. Allowing 22% ROCE would lead to inflation of DI's profitability, effectively distorting market dynamics rather than ensuring a level playing field. The same has been referenced to CESTAT in *Indian Spinners Association v. Designated Authority* (2004 (170) E.L.T. 144) and *M/s Bridge Stone Tyre Manufacturing v. Designated Authority* (2011 (270) E.L.T. 696).
 - yyy. The Authority should consider historical industry-specific returns, which would be an appropriate basis for NIP. The DI has been operational for several years, and a fair return should have been determined based on its actual past financial performance.

L.2. Submissions made by domestic industry

133. The following post disclosure submissions have been made by the domestic industry:
- a. The domestic industry requested the Authority to confirm the observations made in the Disclosure Statement with respect to the PUC, standing of the domestic industry, confidentiality, miscellaneous issues, normal value, injury to the domestic industry, causal link and public interest.
 - b. The PUC is a homogenous product without wide variation in prices and also there is no PCNs notified by the Authority in the subject investigation. Therefore, if the Authority decides to recommend duty in the present case, it is requested to be recommended on fixed basis and even more denominate in terms of USD.
 - c. The Authority should examine the claim of the domestic industry and other interested parties with respect to the threat of material injury to the domestic industry.

L.3 Examination by the Authority

134. The Authority has examined the post disclosure submissions made by the domestic industry and the other interested parties and notes that a number of submissions are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the final findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and the domestic industry and considered relevant by the Authority are examined below.
135. Regrading SCC's claim that prices of the exports of the specialty grade are significantly higher than the non-specialty grades exported by it, the Authority has already concluded that the speciality grade is a like article and substitutable with PUC. Furthermore, mere price difference between two grades does not render them to be treated as different product.
136. As regards to the submission that report relied upon by the Authority to observe that the domestically produced grades can exhibit equivalent or higher thermal stability than specialty grade has not been shared with the interested parties impeding the Exporter's right to assess the report and make meaningful comments, the Authority notes that on being satisfied, it has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties.
137. As regards to the submission that Authority has solely considered thermal stability while overlooking the crucial distinction of superior bloom resistance between the specialty grade and the regular grade or PUC, the Authority notes that the correlation between thermal stability and bloom resistance has been acknowledged in the submissions. Therefore, if thermal stability is proven, separate bloom resistance analysis is not required.
138. As regards to the submission that lack of demand of specialty grade is inconsistent with market realities, the Authority notes that SCC has exported single shipment of the specialty grade in the entire injury period. Further, it is noted that the export of the speciality grade made by SCC is *** MT in the POI which constitutes 0-1% of the total demand of the PUC. The Authority is unable to accept the argument that specialty grade has regular demand in India based on the single shipment of export of specialty grade made by SCC.
139. As regards to the submission that the price undercutting is negative for Japan, the Authority notes that the price undercutting is positive although not significant in case of Japan based on the imports as per DG systems.
140. As regards to the claim that the imposition of ADD will lead to monopoly, the Authority notes that the imposition of antidumping duty does not stop the imports but facilitates the level playing field to the domestic industry.
141. As regards to the claim of ATMA that the Authority finalized PUC/PCN Methodology vide Notice dated 12 August 2024, without considering the submissions filed by ATMA on 30th

July 2024, the Authority notes that all the submissions filed by all the interested parties including ATMA were considered by the Authority before finalizing the PUC/PCN.

142. As regards to the submissions that the inclusion of an unapproved trial product in the scope of the PUC has distorted injury analysis, artificially inflating the DI's claims of injury by assuming that it was competing in a market where it had no actual sale of the industry, the Authority notes that as the domestic industry is selling a like article in the market, therefore, the injury analysis carried out by it is not distorted.
143. With reference to ATMA's submissions regarding differences in prices of imported SHTS grade and grade supplied by the domestic industry, the Authority notes that ATMA has not submitted any specific data in favour of its claim. However, on perusal data submitted by ATMA, it is observed that the price of grade procured by MRF from the domestic industry is higher than the average price of the grades imported from China
144. As regards to the submission that while a demand-supply gap exists, the Authority notes that demand and supply gap, if any, cannot be the basis for non-imposition of antidumping duty provided there should be dumping from the subject countries, injury to the domestic industry and a causal link between the two.
145. As regards to the submission that while it is acknowledged that a portion of the domestic industry's operations may be linked to its SEZ unit, this does not undermine the consistent profitability of the Insoluble Sulphur division, the Authority notes that for the purpose of injury analysis of the domestic industry, it has considered the PUC profitability of domestic industry's DTA unit and the domestic sales. Therefore, the Authority's analysis of injury to the domestic industry is without consideration of the combined profitability of Insoluble Sulphur division published in the Annual Report of the domestic industry.
146. As regards to the submission that rise in imports is due to the additional demand which the domestic industry is unable to fulfil and the unavailability of certain approved grades of the PUC, the Authority has determined that the domestic industry is selling a product which is "like" to the imported product, and therefore, it does not find any merit in the argument that the domestic industry is unable to fulfil the demand for certain products and as a result import have increased.
147. With reference to profitability of the domestic industry, In this regard, the Authority notes that the profitability of the domestic industry has shown a significant decline with positive profit in the base year turning into losses in the POI. The Authority further notes that PBDIT has witnessed a significant decline in the POI.
148. Some parties have made the submission that profit margins may have come down due to increase in depreciation and interest and as a result there exists no price underselling during the POI. In this regard, the Authority notes that it has calculated the NIP of the domestic industry as per the methodology laid down in Annexure-III of the AD Rules.

149. Some parties have made the submission that the domestic industry's domestic selling price, its export price, and the landed price of imports from non-subject countries, all independent of alleged dumping have followed a similar downward trend. Hence, price reduction is a consequence of global market conditions, not competitive pressure from subject imports. In this regard, the Authority notes that the decline in the domestic selling prices of the domestic industry is far higher than the decline in the Sulphur prices in the POI because of significant decline in import prices of the PUC from subject countries. Furthermore, the Authority notes that while there is a decline in the import price from the non-subject countries as well, such prices are way higher than the fair selling price of the domestic industry and is not causing any injury to the domestic industry.
150. As regards to the submission that volume of subject imports is too small to exert sizeable price pressure, the Authority notes that the market share of the subject countries is 14% in the POI as against 3% in the base year. In the base year, the domestic industry was in profits and the profits of the domestic industry turned into significant losses in the POI with the continuous increase in the imports volume from the subject countries at dumped prices.
151. As regards to the submission that during the POI, total imports stood at 2,927 MT, accounting for just 12% of the market, while the DI held a dominant 60% share, the Authority notes that the market share of the domestic industry has declined in the POI and the lost market share has been taken over by the imports from subject countries. Furthermore, the Authority notes that the subject countries have not only taken over the share of the domestic industry but also captured the market share of the non-subject countries.
152. As regards to the submission that if 1890 MT of SHTS grade imports is excluded, the remaining subject imports amount to just 1,037 MT, or a mere 4% of the total market which cannot suppress or depress the DI's pricing, especially given its strong market position and sustained profitability, it is noted that the Authority does not find it appropriate to carry out the import analysis after excluding the imports of SHTS grade when it has already been concluded by the Authority that the domestic industry is manufacturing and selling a like article.

M. CONCLUSION & RECOMMENDATION

153. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes as provided below.
154. The product under consideration in the present investigation is "Insoluble Sulphur" originating in or exported from China PR and Japan.

155. The subject goods exported from the subject countries and the article manufactured by the domestic industry are 'like article' to each other in terms of Rule 2(d) of the AD Rules, 1995.
156. The applicant is a sole producer of the PUC and constitutes 100% of the total Indian production of the PUC. Therefore, the applicant passes the 'major proportion' test under Rule 2(b) of the AD Rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the AD Rules.
157. Considering the normal value and export price for the subject goods, the dumping margin for the subject goods from the subject countries has been determined, and the margins are positive and significant.
158. The volume of dumped imports from subject countries has increased in absolute and relative terms in the POI over the injury period.
159. The market share of the subject countries has been significantly increasing in the backdrop of domestic industry's capacities lying idle and growing demand of the PUC in India.
160. The domestic industry has not been able to utilize its full capacity and is operating in the range of only 55-65% over the injury period.
161. The profitability and the return on capital employed of the domestic industry has shown decline throughout the injury period. The profits in the base year turned into significant losses in the POI.
162. The average inventories of the domestic industry have increased throughout the injury period with some decline in the POI.
163. The domestic industry is facing significant price pressure from the dumped imports and had to reduce its selling prices to retain its falling market share.
164. The domestic has suffered material injury as a result of the dumped imports and there is a causal link between the dumped imports from the subject countries and injury to the domestic industry.
165. The dumping margin and injury margin from subject countries are significantly positive.
166. Imposition of anti-dumping duty would not affect the availability of the product to the customers.
167. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and

causal link in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that imposition of anti-dumping duty is required to offset dumping and injury. Therefore, the Authority recommends imposition of anti-dumping duty on imports of subject goods from the subject countries.

168. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of anti-dumping duty on the imports of subject goods, originating in or exported from the subject countries for a period of 5 years from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below.

Duty Table

| S. No. | Sub Heading or Tariff Item* | Description of Goods | Country of Origin | Country of Export | Producer | Amount | Unit | Currency |
|---------------|------------------------------------|-----------------------------|--|-----------------------------------|-------------------------------|---------------|-------------|-----------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1 | 38123930, 28020010, 38249900 | Insoluble Sulphur | China PR | Any other country including China | Any | 307 | MT | USD |
| 2 | -do- | -do- | Any country other than China and Japan | China PR | Any | 307 | MT | USD |
| 3 | -do- | -do- | Japan | Japan | Shikoku Chemicals Corporation | 259 | MT | USD |
| 4 | -do- | -do- | Japan | Any other country including Japan | Any other than (3) | 358 | MT | USD |
| 5 | -do- | -do- | Any country other than Japan and China | Japan | Any | 358 | MT | USD |

*The customs classification is indicative only and is not binding on the scope of the product under consideration.

N. FURTHER PROCEDURE

169. An appeal against the determination of the Designated Authority in this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.



(Darpan Jain)
Designated Authority