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**F. No. 06/10/2023 - 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: 19 December 2024

**FINAL FINDINGS**  
(CASE NO. AD(OI)-10/2023)

**A. BACKGROUND OF THE CASE**

1. M/s Placero International Pvt. Ltd., also known as ‘Pexpo’ (hereinafter referred to as the "applicant" or the "petitioner") filed an application, in the form and manner prescribed before the Designated Authority (hereinafter also referred to as the "Authority") in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the “Rules”), for initiation of an anti-dumping investigation and imposition of anti-dumping duty on imports of “**vacuum insulated flask and other vacuum vessels, of stainless steel**” (hereinafter also referred to as the “Vacuum Flasks” or “subject goods” or the “product under consideration”) originating in or exported from China PR (hereinafter also referred to as the "subject country").

**B. PROCEDURE**

2. The procedure described below has been followed with regard to the investigation:
  - a. The Authority notified the embassy of the subject country/territory in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5(5) of the Rules.
  - b. The Authority *vide* notification no.6/10/2023-DGTR dated 20<sup>th</sup> September, 2023 published a public notice in the Gazette of India, Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from the subject country.

- c. The Authority forwarded a copy of the public notice along with the questionnaires to the embassy of the subject county in India, all known exporters, importers and users (whose details were made available by the applicant) and gave them the opportunity to make their views known in writing in accordance with Rule 6(2) of the anti-dumping rules. They were advised to reply within thirty days from the date of receipt of notice.
- d. The Authority provided a copy of the non-confidential version of the application to the known exporters and the embassy of the subject country in accordance with Rule 6(3) of the anti-dumping Rules. A copy of the application was also provided to the other interested parties, as requested.
- e. The Authority sent questionnaire to elicit relevant information to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the AD rules:

<b>SN</b>	<b>Producer/ Exporter</b>
1.	Zhejiang Ximi Heat Preservation Utensils Co Ltd
2.	Desipro PTE Ltd
3.	Fancy Techmi Co Limited
4.	Haers HK Limited
5.	Junhui Import and Export Company Limited
6.	Kaixun Imp Exp Co Ltd
7.	Kyodo International Ltd
8.	Union Source Co Ltd
9.	Wuyi Haoqi Industry and Trade Co
10.	Yiwu Empire Import and Export Company
11.	Yiwu Longjin Import Export Limited
12.	Yiwu ONCCC Intl Ltd
13.	Yiwu Water Cube Import Export Tra
14.	YongKang Oumu Houseware Co Ltd
15.	Yongkang Zhongdun Industrial and Trade Co Ltd
16.	Zhejiang Li Heng International Trade
17.	Zhejiang Xiongtai Houseware Corp Ltd

- f. Following producers/exporters from the subject country have filed the exporter's questionnaire response or made submissions:

<b>SN</b>	<b>Responding Producer/ Exporter</b>
1.	YongKang Xinduo Cups Co Ltd
2.	Asset Crown Ltd
3.	Zhejiang Haoqi Industry & Trade Co Ltd.
4.	Zhejiang Kuangdi Industry & Trade Co Ltd
5.	Zhejiang Xiongtai Houseware Corp. Ltd

- g. Questionnaires were also sent to the following known importers/users of the subject goods in India seeking necessary information in accordance with Rule 6(4) of the AD Rules:

<b>SN</b>	<b>Importer/ User</b>
1.	Aecone Consumer Care Private Limited
2.	Atlas Metal Processors Private Limited
3.	Avenue Supermarts Limited
4.	Borosil Limited
5.	Cello World Private Limited
6.	Dhara Steel International
7.	DJM Houseware Private Limited
8.	Hamilton Housewares Pvt Ltd
9.	Krishna Global Imports LLP
10.	Link Partners
11.	Modware Impex
12.	Nakoda Traders
13.	Shree Balajee Home Products Pvt Ltd
14.	Siddhi Vinayak Enterprises
15.	Sona Enterprises
16.	SPM Innovations
17.	Swastik Impex
18.	Tata Starbucks Private Limited
19.	Tokyo Plast International Limited
20.	Universal Corporation Limited
21.	Universal Texofabs
22.	Vaya Life Private Limited
23.	Vinod Cookware

- h. Following importers of the subject goods have filed the Importer's questionnaire response or made submissions:

<b>SN</b>	<b>Responding Importer</b>
1.	Borosil Ltd
2.	Cello World Ltd
3.	Hamilton Houseware Pvt Ltd

- i. Borosil Limited filed the confidential version of the importer's questionnaire response on 19<sup>th</sup> March 2024. As per the IQR prescribed by the Authority, five (5) appendices have to be enclosed by the importer. During the examination of the IQRs, it has been observed by the Authority that in Appendices 1 and 2, merely the first and last twenty (20) transactions have been mentioned by the importer. Furthermore, the information provided in Appendix – 3 has been found to be grossly incomplete as the columns pertaining to quantity and value during the 1<sup>st</sup> and 2<sup>nd</sup> previous years have been left blank by the importer. Moreover, appendices 4 and 5 have not been given at all. Further, the data that was required to be provided in the Excel sheet has been provided in a PDF format. The importer circulated the non-confidential version of the IQR on 15<sup>th</sup> April 2024. It is a well-established principle that the non-confidential version has to be a true replica of the confidential version filed with the Authority. It has been observed that the importer mentioned the submission of Appendix 4 and Appendix 5 and claimed complete confidentiality on both appendices. The importer did not inform that it had not submitted Appendix 4 and 5 to the authority. Subsequently, on 22 June 2024, the Authority sought the verification documents with regard to IQR filed by the importer. The importer did not provide the verification documents as sought by the authority. In view of the above, the Authority observes that the interested party has refused access to and did not provide the necessary information within the stipulated time and hence the IQR submitted by the importer cannot be considered.
- j. M/s Hamilton Housewares Private Limited filed a delayed Importer's Questionnaire Response i.e., on 27 March 2024 while the stipulated deadline for filing the same was 19 March 2024. The Authority on 4<sup>th</sup> April 2024 communicated to the importer that its response is time-barred and the same cannot be considered.
- k. Cello World Ltd, an importer filed a time-barred response to the importer's questionnaire. Further, the written submissions filed by the importer are also time-barred. Therefore, the same cannot be considered by the Authority.
- l. Homeware Goods Association of India, an association of importers of the subject goods, also registered itself as an interested party in the present investigation. It has filed comments on the PUC and the investigation. Contentions of the association have been addressed appropriately in relevant sections of the final findings.
- m. In addition to the above other interested parties, Eagle Consumer Products Pvt Ltd also registered itself as an interested party but did not file any comments or response to the prescribed questionnaire.
- n. The Authority issued an economic interest questionnaire (EIQ) to all interested parties and the concerned ministry. Response to EIQ has been submitted by the domestic industry and by one importer, i.e. Cello World Ltd.
- o. The information provided by the interested parties on a confidential basis was examined with regard to the sufficiency of such 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 a confidential basis were directed to provide sufficient non-confidential version of the information filed on a confidential basis.

- p. Further information was sought from the applicant to the extent deemed necessary.
- q. Verification of the domestic industry & other interested parties was conducted to the extent considered necessary for the purpose of the present investigation.
- r. The non-injurious price (hereinafter referred to as ‘NIP’) based on the cost of production and the cost to make and sell the subject goods in India based on the information furnished by the domestic industry, maintained as per Generally Accepted Accounting Principles (GAAP), has been worked out so as to ascertain whether the present anti-dumping duty is sufficient to remove injury to the domestic industry.
- s. The applicant had considered 1st April 2023 – 31st December 2023 (9 months) as the period of investigation at the time of filing of the application. However, data for the subsequent quarter was later provided by the applicant and the period subsequently modified to April 2022 to March 2023(12 months). Hence, the period of investigation for the purpose of the present investigation is 1st April 2022 to 31st March 2023 (hereinafter referred to as the “period of investigation” or “POI”). The injury analysis period included the period of investigation and the preceding years, 2019-20, 2020-21, 2021- 2022.
- t. The Authority vide para 7 of the initiation notification dated 20th September 2023 granted an opportunity to the stakeholders to present their comments on the scope of the product under consideration and product control number (PCN) within 30 days of initiation of the investigation
- u. Subsequently, the Authority held a meeting for deciding the scope of the PUC and the PCN methodology to be followed on 10th November 2023. The Authority received and considered the comments with regards to the PUC and the PCN methodology to be followed. Accordingly, the scope of the PUC and the PCN methodology were redefined by the Authority vide notification dated 26th February 2024. The interested parties were directed to file the respective questionnaire responses within 15 days of issuance of the notice.
- v. The Authority received requests from the applicant and the respondents to clarify whether “vacuum body” is included within the scope of the PUC. In response to such requests for clarifications sought, the Authority, vide notification dated 10th May 2024, clarified that while parts like lid, cap and bottom are not covered, “vacuum-insulated body” of flask and other vacuum insulated vessels, with or without parts like lid, cap and bottom are covered within the scope of the PUC. In case of sale or import of vacuum insulated body with or without lid, cap and bottom, the interested parties were directed to identify and submit data regarding vacuum insulated body separately. An additional time of 7 days was granted to the interested parties to provide such information in the questionnaire response.

- w. Thereafter, in accordance with Rule 6(6) of the AD Rules, the Authority provided an opportunity to the interested parties to present their views during the oral hearing held on 19th June 2024. The interested parties were requested to submit their written submissions by 26th June 2024 and rejoinder submissions by 3rd July 2024.
- x. Due to the change of the Designated Authority, a fresh oral hearing was held on 10th September 2024 wherein all interested parties were provided the opportunity to present their views. The interested parties were requested to submit their written submissions by 17th September 2024 and rejoinder submissions by 20th September 2024.
- y. 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 03 December 2024. 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.
- z. 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 recorded its observation on the basis of the facts available.
- aa. “\*\*\*\*” in the final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- bb. Exchange rate considered for the POI for conversion of USD to Indian Rupees is 1 USD = **Rs. 81.06**.

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

### **C.1 Views of the other interested parties**

3. The following submissions have been made by the other interested parties with regard to the scope of the product under consideration and like article:
  - i) The applicant defined the product under consideration as “vacuum insulated flask and other vacuum vessels, of stainless steel” in the petition. However, as per the notification of initiation the product is “vacuum insulated flask or other vessels of stainless steel”. The term “and” and “or” cannot have the same meaning. The PUC defined in the initiation notifications has enlarged the scope of the investigation to other than what was requested for by the applicant and also included ‘other vessels of stainless steel’.
  - ii) The initiation notification implies that the PUC would cover both “vacuum insulated flask” and “other vessels of stainless steel”, adding all types of flasks and vessels within the PUC scope irrespective of the material. However, proposed PCN suggests that investigation is restricted to steel products only.

- iii) Authority may clarify whether vessels of stainless steel that are not vacuum insulated are beyond the scope of the PUC.
- iv) Authority is requested to clarify if vacuum insulated flask body without the lid, cap, and bottom or any other part of the vacuum insulated flask or vacuum insulated vessel, of stainless steel which is imported under the HS code 96170090 (parts) is covered within the scope of the PUC. If such parts are covered within the PUC scope, Authority may prescribe separate PCN for them.
- v) The Authority is requested to clarify if “electric vessels” like electric kettles that are classifiable under HS Code 8516 and are not truly “vacuum insulated” are excluded from the PUC scope.
- vi) The applicant has proposed PCNs for – grade of outer steel wall and grade of inner steel wall. Such PCN methodology alone would not ensure an apple-to-apple comparison.
- vii) Different types of vessels have different end uses and are perceived as different products by the user. There is also a significant variation in cost of production of and prices of various product types. PCN may be prescribed based on types of vacuum insulated vessels, i.e., cups, bottles, carafe and dispenser of stainless steel.
- viii) There are various capacities i.e. storage capacity in ml, of flasks. Separate PCN category may be created for flasks as a comparison based on prices per kg does not fully cover difference in cost and prices between different capacities.
- ix) Separate PCN may be created for vessels with case and without case, as the cost and price of vacuum insulated vessels will vary depending on whether the subject goods are sold with or without case.
- x) It needs to be clarified whether single wall steel bottles are covered or not in the PUC scope. PCN should be provided to see if the product is of single wall or double wall. Else, it may be clarified that bottles of single wall are outside the scope of the PUC.
- xi) The subject goods come in variety of colours and coatings. The cost and price of the product varies based on colour. Coating makes them very costly and hence coated coloured and coated subject goods cannot be compared with a basic flask or vessel. PCN may be devised for colour coating and printing on the subject goods.
- xii) The applicant in its letter dated 12th September 2023 stated that the data submitted by it includes dispensers. However, the Authority excluded dispensers from the scope of the PUC vide its notification dated 26th February 2024. The applicant should be directed to file revised import data, margins and injury information.
- xiii) The applicant’s PCN wise data shows that it doesn’t produce cups or mugs of capacity more than 500 ml and up to 1000 ml with inner and outer wall of 300 series, and carafe or kettle of capacity up to 500 ml with inner and outer wall of 300 series. These should hence be excluded from the scope of the PUC.
- xiv) Additional HS codes identified were notified by the Authority which would primarily cover vacuum vessels that are NPUC. The Authority should carefully examine import description before deciding to include imports under these codes in import volume.

## C.2. Views of the domestic industry

4. The following submissions have been made by the domestic industry with regard to the scope of the product under consideration and like article:
  - i) The product under consideration is “vacuum insulated flask and other vacuum vessels, of stainless steel”.
  - ii) The PUC specifically includes stainless steel and vacuum insulated products in the form of flasks, cups, carafe, and dispensers, etc. (all forms of flasks and vessels).
  - iii) Vacuum flasks are used to maintain the temperature of liquids for a considerable amount of time. The body of the flasks is made up of two walls with a vacuum between them which acts as an insulator or non-conductor of heat thereby helping maintain the temperature of the liquid.
  - iv) The manufacturing process involves steps like selection of raw material, pipe cutting, deburring, weld line rolling etc.
  - v) The subject goods are transacted in terms of numbers (pieces, dozens, etc.). However, the prescribed unit of measurement for the subject goods in the Customs notification is “MT/kg”.
  - vi) The product falls under Chapter 96 and customs subheading 96170011 and 96170012.
  - vii) As per market information with the applicant, some importers, in addition to the codes identified by the Authority i.e., 96170011, 96170012 and 96170090, have also imported the subject goods under alternative HS codes like 96170013 and 96170019. The Authority is kindly requested to include such other codes within the purview of the investigation and investigate whether the responding exporters have reported subject exports made in HS codes other than the three already considered by the Authority.
  - viii) Market information suggests that the subject goods have also been imported under other codes.
  - ix) As regards the argument on inclusions of codes pertaining to NPUC, Customs classification mentioned by the Authority are only indicative, and not binding on the scope of the PUC. If the PUC has been imported under an HS classification other than the dedicated codes, the Authority should take cognizance of the same. Since Customs collects duty based on HS code, a product would be allowed to be cleared without payment of ADD in case the product has been sought to be cleared in an HS code not specified by the Authority. Further, merely because the Authority has specified an HS code, does not mean that any product imported under such HS code shall become subject to ADD. The duties are payable only if the product description of such import is covered by the ADD measures.
  - x) The customs subheading makes it quite unambiguous that the classifications 96170011 and 96170012 specifically pertain to vacuum vessels. Any product without vacuum falls

outside the scope of the PUC. Hence, there is no reason for devising PCN on the basis of single wall / double wall criteria.

- xi) Vacuum-insulated electric kettles of stainless steel are outside the scope of the PUC. However, vacuum-insulated kettles or carafes, of stainless steel (non-electric) are included within the scope of the PUC.
- xii) Vacuum insulated flasks of steel and vacuum insulated bottle of stainless steel are two different nomenclatures for the same product. Vacuum insulated mug of steel and vacuum insulated cup of steel are also two nomenclatures for the same product.
- xiii) The applicant agrees to the exclusion of vacuum insulated dispenser of stainless from the scope of the PUC. It can be verified from the data filed by the applicant that dispensers have been left outside the scope. As regards import data, the applicant has relied on DGCI&S published data. The Authority may exclude dispensers from the import data considered by it for analysing the total volume and value of imports.
- xiv) There is no/ insignificant market for cups or mugs of capacity from 500 ml and up to 1000 ml and carafe or kettle of capacity up to 500 ml with inner and outer wall of 300 series. Further, the raw material, machinery and production process followed for production of all types of products is the same. It is only the mould that needs adjustments. The applicant has inhouse capacity to produce such moulds. Hence, the type of product, its capacity and composition of the walls can easily be altered by the applicant. Exclusion of such products would lead to circumvention of duties.
- xv) The scope of the product under consideration is required to include “vacuum flask body without lid, cap, bottom or any other part”, so long as the product includes “vacuum insulated body or vessels”, regardless of the HSN where it is classified.
- xvi) Imports of the product in SKD and CKD form is nothing but imports of the PUC and hence the product scope is required to include the subject goods in SKD and CKD form. If vacuum body is not included, the entire intended remedy shall be totally ineffective.
- xvii) Standalone components such as lid, cap, bottom or any other part, so long as the product does not include vacuum insulated body or vessels, are not part of present application and can be excluded from the scope of the PUC.
- xviii) There is no need for identifying a separate PCN for components such as lid, cap, bottom or any other part. The only difference between a complete ready to use product and vacuum insulated body is the value of parts. Thus, the value of lid, cap, bottom or any other part essential to complete a vacuum flask can be added to the value of vacuum insulated body to determine the value of complete vacuum flask.
- xix) The difference in cost of production is significant only in so far as grade of steel used is concerned. All other parameters do not have any material impact on the NIP and normal value.
- xx) Items such as accessories, like cases, straps, handles, etc., do not form part of cost of production. These differences can appropriately be addressed through adjustments to the selling price (the exporters can claim price adjustments for these additional items).

- xxi) If the Authority considers it appropriate it may consider type of steel used in inner and outer wall of the product, type of product and its capacity as another PCN parameter.
- xxii) Subject goods produced by the domestic industry and that imported from China PR are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The product produced by the domestic industry is “like article” to the product under consideration imported from the subject country.

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

5. The product under consideration as defined at the stage of initiation is as follows:

*“3. The product under consideration in the present investigation is “vacuum insulated flask or other vessels of stainless steel”. The scope of the PUC includes flasks, cups, bottles, kettle, carafe, and dispensers. The other Vessels of Stainless like casseroles and other vacuum food containers like lunch boxes/ tiffins, ice buckets and boxes, etc. fall outside the scope of the PUC.”*

*“5. The product under consideration falls under Chapter 96 under customs sub-headings 96170011 and 96170012 of the Customs Tariff Act, 1975. The customs classification is only indicative and is not binding on the scope of the product under consideration.”*

6. Subsequent to a virtual meeting held to discuss the scope of the PUC and PCN methodology on 10<sup>th</sup> November, the Authority provided an opportunity to the interested parties to offer comments. After having received comments from the interested parties, the Authority vide notification dated 26<sup>th</sup> February 2024 amended the scope of the PUC as notified in the notice of initiation as follows:

*“3. The product under consideration in the present investigation is “vacuum insulated flask and other vacuum insulated vessels, of stainless steel” such as vacuum insulated cups/mugs, bottles/flasks, and carafe/kettle. Other vessels and containers like dispensers, casseroles, vacuum lunch boxes/ tiffin, ice buckets and boxes, etc. fall outside the scope of the product under consideration. It is further clarified that Single walled flask i.e., a flask with no vacuum, Electric kettles and other electric vessel are excluded from the scope of PUC in the subject investigation.*

*4. Vacuum Flasks are used to maintain the temperature of liquids or a considerable amount of time. The body of the flask is made up of two walls with a vacuum between them which*

*acts as an insulator or non-conductor of heat thereby helping maintain the temperature of the liquid. Vacuum flasks are used to keep liquids hot or cold for long periods of time.*

5. *The product under consideration falls under Chapter 96 under customs sub- heading 96170022, 96170012 and 96170090 of the Customs Tariff Act, 1975. The customs classification is only indicative and is not binding on the scope of the product under consideration.*”
7. Pursuant to the amendment notification, the interested parties sought clarification regarding inclusion of parts of vacuum insulated flasks and other vacuum-insulated vessels within the scope of the PUC. In response to such requests, the Authority vide notification dated 10<sup>th</sup> May 2024 clarified as follows:

*“2. In response to the request for clarifications regarding the inclusion of parts of vacuum insulated flasks and other vacuum-insulated vessels within the scope of PUC, it is clarified that parts like the lid, cap, and bottom are not covered within the scope of PUC. It may be noted that the scope of the PUC is vacuum-insulated flask and other vacuum-insulated vessels, of stainless steel and it covers the “vacuum-insulated body” of flask and other vacuum-insulated vessels, with or without parts like lid, cap and bottom.”*

8. In view of the above, the scope of the product under consideration in the present investigation is the following:

*“Vacuum insulated flask and other vacuum insulated vessels, of stainless steel” such as vacuum insulated cups/ mugs, bottles/ flasks, and carafes/ kettles including vacuum-insulated body of flask and other vacuum-insulated vessels.*

*Vessels and containers like dispensers, casseroles, vacuum lunch boxes/ tiffin, ice buckets and boxes, etc. fall outside the scope of the product under consideration. Further, single walled flask i.e., a flask with no vacuum, electric kettles and other electric vessels are excluded from the scope of the PUC.”*

9. Vacuum Flasks are used to maintain the temperature of liquids or a considerable amount of time. The body of the flask is made up of two walls of stainless steel with a vacuum between them which acts as an insulator or non-conductor of heat thereby helping maintain the temperature of the liquid. Vacuum flasks are thus used to keep liquids hot or cold for long periods of time.
10. The Authority notes that the subject goods are being imported under customs subheadings 96170011, 96170012 and 96170090 of the Customs Tariff Act, 1975. The customs

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

11. The other interested parties in their submissions sought the exclusion of cups or mugs of capacity more than 500 ml and up to 1000 ml with inner and outer wall of 300 series, and carafe or kettle of capacity up to 500 ml with inner and outer wall of 300 series stating that the applicant does not produce these products. The domestic industry has produced these products, albeit in low volumes and prior to the POI. The domestic industry further submitted that there is negligible demand for these products in the market. This has also been verified through import data. At the time of on-the-spot verification at the premises of the domestic industry, and during the plant visit, it was seen that the production process for different product types does not materially differ. The raw material and machinery used in such process are also the same. Production of different types merely requires adjustment to be made in the mould (to form the desired shape and size). The domestic industry has in-house facility for making different kinds of mould. The applicant further stated at the time of verification that the moulds can be bought even from market. Thus, exclusion of cups or mugs of capacity more than 500 ml and up to 1000 ml with inner and outer wall of 300 series, and carafe or kettle of capacity up to 500 ml with inner and outer wall of 300 series is not warranted.
  
12. The interested parties contended that since dispensers have been excluded from the scope of the PUC, the applicant should submit revised data after excluding dispensers. The Authority notes that while at the time of filing of the application, the applicant had proposed to include dispensers within the scope of the PUC, they later agreed to exclusion of the same. However, the applicant has not produced dispensers in the POI and thus the data to that extent does not undergo any change. There was therefore no necessity of filing the same data again.
  
13. After considering the submissions made by the interested parties, the Authority finalized PCN and notified vide notification dated 26<sup>th</sup> February 2024. The Authority has considered the following PCN.

<b>Parameter</b>	<b>Value</b>	<b>Code</b>
Steel of inner wall	200 series	IW200
	300 series	IW300
	400 series	IW400
Steel of outer wall	200 series	OW200
	300 series	OW300
	400 series	OW400
Type of product	Bottle/ flask	BL
	Carafe/ kettle	CF
	Mug/ cup	MG

Capacity of vessel	Upto 500ml	U5
	Above 500 ml and upto 1000 ml	51
	Above 1000 ml	A1

14. The Authority notes that the article produced by the domestic industry and the product under consideration imported from the subject country are comparable in terms of physical and technical characteristics, functions and uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The Authority holds that the subject goods produced by the domestic industry is “like article” to the product under consideration imported from the subject country within the scope and meaning of Rule 2(d) of the Anti-dumping Rules.

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

##### **D.1 Views of the other interested parties**

15. The other interested parties have made the following submissions with regard to the scope of domestic industry and its standing:

- i) The applicant, to inflate their own share, excluded certain producers claiming them to be traders. The applicant must give a list of all known producers even if some are importers. The exclusion is not automatic but upon the Authority’s discretion.
- ii) Requirements of Rules 2(b) and 5(3) are not diluted in the case of an MSME applicant.
- iii) Out of the 14 producers identified by the applicant, 2 were identified as importers. Production of the remaining 12 should’ve been considered to determine total Indian production.
- iv) The self-determined exclusion of other producers by the applicant from scope of Rule 2(b) is arbitrary and illegal.
- v) Applicant shouldn’t outrightly put producers in importer list. Cello, large producer of subject goods was not identified as producer but importer only.
- vi) The standing of the applicant currently appears unrealistic. The Authority should define industry in a way that the injury claimed is representative.
- vii) No information was provided in the application about total production or producers in the country. Hence, the Authority could not have decided about standing and the initiation does not comply with Rule 5.
- viii) The applicant through an amendment revised standing from 60-70% to 50-60%. It is not known what resulted in such change.
- ix) It is not clear what companies are identified as “others” by the domestic industry for determining total production. The domestic industry should have clearly provided name of each producer.

- x) The domestic industry requested for information from other companies but did not receive a reply. How was it determined that they are importers or when they started production if no reply was received.
- xi) The applicant, an MSME, having 50-70% share when there are more than 20 producers is highly doubtful.
- xii) In Epoxy resin, the Authority called import data and checked imports made by one domestic producer. The Authority didn't do so in this case, where information on imports by others was unknown, even after initiation.
- xiii) Entities with BIS license should be presumed eligible domestic producers. The Authority cannot presume other producers as ineligible because their actual production and import is unavailable.
- xiv) 3 producers claimed to be post-POI producers have BIS license that was tentatively granted during the POI.
- xv) As per the Appellate Body's decision in the EC Fasteners case, lower the proportion, the more sensitive an Authority has to be to ensure that the proportion used substantially reflects total production of the producers as a whole.
- xvi) The Authority performs a quasi-judicial function and must ensure that principles of natural justice are followed.
- xvii) The Authority did not make efforts to collect information and ascertain total production from BIS or concerned ministries. Further, dissent or opposition from other producers was not enquired by the Authority.
- xviii) It is impossible for the applicant to satisfy major proportion test if the total Indian production itself is unknown. It has not been substantiated that the other producers are importers. The Authority did not try to carry out a determination about exclusion even in an absence of evidence. Such an approach is arbitrary, contrary to the law and in breach of natural justice.

## **D.2 Views of the domestic industry**

16. The applicant has made the following submissions with regard to the domestic industry and its standing:

- i) The application has been filed by M/s. Placero International Private Limited, also known as 'Pexpo'.
- ii) 14 producers of the subject goods, including the applicant itself, had been identified in the application. However, on the basis of market intelligence and discussions held in the market, it is understood that most of these producers have been acting as importers and traders of the subject goods and thus considered ineligible.

- iii) Out of the 13 producers identified, Gaurav Kitchenware, t World Industries, Kedara Kitchenware were on further scrutiny found to be producing single walled flasks i.e., NPUC and hence not considered as part of the domestic industry.
- iv) The total Indian production has been quantified considering the estimated production of other producers of the PUC that have not imported the subject goods during the POI i.e., Nanobot Houseware Solutions Pvt Ltd, Crown Craft India Pvt Ltd and Basik Innovation. Considering the same the applicant's production represents a major proportion of total Indian production.
- v) Further, communications were sent to the other companies identified as producers in the application, seeking information regarding their capacity, production, sales, imports, etc. However, none of such entities responded to the emails sent to them.
- vi) Subsequently, it was considered that some entities could be eligible producers of the subject goods but have not responded to the applicant and the Authority. Hence, a cumulative production of 500 MT was quantified in respect of such entities to determine the total Indian production.
- vii) The applicant has neither imported subject goods from the subject country nor is it related to any importer in India or producer/ exporter from the subject country
- viii) The applicant constitutes a 'major proportion' of the total Indian production and satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules.
- ix) As regards the respondent listing names of other entities alleged to be the domestic producers of the subject goods in the POI, a statement consolidated by the applicant specified whether these were identified in the application and whether they are eligible to be treated as eligible producers. A majority of the other producers have either imported in the POI or have commenced production in the post-POI period.
- x) Imports made by the other producers may be verified by the Authority from import data procured from DGCI&S/DG Systems.
- xi) The applicant belongs to the MSME sector and based on market interactions and research gave the best information available to it. While there is no dilution to the requirements of Rule 2(b) and 5(3), obligation of the applicant is limited to "available information". Further, there is no published information with regard to companies who have created capacities for the subject goods. Many producers despite having production facilities are resorting to imports to benefit from dumped imports.
- xii) A mere claim of sale is not sufficient to conclude that a company is a producer of the subject goods. Considering the nature of the PUC and the manner in which the interested parties are operating, several companies show themselves as a supplier of the PUC, even without production. Some companies import the product in incomplete form i.e., vacuum flask body while some are importing bottles and buying accessories separately. These companies brand a product in their own name and sell it in the market.
- xiii) As regards identifying Cello as an importer, there is no information to show that it is a producer. In fact, Cello itself is participating as an importer. Further, even producer such

- as Hamilton, despite having BIS license, has participated as an importer and not as a domestic producer. The volume of subject goods produced by an entity out of its own capacity or the fact that it is a major importer is irrelevant for obtaining a BIS license. Therefore, entities that have obtained BIS license cannot be presumed to be eligible.
- xiv) The respondents have merely disputed the standing of the applicant but have not brought forward any information on production.
  - xv) Further, subsequent to the oral hearing, certain other companies have come in support of the present application namely, Krypton Stainless Pvt Ltd, Thermo Housewares Pvt Ltd, Vardan Creators Pvt Ltd and Crown Craft I Pvt Ltd.
  - xvi) The Authority, vide email dated 10th July 2024, sought information from the domestic producers regarding their status as a producer. The applicant is unaware if any producer responded to the Authority, barring the 4 producers who had supported imposition of duties.
  - xvii) The applicant, on 3rd September 2024 and, in view of the hearing, on 7th September 2024, wrote to companies who had not replied to the Authority or applicant, and sought their co-operation. However, none responded which shows that they do not have contrary facts to be presented to the Authority.
  - xviii) DLJM Houseware Pvt Ltd cannot be considered eligible based on the declarations on their websites. The company imported machinery in November 2022 and could not have produced in the POI. Further, their product is also sold stating "imported and marketed".
  - xix) Hamilton on its website has stated that it is a "leading manufacturer and marketer of houseware products in the country" and not a major importer. Hence, a producer cannot be presumed to be eligible merely based on claims made on its website.
  - xx) In Crown Craft's letter to the Authority, it declared its production as \*\*\* MT. This shows the extent to which the petitioner has overstated production of other domestic producers.
  - xxi) An entity may get a BIS license for a period of 1 year. The tentative date of grant of license estimated by respondents is merely an estimate and not corroborated by any evidence. In fact, support letters received show that Krypton Stainless Pvt Ltd and Vardan Creators Pvt Ltd commenced production in the post-POI period.
  - xxii) As regards the argument that the companies cannot be eligible supporters if they are not eligible producers, the applicant has only considered Crown Craft as eligible. Production by the rest, though in support, has not been considered in total Indian production. However, while deciding, the Authority should consider that such producers have conveyed their support in favor of imposition of duties.

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

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

*"(b) "domestic industry " means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose*

*collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry ' must be construed as referring to the rest of the producers"*

18. The present application has been filed by M/s Placero International Pvt. Ltd., also known as 'Pexpo'.
19. The Authority notes that apart from the applicant there are several other producers of the subject goods in India. The Authority notes the contention of the domestic industry that almost entirety of the industry is in MSME with many producers being quite small. The Authority recognizes difficulties associated in quantifying gross Indian production, particularly when the majority of the Indian industry is MSME and there are no published information with regard to production and sale of the goods. It is not possible to quantify Indian production on the basis of consumption of inputs The Authority also recognizes the obligation of the petitioner in providing relevant information on the basis of such information as is reasonably available. It is seen that the applicant wrote to various known producers before the initiation of investigations and also during the course of the investigations. There was no response particularly from those entities who are allegedly producers of the product under consideration and are not importers of the product.
20. In view of difficulties associated in quantifying domestic production, in addition to initiation notification that was published in the official Gazette and on the DGTR website, the Authority wrote to various parties identified by the domestic industry and other interested parties. The Authority also wrote to the concerned ministry requesting them to advise domestic production. While the other interested parties have alleged that the applicant fails to meet the standing requirements under the rules, the Authority notes that none of the interested parties have provided any verifiable evidence to support their contentions.
21. The other interested parties have alleged that the applicant has intentionally excluded certain domestic producers to inflate its own share of domestic production. These interested parties contended that at least following other domestic producers are also engaged in production of the subject goods. However, these interested parties have neither quantified production of these other entities nor provided evidence that these companies were producing and selling the subject goods:
  - a) Butterfly Gandhimati Appliances Ltd
  - b) Crown Craft India Pvt Ltd
  - c) Dewdrop Bottles Pvt Ltd
  - d) DLJM Houseware Pvt Ltd
  - e) Flair Cyrosil Industries Pvt Ltd

- f) Hamilton Housewares Pvt Ltd
- g) Krypton Stainless Pvt Ltd
- h) Nanobot Housewares Solution Pvt Ltd
- i) Nelcon Industries India Pvt Ltd
- j) Servewell Household Appliances
- k) Stove Kraft Ltd
- l) Thermo Housewares Pvt Ltd
- m) Vardan Creators Pvt Ltd

22. The domestic industry refuted the claim of other interested parties and made submissions showing therein status of each of the other domestic producers identified by other interested parties. The domestic industry made the following claims.

<b>SN</b>	<b>Company Name</b>	<b>Whether identified</b>	<b>Remarks</b>
<b>A</b>	<b>Identified by the petitioner</b>		
1.	Placero International Pvt. Ltd.	Yes	Applicant
2.	Nanobot Houseware India Pvt Ltd	Yes	Considered eligible
3.	Crown Craft India Pvt	Yes	Considered eligible
4.	Basik Innovation	Yes	Considered eligible
5.	Servewell Household appliances	Yes	Imported in POI
6.	Thermo Houseware Pvt	Yes	Imported in POI
7.	Dewdrop Bottles Pvt Ltd	Yes	Imported in POI
8.	Speedex India	Yes	Identified as Dewdrop
9.	Hamilton Housewares	Yes	Imported in POI
10.	Butterfly Gandhimati Appliances Ltd.	Yes	Selling imported material. Hence, presumed importer
11.	Vardan Creators Pvt Ltd	Yes	Post POI Producer
12.	Atlas Metal Processors	Yes	Importing regularly
13.	Inox World Industries	Yes	Producing NPUC
14.	Kedara Kitchenware	Yes	Producing NPUC
15.	Gaurav Kitchenwares	Yes	Producing NPUC
	<b>Identified by other interested parties</b>		
16.	DLJM Houseware Pvt. Ltd.	No	Post POI producer; Imported in POI
17.	Krypton Stainless Pvt.	No	Post POI Producer
18.	Stove Kraft Ltd	No	Imported in POI

19.	Flair Cyrosil Industries Pvt. Ltd.	No	Imported in POI through group company
20.	Nelcon Industries India Pvt Ltd.	No	Imported through traders

23. The Authority has carefully examined the conflicting claims of both sides of the interested parties in detail. The Authority ascertained the status of each of these other domestic producers. The Authority also examined import data procured from DG Systems and identified companies that were named as domestic producers by other interested parties and importers by the domestic industry.
24. While contending that the company is a producer of the PUC, the Authority notes that the interested parties provided no evidence of either production by the company in the POI or the volume of their production. The Authority notes that a mere possible sale by a company is insufficient to establish its status as a producer in the nature of present product, nor this is sufficient to quantify its production. The Authority requires quantified information with regard to production.
25. The Authority also sought information from these other known domestic producers whose names have been identified by the interested parties. The Authority sought relevant information including production, imports made by these companies. The Authority received replies from a few of these companies. The replies received are summarised below:
- a) Crown Craft India Pvt Ltd - Crown Craft India Pvt Ltd began manufacturing of the subject goods in 2021-22. It produced \*\*\*MT and did not import the subject goods during the POI. The company has supported imposition of duties and stated that while the growing demand is a positive sign for the industry, its growth is stunted due to presence of dumped imports.
  - b) Vardan Creators Pvt Ltd - Production of the subject goods at Vardan Creators Pvt Ltd started in July 2023, i.e., post-POI. The company submitted that its domestic counterparts have not been able to operate at expected levels due to imports from China PR.
  - c) Thermo Houseware Pvt Ltd - Thermo Houseware Pvt Ltd supported the imposition of duties, as despite setting up its manufacturing unit in 2007, its profits have been adversely impacted by dumped imports. Hence, the company and its related party, Atlas Metal Processors, has been importing the subject goods from China PR.
  - d) Krypton Stainless Pvt Ltd - Krypton Stainless Pvt Ltd is a new producer that started production in 2023-24, i.e., post-POI, considering the rising demand. The company has submitted that its performance is severely impacted by the dumping of subject goods from China PR.

26. The Authority holds as follows with regard to each of these other domestic producers made known to the Authority.

- a) Atlas Metal Processors is a party related to Thermo Houseware Pvt Ltd as submitted by Thermo Houseware Pvt Ltd in its reply to the Authority. The company, in its response to the Authority, stated that it has been compelled to import the subject goods. While the company has itself admitted imports, it has not provided the Authority any information regarding its production. The eligibility of the said producer could not be ascertained in view of unavailability of any information regarding the company's production.
- b) Basik Innovation did not reply to the Authority's email. However, the company has been considered an eligible Indian producer by the applicant. The DG Systems import data also does not show Basik Innovation as an importer. Therefore, the applicant's claims align with the import data on record and the company is being recognized as an eligible Indian producer for the purposes of determining the applicant's share in total Indian production.
- c) Butterfly Gandhimati Appliances Ltd. has been identified by the applicant as a likely producer in the application, however, it stated that the company is known to have been selling imported goods and have been importing goods through traders. The Authority has not received a response from the company to the information sought by it. The DG System import data does not show imports directly by this producer. Further, the Authority had written to the said producer, however has received no information. Since the name of the trader was not provided, the Authority could not ascertain import made by the said producer through traders. Thus, in view of lack of sufficient information, the Authority cannot consider the said company as a domestic producer.
- d) Crown Craft India Pvt Ltd has been considered an eligible Indian producer by the applicant. The company also supported imposition of duties and reiterated the same after oral hearing conducted by the Authority. While the applicant had estimated production by Crown Craft India Pvt Ltd as \*\*\*MT in the application, on information being sought by the Authority, the company stated that it did not import any quantities from China PR and had produced \*\*\* MT of the subject goods in the POI. The applicant had considered a higher estimate of production by the said producer. The producer is being considered an eligible Indian producer for the purposes of determining the applicant's share in total Indian production.
- e) Dewdrop Bottles Pvt Ltd – It is noted that Speedex India is a brand owned by Maharaja Cookers, which has been claimed by other parties as a domestic producer, for which goods are produced by Dewdrop Bottles Pvt Ltd. While the Authority's examination of the DG Systems data shows that the company has not imported the subject goods during the POI, the Applicant has claimed that the said company has imported the subject goods through traders. Dewdrop Bottles Pvt Ltd did not furnish any reply to the information sought by the Authority. Further, the Authority had written to the said producer, however

has received no information. Since the name of the trader was not provided, the Authority could not ascertain import made by the said producer through traders. Thus, in view of lack of sufficient information, the Authority cannot consider the said company as a domestic producer

- f) DLJM Houseware Pvt. Ltd. has been claimed to be an importer in the POI and a post-POI producer by the applicant. The company has not submitted any information regarding its production, nor did the other interested parties give an estimate of its production. While it is seen that the company holds a BIS certificate, that alone does not establish the eligibility of the producer. Although, the applicant has submitted that the company has sold product “imported and marketed” it during the POI, an analysis of the DG Systems imports data does not reveal that the company has imported the subject goods from the subject country during the POI. Further, the Authority had written to the said producer, however has received no information. Thus, in view of lack of sufficient information, the Authority cannot consider the said company as a domestic producer.
- g) Flair Cyrosil Industries Pvt. Ltd. did not respond to the Authority with relevant information. Applicant has argued that the said company has imported the subject goods through its related company. An analysis of its website reveals that the company is a related company of Flair Writing Industries Ltd i.e., a company engaged in manufacturing of stationaries. Further, analysis of DG Systems data reveals that the company has imported \*\*\*MT of the subject goods from the subject country during the POI through its related company. Further, the Authority had written to the said producer, however has received no information. Thus, in view of lack of sufficient information, the Authority cannot consider the said company as a domestic producer.
- h) Hamilton Housewares is an interested party which registered itself as an importer of the subject goods in the present investigation. From the company’s own submissions, it is seen that it holds a BIS license. However, an analysis of the information on imports submitted by the company reveals that it is primarily involved in importing and trading of the subject goods and hence cannot be considered an eligible Indian producer.
- i) Krypton Stainless Pvt. Ltd. was not identified as a producer by the applicant in the petition. However, in its later submissions the applicant responding to the claims by other interested parties, identified the company as a post-POI producer. Subsequent to the oral hearing, Krypton Stainless Pvt. Ltd. filed a letter in support of imposition of duties. From the information furnished by the company it is seen that the company started production of the subject goods in the post-POI period. Thus, the said producer is outside the scope of domestic industry for the POI considered in the investigation.
- j) Nanobot Houseware India Pvt Ltd has been considered as an eligible Indian producer by the applicant. However, the Authority’s examination of the DG Systems data has shown that the company has made \*\*\* Kg of imports of the subject goods from the subject country during the POI. The company has not responded to the emails sent by the Authority seeking information on production, imports, etc. However, the Applicant has

estimated production of the said producer and considering such information, it is seen that the volume of imports made by the company in relation to its production, as reported by the applicant, is insignificant, i.e., \*\*\*%. Therefore, the producer is being considered an eligible Indian producer for the purposes of determining the applicant's share in total Indian production.

- k) Nelcon Industries India Pvt Ltd. did not respond to the Authority with the relevant information sought by it. While the Authority's examination of the DG Systems data shows that the company has not imported the subject goods during the POI, the Applicant has claimed that the said company has imported the subject goods through traders. Since the name of the trader was not provided, the Authority could not ascertain import made by the said producer through traders. Thus, in view of lack of sufficient information, the Authority could not determinatively decide on the said producer's eligibility as a domestic producer.
- l) Placero International Pvt. Ltd. is the applicant in the present investigation and has not imported the subject goods from the subject country during the POI.
- m) Servewell Household Appliances has been identified it as a likely producer by the by the applicant in the application but has also been claimed to be an importer of subject good. The company did not respond to the email communications of the Authority. DG Systems data does not show that the company has imported the subject goods. However, the company has also not furnished any information sought by the Authority. It has neither shared its status as a producer nor any other details sought by the Authority. Further, it is claimed by the other interested parties that the company has BIS license, however, holding of BIS license alone does not establish a company as an eligible Indian producer. Since the producer has not responded to the email communication by the Authority, the Authority could not determinatively decide on the said producer's production and the impact on the standing of the application.
- n) Stove Kraft Ltd did not reply to the communications made to it by the Authority. However, from the DG Systems import data, it is seen that the company imported \*\*\*MT of the subject goods from China PR in the POI. However, the company has not cooperated with the Authority and has not provided any information on its production. Thus, in view of lack of sufficient information, the Authority could not determinatively decide on the said producer's eligibility as a domestic producer.
- o) Thermo Houseware Pvt Ltd appeared in the oral hearing to support the applicant and imposition of duties on the subject goods. Subsequently, it also filed a letter in support of duties. On information being sought by the Authority, the company has submitted that it has imported the subject goods from China PR. The same has also been seen by the Authority from DG systems import data. The company has imported \*\*\* sets of the subject goods from China PR during the POI. Further, while the company has itself admitted imports, it has not provided the Authority any information regarding its

production. Thus, in view of lack of sufficient information, the Authority could not determinatively decide on the said producer's eligibility as a domestic producer.

- p) Vardan Creators Pvt Ltd was identified as a likely producer of the subject goods by the applicant in the petition. However, it was not considered an eligible Indian producer. From the letters filed by the company, it is seen that the company commenced production of the subject goods in the post-POI period and is in support of imposition of duties. Thus, the said producer is outside the scope of domestic industry for the POI considered in the investigation.
- q) Inox World Industries, Kedara Kitchenware and Gaurav Kitchenwares-The applicant has identified these producers as possible producer of subject goods and later in its written submissions claimed that they are not producers of the PUC. No interested party has disputed this claim and there is no evidence on record to show this producer as producers of subject goods. Thus, these producers are not being considered as producers of subject goods.

27. It is thus seen that the Authority sent communication to all the other alleged domestic producers vide email dated 10<sup>th</sup> July, 2024, and the applicant also wrote to these other entities. Further, the Authority wrote to the Ministry of Consumer Affairs, Food and Public Distribution, but did not receive information on Indian production. As noted above, only four of the other alleged domestic producers have responded to the Authority. However, barring Crown Craft, none of these entities provided any information regarding their production and import volumes. While the Authority could examine imports made by some of these entities, it could not definitively ascertain the status of other alleged domestic producers. The Authority notes that the production of the applicant in the POI was \*\*\* MT. The applicant quantified Indian production as \*\*\* MT and claimed its own share as \*\*\*%.

28. The other interested parties have suggested that BIS license holders should be presumed eligible. The Authority finds that mere possession of a BIS license cannot be considered a definitive criterion either for determining eligibility as a domestic producer or to hold production in significant volumes. An analysis of the letters of support submitted by the applicant on behalf of four other domestic producers post-oral hearing shows that two of the supporting producers, despite holding BIS licenses, commenced production after the POI. Additionally, Hamilton Houseware Pvt. Ltd., a large-scale entity with a BIS license has participated in this investigation as an importer. This evidence contradicts the notion that a BIS license is a sufficient indicator of domestic production and eligibility for consideration of an eligible domestic producer in terms of Rule 2(b) of the AD Rules. It is also noted that despite Hamilton responding in the present investigation, it has not provided its production details.

29. As regards the argument that Cello has been put in the importer list despite being a large producer, it is seen that the company itself has participated in the present investigation as an

importer, and not as a producer. Further, the company has neither provided production data nor claimed to be involved in the production of the subject goods. Therefore, its inclusion in the list of importers by the applicant is justified.

30. The applicant has neither imported the subject goods from the subject country nor is it related to any importer or exporter thereof. Based on information on record, the Authority has determined the production of the applicant and eligible Indian production, as follows.

SN	Particulars	UOM	POI
1	Production of Applicant	MT	***
2	<b>Production of Other Producers</b>		
i	Nanobot Housewares Solutions Private Limited	MT	***
ii	Crown Craft I Pvt Ltd	MT	***
iii	Basik Innovation LLP	MT	***
v	<b>Total Indian production</b>	MT	1,512
3	Production of Applicant	Range %	65-75%

31. The applicant accounts for \*\*\*% of Indian production. The applicant has neither imported the subject goods from the subject country nor is it related to any importer or exporter thereof. It is seen that the production by the applicant accounts for a major proportion in total Indian production. The applicant is, thus, an eligible domestic industry within the meaning of Rule 2(b) and satisfies the criteria of standing in terms of Rule 5(3) of the Rules. Hence, the applicant constitutes the domestic industry within the meaning of the Rules.

## **E. CONFIDENTIALITY**

### **E.1 Views of the other interested parties**

32. The following submissions have been made by the other interested parties with regard to confidentiality:

- i) The Authority may verify the applicant's claim of being an MSME as it hasn't submitted an MSME certificate.
- ii) Incorrect information about plant shut down was reported in the application, which the Authority also did not verify.
- iii) Support letters of the 4 companies have not disclosed.
- iv) Respondent's related parties do not deal with the PUC. Trade notice 10/2018 requires actual information of related parties to be disclosed if they deal with the PUC.
- v) The trade notice does not require adjustments to export price to be separately provided in the EQR. Hence, disclosure of such information is not required.

## **E.2 Views of the domestic industry**

33. The following submissions have been made by the domestic industry with regard to confidentiality:

- i) The applicant had provided its Udyam Registration Certificate (or MSME certificate) on record with its response to the economic interest questionnaire.
- ii) The respondents have claimed information such as details of the affiliated companies as well as activities of the related companies as confidential without providing any justified reasons. Further, while the sales documents itself may be confidential, the list of such documents furnished by the respondents in their questionnaire response have also been claimed confidential.
- iii) Price adjustment reported by the respondents have been claimed confidential. The excel files also do not constitute sufficient evidence. Information provided in excel by the exporters shouldn't be considered sufficient to establish adequacy and accuracy of the response. Excel files are mere statements that can be manipulated and fabricated. Relevant information along with its non-confidential version should be called for verification purposes.
- iv) The response filed by Asset Crown Ltd shows that it has exported to India subject goods procured from 13 Chinese producers. Since the list of such producers, barring two producers, has been unduly claimed confidential the applicant is unaware which of such other producers have filed a response to the questionnaire and fulfilled value chain requirements.
- v) The support letters received are on record with the Authority. They contain confidential information and have hence not been circulated to the other interested parties.

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

34. The Authority made available the non-confidential version of the information provided by the various parties to all the other interested parties as per Rule 6(7). With regard to confidentiality of the information submitted by the interested parties, Rule 7 of the 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 interested parties providing information on confidential basis to furnish nonconfidential 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.”*

35. The information provided by the interested parties on confidential basis was examined with regards to sufficiency of such 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, the parties providing information on confidential basis were directed to provide sufficient nonconfidential version of the information filed on confidential basis. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.
36. As regards the argument on details of shutdown, the Authority, during verification of the domestic industry's data, sought information and evidence to substantiate the shutdown claimed by the domestic industry. The domestic industry provided electricity bills for the period when shut down was claimed to have been undertaken and was able to justify its claims.

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

### **F.1. Views of the other interested parties**

37. The following submissions have been made by the other interested parties with regard to the normal value, export price and dumping margin:
- i) The Applicant has arbitrarily claimed the dumping margin as 80-100%. The margin has been calculated without considering the different types of products that may be imported and without providing any bifurcation based on the grade of steel used. Therefore, the alleged dumping margin appears to be inflated.
  - ii) The Applicant has arbitrarily stated China PR to be a non-market economy. The Authority may consider determining the value of goods in terms of Paragraph 6 of the Principles Governing the Determination of Normal Value, Export Price and Margin of Dumping.

- iii) The unit of measurement has been provided in terms of both weight and numbers in the packing list at the time of exports itself. As a result, no post export conversion method had to be adopted by the exporters here.
- iv) The respondent separately identifies accessories as spares under the column “articles and specifications”. The weight of such a product is separately indicated in the packing list.
- v) Many import transactions are in numbers. Hence, correct identification of weight and identification of PCN are a serious challenge. When imports are reported in other units, the weight reported by the exporter is not verifiable from the DG Systems data.
- vi) It is vital that the exporters are directed to provide complete material balance, showing therein the volume of raw material purchased and consumed, production and sales in domestic market, exports to India and exports to 3rd countries so that the Authority can reconcile the same to establish authenticity of the weights reported by the exporters.
- vii) The Authority may consider the unit reported in the DG Systems data as the unit for normal value, NIP and the proposed determination. Wherever DG Systems data reports the volume in weight, the same may be considered.

## **F.2. Views of the domestic industry**

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

- i) China PR should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by the investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
- ii) Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- iii) Relevant data was not available for the price in a market economy third country and constructed value in a market economy third country. The price from a third country to other country, including India could also not be considered as subject goods are majorly being imported into India from China PR.
- iv) The normal value has been constructed based on the estimates of cost of production in India, after addition for selling, general & administrative expenses. Due adjustments were made to this price to include conversion costs based on the domestic industry's information, a reasonable profit margin and SGA.
- v) Export price has been determined considering the volume and value of imports for the proposed period of investigation as per data procured from DGCI&S published data. Price adjustments have been claimed on a conservative basis for the purpose of fair comparison.

- vi) Considering the normal value calculations suggested, the dumping margins have been calculated. The dumping margins so calculated are not just above the de-minimis level but also quite significant.
- vii) Data on export volume and value provided by the responding exporters should be verified with the DGCIS or DG Systems data under all codes that are being used by exporters to export subject goods to India.
- viii) It should be verified that exporters have reported all the expenses that have been incurred by them in exporting the product. Further, it must be noted that the exporters are required to report all expenses which address the differences between conditions and terms of sale between domestic and exported product.
- ix) Each product exported has been clearly identified and accurately categorized under applicable PCN. It is unambiguously identifiable from Commercial Invoice and Bill of Entry. The need for further evidence is unnecessary.
- x) Weight identified by respondent is clear and recorded on both Packing List and Bill of Entry. These documents are as primary record and recognized best practice. Respondent cannot be held responsible if DG systems does not mention weight for some import transactions.
- xi) Adoption of 2 units simultaneously is unreasonable and will lead to confusion and skewed analysis of margins. PCNs were finalized knowing that PCN on other criteria and bifurcation is not required as difference in cost and price will be taken care through weight as UoM.

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

#### **Determination of Normal Value**

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

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

*(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

*Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

40. Article 15 of China's Accession Protocol in WTO provides as follows:

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

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

- (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
- (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*
- (iii) 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.*
- (iv) 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.*

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

41. It is noted that while the provisions contained in Article 15(a)(ii) expired on 11.12.2016. However, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession protocol require the criterion stipulated in para 8 of Annexure I of India's AD Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status.
42. At the stage of initiation, the Authority proceeded as per the information that was available and sufficient to initiate the investigation. Upon initiation, the Authority advised the producers/exporters in China PR to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the supplementary questionnaire to all the known producers/ exporters for rebutting presumption of non-market economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules and furnish relevant detailed information. The Authority also requested Government of China PR to advise the producers/ exporters in China PR to provide the relevant information.
43. None of the exporters/producers contested the NME status of China PR. Thus, in view of the above position and in the absence of rebuttal of the non-market economy presumption by any Chinese exporting company, the Authority, considers it appropriate to treat China PR as a non-market economy country in the present investigation and proceeds with para 7 of Annexure-I to the Rules for determination of normal value in case of China PR

44. Para 7 of Annexure I of the Rules 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 the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated*

*authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.*

45. Para 7 lays down a hierarchy for determination of normal value and provides that 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 country, 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. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7.
46. There is no evidence of price or constructed value prevailing in market economy third country brought forward by any interested party. Price prevailing in other countries is not available. Thus, normal value could not be determined based on price prevailing in market economy third country. Further, the normal value could not be based on the price from a market economy third country to other country. Apart from the subject country in the present investigation, imports into India from other countries are negligible in volume. Thus, imports from market economy third country into other countries, including India, could not be considered for determination of normal value. In the absence of the above information/evidence before the Authority to determine normal value, the Authority has determined normal value for all exporters/producers from China PR based on “any other reasonable basis including the price actually paid or payable in India” as stipulated in para 7 of Annexure – I to the AD Rules, 1995. Hence, normal value has been computed based on the cost of production of the domestic industry, with reasonable addition for selling, general and administrative expenses, and profits. The normal value so determined is given below in the dumping margin table.

### **Determination of Export Price**

47. The responses filed by the producers/ exporters as submitted originally and through response to deficiency letters have been examined hereunder:

#### **a) Yongkang Xinduo Cups Co Ltd**

48. Yongkang Xinduo Cups Co Ltd (also referred to as “Xinduo”) is a producer and exporter of the subject goods from China PR. Xinduo has reported export of \*\*\*MT of the subject goods

directly and \*\*\* MT through an unrelated trader i.e., Asset Crown Ltd to its unrelated customers in India during the POI.

49. On 22<sup>nd</sup> June 2024, the Authority sought the information/ clarification/ supporting documents with respect to Appendices 1, 3A/3B and 4A/4B from the exporter (verification documents), to verify the EQR submitted. The exporter was allowed time till 29th June 2024 to file the information. However, the exporter did not file a reply within the stipulated time.
50. Subsequently vide its communication dated 11<sup>th</sup> July 2024, the Authority again called for the verification documents from the exporter, in reply to which the exporter filed its response on 18<sup>th</sup> July 2024. However, the exporter did not provide the information pertaining to Appendix – 1 and supporting documents for the adjustments claimed. Much of the information pertaining to Appendix 3A/ 3B has been filed by the exporter in Chinese language without providing a meaningful translated copy of the same in English wherefore, the Authority was not in a position to comprehend such documents. During the examination of the commercial invoices and packing list submitted by the exporter and its trader, Asset Crown Ltd, it has been seen that the documents are not authenticated. Further, the exporter neither provided any payment proof for Appendix 3A nor submitted custom declaration forms within the stipulated time.
51. Additionally, on 11<sup>th</sup> July 2024, the Authority sought clarifications/ information with respect to some general issues, export price and landed value. The exporter was allowed time till 18<sup>th</sup> July 2024 to file the information. However, the exporter neither filed a reply within the stipulated time nor sought any extension. Later, on 7<sup>th</sup> August 2024 i.e., 20 days past the original timeline, the exporter submitted information only in respect of export price and landed value. Moreover, no reply whatsoever was given to the rest of the questions raised by the Authority.
52. On 3<sup>rd</sup> September 2024, the Authority informed the exporter that the invoices and the corresponding verification documents were not complete and not submitted as asked for. The exporter was requested to provide the clarification/ information/ documents by 4<sup>th</sup> September 2024. However, despite being given an opportunity to explain, the exporter failed to provide all the information/ clarifications/ documents sought by the Authority.
53. On 1<sup>st</sup> October 2024, in view of the gross non-compliance of the instructions of the Authority, the Authority provided an opportunity to the exporter to explain the reasons for not rejecting their response. However, no reasons have been provided by the exporter.
54. On 3<sup>rd</sup> October 2024, the Authority sought a brief note explaining the adjustments claimed for calculating the NEP and LV by the exporter and clarification if the related trader sold the PUC

at a profit or loss. Yet again, the exporter provided no reply at all to the information sought by the Authority.

55. Through the exporter's questionnaire, the exporters were directed to provide full description including specifications of the PUC, exported to India and sold domestically. The exporters were also directed to specify whether the product exported by them, though falling within the product description as defined by the Authority, differs from the PUC in any way or has specific characteristics or uses which single it out from other products falling within the PUC. The exporter were expected to provide detailed information justifying their position. Further, the exporters were expected to specify whether normal value and export price established are not on a comparable basis, and, if so, suggest due adjustments that can be made to ensure fair comparison. The Authority notes in this regard that it is expected that truthful and complete disclosures are made by the parties to the investigations, without suppressing any vital and relevant fact, while responding to the Authority. This is irrespective of the claims and contentions raised by the domestic industry.
56. It has been seen that the exporter has stated that '\*\*\*' in Section G, however, the stage of electroplating has not been reported by the exporter in its production process flowchart (provided as Exhibit 7). In general parlance, it is understood that electroplating is coating/plating of the surface of a product with another layer of metal such as copper, zinc, silver etc. Therefore, the Authority has relied on the submissions of the exporter that the exporter has exported the subject goods that were electroplated i.e., coated with a layer of some other metal. Nowhere has the exporter clarified whether all or some volumes of its exports to India were electroplated.
57. Further, the exporter has provided an incomplete description of the products exported in Appendices 3A, 3B, 4A of the EQR. For instance, in Appendix 3A, the exporter described a product exported as "XG-6811 S/S FLIP", while the same has been described as "XG-6811 S/S FLIP 750ML VACUUM BOTTLE" in its commercial invoice and packing list. The description for the same product has been seen by the Authority in the DG Systems data as "750ML VACUUM BOTTLE WITH FLIP STOPPER (XG-6811 S/S FLIP)". However, nowhere does the description provided by the exporter in the EQR specify the type of the product or the capacity of the product. This demonstrates that the description given by the respondent in the relevant column of the prescribed formats is not the same as that in its commercial invoice and does not even reflect the proper relevant description of the product. Similarly, in Appendix 4A, the exporter merely described product exported by it as "vacuum bottle", "vacuum cup".
58. It has been seen that the "terms of delivery" have not been reported by the exporter in Appendix 3B of its response for as many as 12 transactions wherefore, the adjustments (if any) in the

export price of such transactions could not be examined. Similarly, the exporter has not reported “payment terms” for as many as 41 transactions in Appendix 3A. Additionally, the exporter has not quantified credit cost for such transactions. Furthermore, the unit of measurement adopted in the present investigation is weight, however, the exporter submitted information in Appendix 1 of the EQR in terms of numbers instead of weight.

59. In view of the above, the Authority holds that the exporter has failed to adhere to the directions of the Authority and has not acted to the best of its ability. The exporter has refused timely access to the necessary information which has significantly impeded the investigation. The Authority is unable to determine individual dumping margin in respect of exports made by the company. In view of the foregoing reasons, the Authority cannot consider the EQR submitted by the exporter and is constrained to rely on the facts available.

#### **b) Zhejiang Kuangdi Industry & Trade Co Ltd**

60. Zhejiang Kuangdi Industry & Trade Co Ltd (also referred to as “Kuangdi”) is a producer and exporter of the subject goods from China PR. Kuangdi has reported an export of \*\*\*MT of subject goods directly and \*\*\* MT through an unrelated exporter i.e., Asset Crown Ltd to its unrelated customers in India during the POI.

61. On 22<sup>nd</sup> June 2024, the Authority sought information/ clarification/ supporting documents with respect to Appendices 1, 3A/3B and 4A/4B from the exporter (verification documents), to verify the EQR submitted. The exporter was allowed time till 29<sup>th</sup> June 2024 to file the information. However, the exporter did not file a reply within the stipulated time.

62. Subsequently vide its communication dated 11<sup>th</sup> July 2024, the Authority again called for the verification documents from the exporter, in reply to which the exporter filed its response on 18<sup>th</sup> July 2024. However, the exporter did not provide the information pertaining to Appendix – 1 and supporting documents for the adjustments claimed. Much of the information pertaining to Appendix 3A/ 3B has been filed by the exporter in Chinese language without providing a meaningful translated copy of the same in English wherefore, the Authority was not in a position to comprehend such documents. During the examination of the commercial invoices and packing list submitted by the exporter and its trader, Asset Crown Ltd, it has been seen that the documents are not authenticated. Further, the exporter did not provide custom declaration forms within the stipulated time.

63. Additionally, on 11<sup>th</sup> July 2024, the Authority sought clarifications/ information with respect to some general issues, export price and landed value. The exporter was allowed time till 18<sup>th</sup> July 2024 to file the information. However, the exporter neither filed a reply within the stipulated time nor sought any extension. Later, on 7<sup>th</sup> August 2024 i.e., 20 days past the

original timeline, the exporter submitted information only in respect of export price and landed value. Moreover, no reply whatsoever was given to the rest of the questions raised by the Authority.

64. During the desk verification of the response the Authority found that the exporter had reported weight as low as 0.002 Kg, 0.031 Kg, etc. for some of the products exported by it. This appeared a simple impossibility. A communication was also sent to the exporter in this regard on 3<sup>rd</sup> September 2024, intimating the exporter that *there are discrepancies in EQR filed. Some of the transaction show weight of PUC per unit as low as 2 grams*. Further, the authority informed the exporter that the invoices and the corresponding verification documents were not complete and not submitted as asked for. The exporter submitted a revised Appendix 3A and stated that 2 mistakes in Appendix 3A have been corrected with the specific row(s) being highlighted. However, the Authority found that 8 rows were highlighted. Further, no reason & justification for such mistakes were provided.
65. On 1<sup>st</sup> October 2024, in view of the gross non-compliance of the instructions of the Authority, the Authority provided an opportunity to the exporter to explain the reasons for not rejecting their response. However, no reasons have been provided by the exporter.
66. On 3<sup>rd</sup> October 2024, the Authority sought a brief note explaining the adjustments claimed for calculating the NEP and LV and clarification if the related trader sold the PUC at profit or loss. Yet again, the exporter provided no reply at all to the information sought by the Authority.
67. Through the exporter's questionnaire, the exporters were directed to provide full description including specifications of the PUC, exported to India and sold domestically. The exporters were also directed to specify whether the product exported by them, though falling within the product description as defined by the Authority, differs from the PUC in any way or has specific characteristics or uses which single it out from other products falling within the PUC. The exporter were expected to provide detailed information justifying their position. Further, the exporters were expected to specify whether normal value and export price established are not on a comparable basis, and, if so, suggest due adjustments that can be made to ensure fair comparison. The Authority notes in this regard that it is expected that truthful and complete disclosures are made by the parties to the investigations, without suppressing any vital and relevant fact, while responding to the Authority. This is irrespective of the claims and contentions raised by the domestic industry.
68. It has been seen that the stage of electroplating has been reported by the exporter in its production process flowchart and the same is stated '\*\*\*' in Section G of the EQR. In general parlance, it is understood that electroplating is coating/plating of the surface of a product with another layer of metal such as copper, zinc, silver etc. Therefore, the Authority has relied on

the submissions of the exporter that the exporter has exported the subject goods that were electroplated i.e., coated with a layer of some other metal. Further, it is seen from the production process flowchart, that copper plating is a part of the exporter's production process. However, nowhere has the exporter clarified whether all or some volumes of its exports to India were copper-plated/ electroplated.

69. The fact that the exporter has exported copper-coated products is further substantiated from an examination of DG systems data by the Authority. For instance, the description of one of the products exported by the exporter, as appearing in the DG systems data, is "CAMPY 650 (CHOTA BHEEM) ACTUAL CAPACITY 410ML, DOUBLE WALL SS 304 INNER & OUTER, COPPER COATING WITH COLOR". However, the same has not been provided by the exporter in Appendix 3A of its EQR. This demonstrates that the description given by the exporter suppresses significant information regarding copper coating.
70. The Authority also notes the submission of the importer, Cello wherein it has been stated that the products imported from China PR and those sold in India, differ as the imported products contain a copper lining on the inside of the inner layer of the vacuum flask and such category of product is rarely manufactured/ sold by the Domestic Industry.
71. In view of the above, the Authority holds that the response to the questionnaire issued by the Authority is grossly deficient. The exporter has suppressed vital facts and did not timely point out to the Authority all product parameters that were relevant for the purpose of undertaking fair comparison, prevented proper fixation of PCN methodology, and suppressed vital information with regard to the products exported by it. The exporter has not provided all necessary information sought by the Authority. Further, responses to the supplementary questionnaire issued by the Authority were not only significantly delayed but also grossly incomplete and insufficient for the purpose of determining individual dumping margins. The exporter has not acted to the best of its ability, has refused timely access to information, has not provided necessary information within a reasonable period, and has significantly impeded the investigation. The Authority is unable to determine individual dumping margin in respect of exports made by the company and is constrained to rely on the facts available.

**c) Zhejiang Haoqi Industry & Trade Co Ltd**

72. Zhejiang Haoqi Industry and Trade Co Ltd (Haoqi) is a producer and exporter of the subject goods, in both finished and unfinished form (vacuum body), from China PR. Haoqi has reported direct export of \*\*\*MT of subject goods to its unrelated customers in India during the POI. It is seen that almost the entirety of its exports was made only to one Indian company, namely Hamilton.

73. Through the exporter's questionnaire, the exporters were directed to provide full description including specifications of the PUC, exported to India and sold domestically. The exporters were also directed to specify whether the product exported by them, though falling within the product description as defined by the Authority, differs from the PUC in any way or has specific characteristics or uses which single it out from other products falling within the PUC. The exporter were expected to provide detailed information justifying their position. Further, the exporters were expected to specify whether normal value and export price established are not on a comparable basis, and, if so, suggest due adjustments that can be made to ensure fair comparison. The Authority notes in this regard that it is expected that truthful and complete disclosures are made by the parties to the investigations, without suppressing any vital and relevant fact, while responding to the Authority. This is irrespective of the claims and contentions raised by the domestic industry.
74. The Authority notes that the exporter in its comments on the scope of the PUC and PCN methodology submitted that "*cost of production varies due to variation in components and accessories used, shape, **coating** material, design, specific features etc. that are applicable in different types of vacuum insulated vessels.*" However, throughout the investigation, the exporter never brought to the attention of the Authority that they exported significant volumes of flasks with copper coating.
75. The exporter did not specify that the product exported falling within the product description as defined by the Authority, differs from the PUC or has specific characteristics or uses which single it out from the PUC.
76. Furthermore, production process flowchart submitted by the exporter (as Exhibit G-3 of its EQR) reveals that copper coating is one of the stages of the exporter's production process. Through the product description, the Authority has observed that a large volume of exports by the exporter are copper coated. It has been observed from the examination of the product descriptions in the Appendix 3A of its EQR that the exporter has made exports, including the following:
- a) Both inside & outside, copper coating on outside of inner wall
  - b) Inner copper coating.
  - c) Inner copper coating & colour painting
  - d) Inner & outer with mirror colour finish and copper coating
77. The Authority notes the submission of the importer, Cello wherein it has been stated that the products imported from China PR and that sold in India, differ as the imported products contain a copper lining on the inside of the inner layer of the vacuum flask and such category of product is rarely manufactured/ sold by the Domestic Industry.

78. Further, the exporter in its submissions on the PUC scope and PCN methodology had proposed separate PCN based on “case” and stated that the cost and price of vacuum-insulated vessels will vary depending on whether they are with a case or without case. However, the domestic industry contended, *vide* its letter dated 6<sup>th</sup> March 2024, that “*value of accessories such as “cases”, “straps”, “handles” that come along with vacuum flask can be reported separately and adjusted for export price*”. It was found by the authority, from the examination of Appendix 3A of its EQR, that it has exported some products with silver pouch. However, the exporter did not identify and adjust the price of the accessories in the EQR. This is despite the fact that it had itself proposed PCN based on casing. It is evident from the submissions of the exporter that in spite of being cognizant of the fact that the prices of accessories, being an additional cost item to be incurred by the exporter, were to be adjusted even though not prescribed as a PCN by the Authority, the exporter did not do so thus preventing a fair comparison.
79. On 10<sup>th</sup> May 2024, the Authority clarified the scope of the PUC as a vacuum-insulated flask and other vacuum-insulated vessels, of stainless steel and it covers the “vacuum-insulated body” of flask and other vacuum-insulated vessels, with or without parts like lid, cap and bottom. In case of sale or import transaction in unfinished/incomplete form of the product i.e., vacuum insulated body with or without lid, cap and bottom, the interested parties were directed to submit data regarding vacuum insulated body separately in the questionnaire and also identify it clearly and report appropriate adjustments, with supporting documentary evidence, for ensuring a fair comparison of the vacuum-insulated body with complete/finished vacuum-insulated flasks or other vacuum insulated vessels.
80. It is observed that the exporter has exported to India complete/ finished vacuum insulated flask and also vacuum flask body without lid, cap, and bottom. While the exporter has quantified the value of the “cap/ bottom/ lid processing charges” in Appendix 3A, the associated weight of the cap/ bottom/ lid has not been quantified. This is more important considering the fact that the exporter has exported the product of the same capacity with significantly different weights. The Authority notes that the exporter has clearly stated that it has reported weight of the export transaction on the basis of packing list. Since packing list, in such cases, were in respect of imports of vacuum insulated body only, it follows that such weights were without including the weight of cap/ bottom/ lid. It thus follows that the exporter proposed no addition to the weight for the cap/ bottom/ lid, but merely proposed addition of a value towards such cap/ bottom/ lid. It is further seen that a uniform price of cap/ bottom/ lid, irrespective of the capacity and weight of the product, has been added by the exporter to all the transactions wherein vacuum-insulated body has been exported. In the absence of any valid justification or evidence by the exporter for adjusting the price of cap/bottom/lid in the PUC without adding the corresponding weight of the cap/ bottom/ lid with the PUC, the Authority was not able to

decide on the comparability of vacuum flask body. It is noted that the gross export values of the products exported by the exporter was USD \*\*\* whereas the value of addition proposed by the exporter on the grounds of cap/ bottom/ lid was USD \*\*\* thus representing around \*\*\*% of export values. The value was too significant to be accepted without sufficient corroborative evidence and despite a very specific direction given by the Authority in its communication dated 10 May 2024.

81. The exports have been made by the exporter on an FOB basis. It has been seen that the exporter reported CIF price considering ocean freight and insurance based on Bills of Entry of Hamilton i.e., the importer to whom the majority of the exports have been made by the exporter. During verification of the information furnished by the exporter, the Authority noted discrepancies between the ocean freight reported by the exporter and that reflected in the Bill of Entries of Hamilton. For instance, freight reflected in BE no, \*\*\* was USD \*\*\*, however, the exporter has reported ocean freight of USD \*\*\* for the same Bill of Entry implying a significant difference of \*\*\* USD.
82. On 4<sup>th</sup> October 2024, the Authority intimated the exporter that the ocean freight indicated does not align with the supporting documentation provided and hence, sought clarification. On 8<sup>th</sup> October 2024, the exporter responded that there were minor errors in the ocean freight and insurance and revised Appendix 1 of Hamilton's questionnaire response without providing any explanation for such errors. On 9<sup>th</sup> October 2024, the Authority asked the exporter to provide a list of errors, and the corrections made along with justification for the same. However, no list of errors, reason for such errors and justification was provided. In reply, the exporter on 10<sup>th</sup> October 2024, just clarified that the ocean freight increased by USD \*\*\* in updated Appendix.
83. It is noted that the exporter had initially reported USD \*\*\*/MT as the average ocean freight and USD \*\*\*/MT as the insurance. Through the revisions made vide email dated 7<sup>th</sup> October, 2024, the exporter revised the average ocean freight to USD \*\*\*/MT and insurance to USD \*\*\*/MT. It has been found to be contradictory that despite an increase in the total ocean freight by USD \*\*\*, the average freight decreased from USD \*\*\*/MT to \*\*\*/MT for the responding exporter. Additionally, a list of errors and justification for the same as sought by the Authority, has not been provided by the exporter.
84. On 22<sup>nd</sup> June 2024, the Authority sought information/ clarification/ supporting documents pertaining to Appendices 1, 3A/3B and 4A/4B of the EQR by 29 June 2024. The exporter did not provide a complete response to the above-sought information/ documents within the stipulated timelines. The reply of the exporter is reproduced below.

\*\*\*

85. It may be noted that while the authority had asked for verification documents in respect of the exporter questionnaire response, the exporter talked about the IQR. With regard to the verification documents of the EQR, the exporter provided sample verification documents in respect of Appendix 3A only.
86. Subsequently, on 11 July 2024, the Authority again called for verification documents from the exporter. While the records pertaining to Appendix 1 were provided, all such records were in the form of an Excel file. The authenticity of these records could not be verified as none of them were certified by any authorised personnel or signatory of the company. Further, most of the verification documents/records provided were in Chinese language without a translated copy of the same in English wherefore, the Authority was not in a position to comprehend such documents. Further, during the examination of the documents submitted by the exporter, it has been seen that the documents were not authenticated. Further, the exporter failed to provide the custom declaration form/shipping bills within the stipulated timelines.
87. In view of the above, the Authority considers that the exporter has suppressed vital facts and did not timely point out to the Authority all product parameters that were relevant for the purpose of undertaking fair comparison, prevented proper fixation of PCN methodology, and suppressed vital information with regard to the products exported by it. The clarifications/justifications/information sought by the Authority were not appropriately responded to by the exporter. The documents submitted by the exporter are not authenticated. Therefore, it is not possible for the Authority to determine individual dumping margin for the responding exporter and is constrained to rely on the facts available.

**d) Zhejiang Xiongtai Houseware Corp Ltd**

88. Zhejiang Xiongtai Houseware Corp Ltd (also referred to as “Xiongtai”) is a producer and exporter of the subject goods from China PR who has reported direct export of the subject goods to India. Xiongtai has exported \*\*\* MT of subject goods directly to its unrelated customer i.e., Hamilton in India during the POI. It is seen that the entirety of the exports were made only to one Indian company, namely Hamilton.
89. Through the exporter’s questionnaire, the exporters were directed to provide full description including specifications of the PUC, exported to India and sold domestically. The exporters were also directed to specify whether the product exported by them, though falling within the product description as defined by the Authority, differs from the PUC in any way or has specific characteristics or uses which single it out from other products falling within the PUC. The exporter were expected to provide detailed information justifying their position. Further, the exporters were expected to specify whether normal value and export price established are not on a comparable basis, and, if so, suggest due adjustments that can be made to ensure fair

comparison. The Authority notes in this regard that it is expected that truthful and complete disclosures are made by the parties to the investigations, without suppressing any vital and relevant fact, while responding to the Authority. This is irrespective of the claims and contentions raised by the domestic industry.

90. The Authority notes that the exporter in its comments on the scope of the PUC and PCN methodology submitted that "*cost of production varies due to variation in components and accessories used, shape, coating material, design, specific features etc. that are applicable in different types of vacuum insulated vessels.*" However, throughout the investigation, the exporter never brought to the attention of the Authority that they made exports with copper coating.
91. The exporter did not specify that the product exported falling within the product description as defined by the Authority, differs from the PUC or has specific characteristics or uses which single it out from the PUC.
92. The production process flowchart submitted by the exporter (as Exhibit G-3 of its EQR) reveals that copper coating is one of the stages of the exporter's production process. It has been observed from the description of the subject goods from the DG systems data that the exporter has exported some copper-coated products to India during the POI. For instance, the description of a product exported by the exporter, as reflected in the DG Systems data, is "VACUUM FLASKS: CHARMY 350 (CHOTA BHIM) ACTUAL CAPACITY: 330ML DOUBLE WALL SS 304 INNER & OUTER, COPPER COATING WITH COLORVACUUM FLASKS: CHARMY 350 (CHOTA BHIM) ACTUAL CAPACITY: 330M". However, the same has not been reported by the exporter in Appendix 3A of its EQR.
93. The Authority notes the submission of the importer, Cello wherein it has been stated that the products imported from China PR and that sold in India, differ as the imported products contain a copper lining on the inside of the inner layer of the vacuum flask and such category of product is rarely manufactured/ sold by the Domestic Industry.
94. Further, the exporter in its submissions on the PUC scope and PCN methodology had proposed separate PCN based on "case" and stated that the cost and price of vacuum-insulated vessels will vary depending on whether they are with a case or without case. However, the domestic industry contended, *vide* its letter dated 6<sup>th</sup> March 2024, that "*value of accessories such as cases, straps, handles that come along with vacuum flask can be reported separately and adjusted for export price*". It was found by the authority, from the examination of the DG Systems data, that it has exported some products with colored pouch, silver pouch and plastic glass. However, the exporter did not identify and adjust the price of such accessories in the EQR. This is despite the fact that it had itself proposed PCN based on casing. It is evident

from the submissions of the exporter that in spite of being cognizant of the fact that the prices of accessories, being an additional cost item to be incurred by the exporter, were to be adjusted even though not prescribed as a PCN by the Authority, the exporter did not do so thus preventing a fair comparison.

95. It is seen that the exporter has provided an incomplete description of the products exported by it in Appendix 3A and Appendix 4A of the EQR. For instance, in Appendix 3A, the exporter described a product exported by it as “XTZ20-50 SLENDER 500”, while the same has been described as “SLENDER 500 ACTUAL CAPACITY: 500ML DOUBLE WALL SS 304 STAINLESS STEEL COLOR (TS221) (XTZ20-50) VACUUM FLASK” in its commercial invoice and packing list. It is seen that while the commercial invoice of the exporter specifies that the product is a vacuum flask of 304-grade stainless steel with a capacity of 500ml, nowhere does the description provided by the exporter in the prescribed format specify the type of the product or the capacity of the product. Similarly, an incomplete description of the products has been provided in Appendix 4A wherein only the model name/product code has been provided. For instance, in Appendix 4A, the exporter described the products as “XTH-100”, “XTX-75”, “XTB-50”, etc. The exporter has reported in the abovementioned appendices vague descriptions that even the type of product cannot be made out from an analysis of the appendices.
96. The exports have been made by the exporter on a FOB basis. It has been seen that the exporter reported CIF price considering ocean freight and insurance based on Bills of Entry of Hamilton i.e., the importer to whom the majority of the exports have been made by the exporter. During verification of the information furnished by the exporter, the Authority noted discrepancies between the ocean freight reported by the exporter and that reflected in the Bill of Entry of Hamilton. For instance, freight reflected in BE no, \*\*\* was USD \*\*\*, however, the exporter has reported ocean freight of USD \*\*\* for the same Bill of Entry signifying a difference of \*\*\* USD.
97. On 4<sup>th</sup> October 2024, the Authority communicated to the exporter that the ocean freight indicated in Hamilton’s response does not align with the supporting documentation provided and sought clarification. In its response, on 8<sup>th</sup> October 2024, the exporter stated that there were minor errors in the ocean freight and insurance and provided a revised Appendix 1 of the questionnaire response without providing any explanation for such errors. On 9<sup>th</sup> October 2024, the Authority asked the exporter to provide a list of errors, and the corrections made along with justification for the same. However, no list of errors, reason for such errors and justification was provided. In reply, the exporter on 10<sup>th</sup> October 2024, just clarified that the ocean freight increased by USD \*\*\* in the revised Appendix 1.
98. It is noted that the exporter had initially reported USD \*\*\*/MT as the average ocean freight and USD \*\*\*/MT as the insurance. Through the revisions made vide email dated 7th October,

2024, the exporter revised the average ocean freight to USD \*\*\*/MT and insurance to USD \*\*\*/MT. It has been found to be contradictory that despite an increase in the ocean freight by USD \*\*\*, the average freight decreased from USD \*\*\*/MT to \*\*\*/MT for the responding exporter. Additionally, a list of errors and justification for the same as sought by the Authority, has not been provided by the exporter.

99. On 22<sup>nd</sup> June 2024, the Authority sought information/ clarification/ supporting documents pertaining to Appendices 1, 3A/3B and 4A/4B of the EQR by 29 June 2024. The exporter did not provide a complete response to the above-sought information/ documents. The reply of the exporter is reproduced below.

\*\*\*

100. It may be noted that while the authority had asked for verification documents in respect of the exporter questionnaire response, the exporter has responded in the context of the importer questionnaire. The exporter provided sample verification documents in respect of Appendix 3A only.
101. Subsequently, on 11 July 2024, the Authority again called for verification documents from the exporter. While the records pertaining to Appendix 1 were provided, all such records were in the form of an Excel file. The authenticity of these records could not be verified as none of them were certified by any authorised personnel or signatory of the company. Most of the records provided were in Chinese language without a complete translated copy of the same in English wherefore, the Authority was not in a position to comprehend such documents. Further, during the examination of the documents submitted by the exporter, it has been seen that the documents were not authenticated. Further, the exporter failed to provide the custom declaration form/shipping bills within the stipulated timelines.
102. In view of the above, the Authority considers that the exporter has suppressed vital facts and did not timely point out to the Authority all product parameters that were relevant for the purpose of undertaking fair comparison, prevented proper fixation of PCN methodology, and suppressed vital information with regard to the products exported by it. The clarifications/ justifications/ information sought by the Authority were not appropriately responded to by the exporter. Even the documents submitted by the exporter are not authenticated. Therefore, it is not possible for the Authority to determine individual dumping margin for the responding exporter and is constrained to rely on the facts available.

**e) Non-cooperating producers/exporters**

103. The Authority has determined the export price for the producers/exporters from China PR, including the producers/exporters whose export price has not been accepted by the Authority

due to the reasons explained above, after considering the volume and value of imports from China PR based on facts available. Adjustments have been made for ocean freight, inland freight, insurance, handling charges, commission, and bank charges. The export price so determined is stated in the below-mentioned dumping margin table.

### **Dumping Margin**

104. The Authority has determined the normal value and export price based on the facts available. The dumping margin so determined for the subject goods from the subject country is shown in the table below.

**Dumping margin Table**

<b>Particulars</b>	<b>Unit</b>	<b>Amount</b>
<b>Constructed Normal value</b>	\$/MT	***
<b>Net Export Price</b>	\$/MT	***
<b>Dumping Margin</b>	\$/MT	***
<b>Dumping Margin</b>	%	***
<b>Range</b>	%	65-75

## **G. METHODOLOGY FOR INJURY DETERMINATION AND ASSESSMENT OF INJURY**

### **G.1 Submissions made by other interested parties**

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

- i) Imports from China PR haven't significantly grown between 2019-20 and 2021-22. In fact, the increase in domestic demand during the POI has been more than the rise in imports from China PR.
- ii) Imports declined in relative terms indicating a possibility to increase production and market share.
- iii) The average landed price provided by the applicant in the petition is unreliable for assessing depressing or suppressing effect.
- iv) All key volume parameters of the applicant show a robust growth. Such positive movement cannot be ignored. CESTAT set aside the Authority's conclusion, in Bridge Stone Tyre Manufacturing (Thailand) v DA, regarding existence of injury based on selective reliance on price undercutting and price underselling without considering the overall situation of the domestic industry.
- v) The applicant added capacities with demand and could substantially increase market share. The applicant's share in the market registered a landslide gain and pushed aside imports.
- vi) The cost, price and landed price increased from the base year to the POI.
- vii) Price undercutting was positive in both the POI and the previous year i.e., in 2021-22 but the applicant made profits in 2021-22. Further, it suffered losses in 20-21 when undercutting was negative.
- viii) Decline in profits is only attributable to the increase in production cost. Price effect cannot be linked to landed price.
- ix) There is no price undercutting by imports when product is sold in the market.
- x) The applicant also experienced a significant rise in its interest costs. This additional factor could be contributing to their decline in profitability.
- xi) Average inventory as number of days of sales declined, indicating that applicant could sell more and goods had to be kept in inventory for lesser time after production.
- xii) The applicant's employment level increased which may not have been possible in a situation of injury.
- xiii) Productivity per employee have declined which cannot be attributed to imports.
- xiv) Injury due to decrease in productivity per employee cannot be attributed to imports.

- xv) The applicant in the petition admitted variation in cost & price based on steel grade but did not provide segregated information regarding price undercutting, IM and DM based on steel grades. Even if imports cannot be categorized, DI could at least have provided segregated information regarding normal value and NIP. The DI also did not revise NV, NIP, PU, IM and DM claims on finalization of PCN.
- xvi) DI's IM claim is exaggerated. NIP is unreliable. It appears that DI relied on cost in POI to determine NIP when the cost increased due to increase in fixed cost with increase in capacity, decline in utilization and higher utilization of RM and utilities. NIP should be computed as per Rules.
- xvii) Both material injury and threat of material injury cannot be claimed by the applicant. In any case, it is suffering neither.
- xviii) The applicant provided inaccurate estimates of capacity of China PR of producers in terms of weight. The information on the website relied on by the applicant is in pieces. It is unclear how the applicant has calculated the capacity. The Authority may use actual information regarding capacity from the exporter questionnaire responses.
- xix) After QCO, imports without BIS will not be possible. None of the foreign producers have got BIS license. Hence, there cannot be threat. The domestic industry's contention that domestic production will collapse is incorrect.
- xx) The applicant already enjoys protection against imports in terms of BCD and mandatory BIS requirements which has stopped imports for time unknown.

## **G.2 Submissions made by the domestic industry**

106. The following submissions were made by the domestic industry with regard to injury and causal link:
- i) Demand for the PUC has increased over the injury period. the increase has been significant in the POI. With increasing demand, the applicant increased its capacity but despite there being sufficient demand, applicant's capacity has been underutilised.
  - ii) Imports have been high throughout the injury period. Further, the volume of subject imports from the subject country increased over the injury period, especially in the POI. Almost entirety of the imports to India are from China PR. The rate of increase in imports indicates that the current volume of dumped imports is likely to increase further.
  - iii) The market intelligence suggests that imports are understated, and the actual volume of imports is higher.
  - iv) Imports in relation to Indian production and consumption are significant. The extent of increase in imports was not necessary as existing capacity with the domestic producers is underutilised.
  - v) While indexed figures merely show a decline in imports in relative terms, imports still constitute 86% of the Indian consumption and 874% of the Indian production.

- vi) Price undercutting in 2019-20 and 2022-21 was negative but 2021-22 onwards the subject imports started entering the market at prices even below the selling price of domestic industry. Price undercutting intensified in the POI.
- vii) Price undercutting at retail level is not being alleged.
- viii) Subject imports were undercutting not only the price of the domestic industry but also its costs in 2021-22 and the POI.
- ix) Price suppression or depression is not a one-dimensional concept. An increase in selling price of the domestic industry alone does not mean that its performance has improved. While the cost of sales and selling price of the applicant increased over the injury period, the increase in selling price was lower than the increase in cost. Subject imports were suppressing the prices of the domestic industry, leading to significant financial losses.
- x) There was an increase in cost due to increase in raw material prices which form a significant part of cost. Due to increase in prices of nickel post covid, the prices of stainless steel also increased significantly. This increase in prices was not just a domestic but a worldwide phenomenon. While costs increased by \*\*\*% from previous year to the POI, the landed price of imports only increased by \*\*\*%.
- xi) DGCI&S published data has been relied upon in the application for analysing the volume and value of imports. The Authority will rely upon DGCI&S transaction wise data or DG Systems data to assess the actual landed price of imports and determine price suppression or depression.
- xii) The consumers are price sensitive and increase in low-priced imports suggests that the market for such low-priced imports is likely to increase.
- xiii) Market information suggests that the Indian industry has the capacity to meet \*\*\*% of the country's demand. Applicant holds a capacity of \*\*\* MT as against a demand of \*\*\*MT in the POI. However, the capacity utilisation is still low.
- xiv) With increase in demand, volume parameters of the applicant have shown an increase, however the performance is sub optimal in these parameters. Dumped imports have led to negative growth with respect to price parameters and the growth has been adverse with respect to volume parameters of the domestic industry.
- xv) The increase in demand is also reflected in the applicant's production and sales quantities.
- xvi) To improve its sales, the domestic industry has been forced to sell at prices below cost. It has taken a hit on its profits and suffered losses in the POI.
- xvii) In comparison to demand and the capacity built by the applicant, their sales are not significant.
- xviii) The applicant increased its production capacity by \*\*\*MT in the POI but could only utilize \*\*\*% of such increased capacity.
- xix) The applicant is comparatively a new producer and has gained some market with increase in capacities and production. The market share of the domestic industry increased from 100 to 600 indexed points. However, despite there being a demand supply gap in India, the applicant has only been able to hold a minority share of \*\*\*% of the market share.

Dumped imports have taken the legitimate share of the domestic industry and de-facto command the Indian market with a share of over \*\*\*%.

- xx) The applicant is not claiming injury in 20-21. Its performance was affected during this period due to Covid-19 pandemic and reduced efficiency due to farmer's protests. The applicant performance improved in 21-22 as the situation normalized. Due to positive price undercutting, the applicant was forced to sell barely above cost during this period. As dumping intensified in the POI, the applicant's profits, PBT, PBIT, cash profit and ROI registered a steep decline.
- xxi) While the interest cost did increase in the POI, a decline in PBIT indicates that losses suffered are not due to high interest cost.
- xxii) Considering the demand, the domestic industry should have been able to realize better prices and profits.
- xxiii) If imports continue to enter the country at such dumped prices, the applicant will either have to further reduce its price and resultantly suffer higher losses or lose out on the little market share that it holds.
- xxiv) With the increase in demand, the applicant should ideally have been able to sell the volume produced and reduce its inventory. However, with increase in imports, inventories have piled up, particularly in 2021-22 and further in the POI. Even the average inventory level as a number of days of sales and production, has considerably increased over the injury period.
- xxv) Despite the increase in demand and capacity, employment generated also increased. Despite such increase, the productivity per employee and per day has shown a decline over the injury period. Underutilization of capacity due to dumped imports has contributed to the decreased productivity per employee.
- xxvi) The dumping margins are not only more than de minimis but also significant.
- xxvii) The applicant is suffering material injury due to dumped imports. There is a threat of the material injury getting further aggravated.
- xxviii) The landed value of imports, being much below the selling price and cost of the domestic industry, has prevented the domestic industry from increasing its prices even to the level of costs. Such already being the case, the domestic industry will have to either reduce its selling price or it would lose whatever little sales volume it has.
- xxix) China PR is one of the largest producers and exporters of the subject goods. Information regarding capacity (in pieces) as available on the websites of the Chinese producers of the subject goods, converted into MT based on standard conversion rate of the applicant, shows that exporters have massive capacities available. This indicates the likelihood of increased dumping into Indian market.
- xxx) Further, the subject goods from China PR are already subject to ADD in Argentina since 2013. The duty was last extended in 2019. This indicates the behaviour of Chinese producers to dump goods in various markets. With the growth expected in the Indian

market, it is only likely that the imports from China PR will intensify if measures are not imposed.

- xxxi) Over 99.5% of the imports of the subject goods are entering the country from China PR. Imports from third countries are in insignificant volumes.
- xxxii) The domestic industry has not suffered injury in POI due to possible contraction in demand. In fact, demand has increased throughout the injury period.
- xxxiii) The pattern of consumption with regard to the product under consideration has not undergone any change.
- xxxiv) The applicant is not suffering injury due to availability of substitutes.
- xxxv) There are no exports made by the domestic industry during the entire injury period. Hence, the export performance of the domestic industry is not a possible cause of injury to the domestic industry.
- xxxvi) The domestic industry has recent technology for production of the product. Possible developments in technology could not have been the cause of injury to the domestic industry.
- xxxvii) There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- xxxviii) QCO does not ban imports. It is a quality control mechanism. It cannot be concluded that imports from China will stop in foreseeable future. If duties are not imposed and the respondents are subsequently granted a BIS license, dumping and injury will resume. The applicant should not be compelled to undergo the investigation procedure again when dumping aggravates. Notwithstanding, if the effect of QCO is to bar imports then the respondents should not have grievance about imposition of duty since imports will not occur regardless of whether duties are applied.
- xxxix) As regards the BCD giving protection and inflating prices, the landed price of imports takes into account the BCD. The landed price is undercutting the costs and price of the domestic industry and forcing it to keep its selling price below cost in the POI, causing price suppression and resulting into losses. The injury margin calculated considering the landed value of imports and non-injurious price of the domestic industry is also significantly positive. Evidently, the customs duty is not sufficient protection and anti-dumping duty is required to be imposed.

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

107. The Authority has taken note of the submissions made by the interested parties and has examined various parameters in accordance with the Rules after duly considering the submissions made by the interested parties. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the interested parties.

108. Rule 11 of the Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on the domestic producers of such articles. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
109. The submissions made by interested parties with regard to injury and causal link. which have been considered relevant by the Authority are examined and addressed as under.

### G.3.1 Assessment of Demand/ Apparent Consumption

110. The Authority has defined, for the purpose of the present investigation, demand, or apparent consumption of the subject goods in India as the sum of domestic sales of the domestic industry, estimated domestic sales of the other domestic producers and imports from all sources. The demand for the PUC is as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>POI</b>
Sales of Domestic Industry	MT	***	***	***	***
<i>Trend</i>		100	381	578	915
Sales of other Indian producers	MT	***	***	***	***
<i>Trend</i>		100	202	448	380
Imports from China PR	MT	11,241	11,852	11,268	16,302
Imports from Other Countries	MT	14	50	11	9
Total Demand/Consumption	MT	***	***	***	***
<i>Trend</i>		100	110	110	156

111. It is seen that the demand of the subject goods has increased throughout the injury period with demand registering significant growth in the POI. The demand in the base year was \*\*\*MT, which has increased by 56% in the POI.

### G.3.2 Volume effect of dumped imports on domestic industry

**a) Imports in absolute and relative terms**

112. 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 in relation to production or consumption in India. For the purpose of the injury analysis, the Authority has relied upon the transaction-wise data procured from DGS. The import volumes of the subject goods and share of the same during the injury investigation period are as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
<b>Import Volume</b>					
Imports from China PR	MT	11,241	11,852	11,268	16,302
Imports from Other Countries	MT	14	50	11	9
Total Imports	MT	11,254	11,902	11,279	16,312
<b>Subject imports in relation to</b>					
Total imports	%	99.88	99.58	99.91	99.94
Indian production	%	***	***	***	***
<i>Trend</i>		100	41	21	29
Indian demand	%	***	***	***	***
<i>Trend</i>		100	96	91	93

113. It is seen that:

- a) Imports from China PR have been significant over the injury period and increased significantly in the POI.
- b) Imports of subject country constitute almost entirety of the imports of the product in India.
- c) Imports remained significant over the injury period in relation to production and consumption in India. While the trend in imports in relation to production shows sharp decline as compared to base year, the same is because of the fact that significant fresh capacities and investments came in the Country.
- d) Whereas the demand for the product increased by \*\*\*MT over the injury period, the Chinese imports, which were already so significant, increased by \*\*\*MT.
- e) A number of domestic producers have set up production capacities and started production over the injury period. The domestic industry also increased its capacity over the injury period. Despite this increase in capacities, the imports from China PR which were already so significant, increased further.

114. It has been contended by the respondents that the increase in domestic demand during the POI has been more than the rise in imports from China PR. The Authority notes that there has been an increase in import volumes from \*\*\* MT to \*\*\* MT over the injury period. This increase in import volumes was despite there being unutilized capacities with the domestic industry.

Further, whereas the demand increased by \*\*\* MT, imports increased by \*\*\*MT. Thus, \*\*\* % of increased demand was taken over by the dumped imports.

### G.3.3. Price effect of dumped imports on domestic industry

115. With regard to the effect of the dumped imports on prices, it is required to be analysed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred to a significant degree in normal course.
116. Accordingly, the impact of dumped imports on the prices of the domestic industry has been examined with reference to price undercutting and price suppression/depression, if any. For the purpose of this analysis, the cost of sales and the net sales realization (NSR) of the domestic industry have been compared with the landed price of the subject imports from the subject country.

#### a) Price undercutting

117. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, price undercutting has been worked out by comparing the landed price of the subject imports with the selling price of the domestic industry during the injury period. The analysis for price undercutting is given in table below:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Landed Price of imports	Rs/MT	4,80,924	4,92,554	4,83,453	4,58,879
Net Sales Realisation	Rs/MT	***	***	***	***
<i>Trend</i>		100	96	111	125
Price Undercutting	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range	0-10%	0-10%	10-20%	40-50%

118. It is seen that the landed price of imports has declined over the injury period. It has been below the level of selling price of the domestic industry since the base year, thus undercutting the prices of the domestic industry throughout the injury period. However, the price undercutting increased significantly in 2021 – 2022 which further increased in the POI. The imports are undercutting the prices of the domestic industry by \*\*\*\*% in the POI.
119. It has been contended by the other interested parties that the domestic industry made profits even in 2021-22 when the price undercutting was negative and suffered losses in 2020-21 when

price undercutting was positive. It is now noted that the imports have been undercutting the prices of the domestic industry throughout the injury period even though the extent of undercutting in the base year and in the year 2020-21 was low. It is seen that the domestic industry suffered losses in 20-21 primarily due to covid-19 pandemic and reduced efficiency stemming from farmers' protests in the area where the domestic industry's plant is located. Further, the domestic industry recovered marginally in 2021-22. As the extent of price undercutting increased over the injury period, the volume of imports increased, and the domestic industry's performance deteriorated with regard to price parameters.

**b) Price Suppression or Depression**

120. For the purpose of analysing price suppression and depression in the domestic market, the domestic industry has provided information about (a) cost of sales, (b) domestic selling price as is given in the table below.

<b>Particulars</b>	<b>Unit</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>POI</b>
Cost of Sales	₹/MT	***	***	***	***
<i>Trend</i>		100	102	113	140
Selling Price	₹/MT	***	***	***	***
<i>Trend</i>		100	96	111	125
Landed Price	₹/MT	4,80,924	4,92,554	4,83,453	4,58,879
<i>Trend</i>		100	102	101	95

121. It is seen that:

- a) The cost of sales and selling price of the domestic industry increased over the injury period. However, the increase in cost was higher than the increase in selling price.
- b) The landed price of imports has declined over the injury period, whereas the cost of sales and selling price of the domestic industry increased. Further, the landed price of imports is even below the cost of production of the domestic industry.
- c) The subject import, priced even below domestic industry's cost, leading to the domestic industry selling its product at prices much below cost. The subject imports have suppressed the prices of the domestic industry.

122. As regards the other interested party's argument that cost, price and landed price have increased over the injury period, it is noted that, DG Systems data shows that the landed price of imports has in fact declined over the injury period. This is the case even when the cost of sales has increased.

123. It has been argued by other interested parties that decline in profits is attributable to increase in cost and not because of imports. The Authority notes that the selling price of the domestic industry has increased in the POI, but such increase is much lower than the increase in cost. Further, as already stated, the landed price is much below price as well as cost. The selling price of the domestic industry would have increased, in view of increase in cost of sales, in the absence of dumped imports.

#### G.3.4. Economic Parameters of the domestic industry

124. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth and the ability to raise capital investments. Accordingly, various injury parameters relating to the domestic industry are discussed herein below.

##### a) Capacity, Production, Capacity Utilization and Sales

125. The Authority has considered the capacity, production, capacity utilization and sales volume of the domestic industry over the injury period.

<b>Particulars</b>	<b>Unit</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>POI</b>
Capacity	MT	***	***	***	***
<i>Trend</i>		100	150	250	300
Production	MT	***	***	***	***
<i>Trend</i>		100	303	597	625
Capacity Utilisation	%	***	***	***	***
<i>Trend</i>		100	202	239	208
Domestic Sales	MT	***	***	***	***
<i>Trend</i>		100	381	577	915

126. It is seen that:

- a) Demand for the PUC increased over the injury period. The domestic industry increased its capacity with increasing demand.
- b) The domestic industry's production and sales levels increased over the injury period. However, both production and sales are materially below the levels that could have been

achieved considering the domestic industry's capacity and the increase in demand for the product in the market.

- c) The capacity utilization of the domestic industry has declined over the injury period. The decline in capacity utilization is despite increase in capacities.

#### b) Market Share in Demand

127. The market share of the subject imports and the domestic industry over the injury period was as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Domestic industry	%	***	***	***	***
<i>Trend</i>		100	346	527	585
Other domestic producers	%	***	***	***	***
<i>Trend</i>		100	184	409	243
Subject country Imports	%	98%	94%	89%	91%
<i>Trend</i>		100	96	91	93
Imports from other countries	%	0.1%	0.4%	0.1%	0.1%
<i>Trend</i>		100	329	71	44

128. The market share of the domestic industry has increased over the injury period. However, the domestic industry holds a low share of \*\*\*% in the Indian market. Despite increase in demand and capacity enhancement by the domestic industry, the domestic industry has not been able to improve its market share. It is seen that the market was predominantly catered by the Chinese imports. Even when the Indian industry has been able to get some market, the same is still quite low and predominant share is still catered by the Chinese imports.

#### c) Profitability, Cash profits, and Return on Capital Employed

129. The profit, profitability, cash profits, profit before interest (PBIT), and return on investment of the domestic industry over the injury period has been analysed as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Landed price from China PR	₹/MT	4,80,924	4,92,554	4,83,453	4,58,879
Cost of sales	₹/MT	***	***	***	***
<i>Trend</i>		100	102	113	140
Selling price	₹/MT	***	***	***	***
<i>Trend</i>		100	96	111	125

Profit before tax (PBT)	₹/MT	***	(***)	***	(***)
<i>Trend</i>		100	(7)	85	(137)
PBT as % of cost	%	***	(***)	***	(***)
<i>Trend</i>		100	(6)	75	(98)
Cash Profit	₹/MT	***	***	***	(***)
<i>Trend</i>		100	20	59	(62)
ROCE	%	***	***	***	(***)
<i>Trend</i>		100	30	87	(66)

130. It is seen that:

- a) The domestic industry's earned profits in the base year. However, the domestic industry started suffering financial losses, which increased over the injury period. While the financial losses in 2020-21 were largely due to the COVID-19 pandemic and farmers protest in the region where the domestic industry's plant is located, the domestic industry recovered its profitability and earned profits 2021-22. However, its profitability declined steeply and it suffered significant financial losses in the POI.
- b) The landed price of imports are below the level of selling price and cost of sales of the domestic industry. The landed price of imports is \*\*\*% below the level of cost of sales.
- c) With the decline in profitability, the performance of the domestic industry deteriorated steeply in respect of cash profits. Whereas the domestic industry earned cash profits in base year, it suffered cash losses in the POI.
- d) The return on investment earned by the domestic industry also declined steeply over the injury period. Whereas the domestic industry had positive and significant return on investment in the base year, it suffered significantly negative return on investment in the POI.

131. Notably, despite an increase in demand and sales of the domestic industry, the key price parameters like profit before tax, profit before interest, cash profits and ROI all declined significantly over the injury period and became negative in the POI.

132. As regards the respondent's argument that a rise in interest cost has contributed to the decline in domestic industry's profitability, it is noted that the domestic industry's profits before interest and tax was also negative. Further, whereas the profits declined by Rs.\*\*\* over the injury period, the interest cost increased only by Rs. \*\*\* over the period.

#### **d) Inventory**

133. The data relating to inventory position of the domestic industry over the injury period and POI is given in the table below:

<b>Particulars</b>	<b>Unit</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>POI</b>
Opening Inventory	MT	***	***	***	***
<i>Trend</i>		100	898	1,394	6,656
Closing Inventory	MT	***	***	***	***
<i>Trend</i>		100	155	741	498
Average Inventory	MT	***	***	***	***
<i>Trend</i>		100	230	807	1,115

134. The Authority notes that level of inventories with the domestic industry increased substantially in 2021–22 and further in the POI despite increase in demand in the country.

**e) Employment, Wages and Productivity**

135. The position with regard to employment, wages and productivity of the domestic industry is as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>POI</b>
No of employees	Nos.	***	***	***	***
<i>Trend</i>		100	163	222	366
Salaries & Wages	₹ Lacs	***	***	***	***
<i>Trend</i>		100	289	477	645
Productivity Per day	MT/Day	***	***	***	***
<i>Trend</i>		100	303	597	625
Productivity Per employee	MT	***	***	***	***
<i>Trend</i>		100	186	269	171

136. The Authority notes that with the increase capacity with the domestic industry, the number of employees with the domestic industry has also increased. The salaries paid have also followed the same trend. Further, the productivity per day has increased in consonance with the movement of production.

**f) Ability to raise capital investment**

137. It is noted that the domestic industry has been making investments in capacity additions. There was significant demand-supply gap in the country in the product and there was a need for significant fresh investments in the Country. The domestic industry has however not only suffered losses, but also, its profit before interest & depreciation is negative. The domestic

industry is an MSME unit. Dumping of the product is therefore significantly impacting the ability of the industry to make capital investment.

**g) Growth**

138. The information with respect to growth of the domestic industry is given below:

<b>Particulars</b>	<b>Unit</b>	<b>2020-21</b>	<b>2021-22</b>	<b>POI</b>
Capacity Utilization (%)	%	(14)	10	(9)
Production (MT)	%	29	83	9
Sales (MT)	%	281	51	58
Average Inventory (MT)	%	130	251	38
Productivity (MT)	%	203	97	5
Profit per unit (₹/MT)	%	(107)	1,397	(261)
PBIT (₹/MT)	%	(68)	274	(170)
Cash Profits (₹/MT)	%	(80)	192	(204)
Cash Profit in ₹ lacs	%	(22)	342	(265)
ROI	%	(70)	186	(176)

139. It is seen that the dumped imports have negatively impacted the domestic industry’s growth in respect of price parameters and adversely impacted growth in respect of volume parameters. The other interested parties have argued that the domestic industry has experienced significant growth across all key volume parameters. It is however noted that while parameters like capacity, production, sales have shown improvement, this is in response to rise in demand for the subject goods and capacities with the domestic industry. When compared to the opportunity of growth that the demand increase provided, the growth in volume parameters is underwhelming. Furthermore, the adverse impact of dumped imports is more pronounced on price parameters like PBT, PBIT, cash profits and ROI. All these parameters show negative growth, indicating significant financial strain on the domestic industry.

**h) Magnitude of Dumping and Dumping Margin**

140. It is seen that dumping margin from the subject country is not only more than de-minimis but also significant.

**H. CONCLUSION ON INJURY AND CAUSAL LINK**

141. Analysis of the performance of the Domestic Industry over the injury period shows that the domestic industry has suffered material injury. The causal link between dumped imports and the injury to the Domestic Industry is established on the following grounds:

- a. Imports of the subject goods have increased in absolute terms over the period of investigation and remained significant in relative terms.
- b. Imports are increasing despite increasing capacities and current capacities lying unutilised. Imports have thus led to gross underutilisation of production capacities.
- c. Landed price of imports are undercutting the prices of the domestic industry and are causing price suppression in the domestic market resulting into financial losses to the domestic industry.
- d. The production and sales have increased. These were however below the levels that could have been achieved considering the domestic industry's capacity and the increase in demand for the product in the market.
- e. Despite adding capacity and increase in demand, the subject imports predominantly captures the domestic demand.
- f. With the decline in profitability, the performance of the domestic industry deteriorated steeply in respect of cash profits
- g. Inventories of the domestic industry increased as the domestic industry has not been able to increase its sales in proportion to the movement of demand in view of presence of dumped imports.

142. It is thus concluded that the dumped imports of the subject goods have caused material injury to the domestic industry. There exists a causal relation between the dumped imports of the subject goods originating in or exported from the subject country and the material injury suffered by the domestic industry.

#### **I. NON-ATTRIBUTION ANALYSIS (OTHER FACTORS)**

143. The Authority examined whether other factors listed under the anti-dumping Rules could have caused injury to the domestic industry. The Authority examined known factors other than the dumped imports and ascertain whether these are at the same time have been injuring the domestic industry, so that the injury caused by other, if any, is not attributable to the dumped imports. Factors which are relevant in this respect include, *inter alia*, the volume of subject goods not sold at dumped prices, contraction in demand or changes in the pattern of consumption, trade restrictive practices, changes in technology, the export performance of the domestic industry and the productivity of the domestic industry.

##### **a) Volume and prices of imports from third countries**

144. It is seen that almost entirety of the imports of the subject goods are entering India from the subject country. In any case, the volume of non-subject imports is not only miniscule in the

POI but also priced much higher than the import price from China PR. Therefore, imports from other countries are not a cause of material injury suffered by the domestic industry.

**b) Contraction in Demand**

145. It is seen that, the demand increased throughout the injury period. The demand was at its highest level in the POI.

**c) Changes in pattern of consumption**

146. It is seen that there are no changes in the pattern of consumption for the product under consideration over the injury period that could have caused injury to the domestic industry.

**d) Conditions of competition and trade restrictive practices**

147. None of the interested parties have argued or brought forth any evidence regarding any trade restrictive practices that could have impacted the domestic industry's performance. The Authority notes that the investigation has not shown any change in the conditions of competition or any trade restrictive practices.

**e) Developments in Technology**

148. It is seen that there are no significant changes in technology. The investigating team has found that the production process of the cooperative producers from China PR is similar to that of the domestic industry.

**f) Export performance of the domestic industry**

149. It is noted that the domestic industry has not exported the subject goods during the injury period. Thus, the domestic industry's export performance has not impacted the domestic industry's sales performance.

**g) Performance of other products**

150. The domestic industry has provided the injury data for the PUC and the same has been adopted by the Authority for the purpose of injury analysis. Performance of other products produced and sold by the domestic industry have not been considered.

**J. MAGNITUDE OF INJURY MARGIN**

151. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry for the POI. The NIP has been considered for comparing the landed price from the subject countries for calculating injury margin. For determining the NIP, the best utilisation of the raw materials and utilities has been considered over the injury period. Best utilisation of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III to the Rules.
152. Based on the landed price and the NIP determined as above, the injury margin as determined by the Authority is provided in the table below.

<b>Particulars</b>	<b>Unit</b>	<b>Amount</b>
<b>Non-Injurious Price</b>	Rs/MT	***
<b>Landed Price</b>	Rs/MT	4,58,879
<b>Injury Margin</b>	Rs/MT	***
<b>Injury Margin</b>	\$/MT	***
<b>Injury Margin</b>	%	***
<b>Injury Margin</b>	Range %	25-35

## **K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

### **K.1 Views of other interested parties**

153. The following submissions have been made by the other interested parties with regards to public interest:
- i) The impact analysis undertaken by the applicant i.e., on the basis of consumer's income group, is irrational. The price of a subject goods is not based on income group. Any increase in price due to duties will be prevalent for all. To analyse impact, a comparison shall be made between the price of the subject goods before and after levy of duty.
  - ii) ADD will cause the price of the product to go up in the range of 40-50% which will have significant impact. Applicant has resorted to irrational assessment for focusing on income group of buyers.
  - iii) The subject goods are essential commodity for carrying water in school, office, etc. Duty will have adverse impact on large population due to demand-supply gap.

- iv) The steel used to manufacture the subject goods in China PR is produced using better quality steel. Further, imported goods offer a wider variety of choice to the customers. Not only will proposed duties reduce supply but also reduce choices.
- v) Chinese manufacturers have a better lead time than the domestic industry due to availability of skilled labourers, enhanced manufacturing facilities, multiple production lines and close proximity of supporting industries.
- vi) Exporters in the subject country have an advantage as China PR produces different grades of steel in vast quantities. There is a variation in cost of the subject goods due to variation in the grade of steel used in production by the exporters in China PR.
- vii) The responding importers have high brand value. Even if duties are imposed and the importers increase their prices, consumers will continue to buy their product.

## **K.2 Views of the domestic industry**

154. The following submissions have been made by the domestic industry with regards to public interest:

- i) Currently imports from China PR account for over 99.5% of the total imports of subject goods into India and dominate over 85% of the Indian market. Imposition of anti-dumping duties is essential to ensure a level playing field.
- ii) Considering the opportunity offered by rising demand, many producers have established capacities in the post-POI period. However, if dumping continues, like the applicant, other new producers will also suffer. Eventually, the Indian producers will slowly collapse and be forced to cease their operations making the Indian market entirely reliant on imports to meet demand, leading to issues such as high prices, disrupted availability, or trade deficits in a larger picture.
- iii) It is in the interest of consumers to have a market with fairly priced products powered by a domestic industry that can compete with the imports.
- iv) Encouraging domestic manufacturing activities in India is essential to aid its role in becoming a manufacturing powerhouse. Domestic production will further boost investment, employment and increase the GDP of the country.
- v) The ultimate consumer of the subject goods did not reap the benefit to the extent of price difference between the domestic and imported product. Sales predominantly occur through distributors in this product, who play a significant role in the distribution chain but sell the goods after adding substantial mark up.
- vi) The product under consideration is an end use product. There is no downstream industry involved. The impact of the proposed duty on the consumers, irrespective of their income level, will be negligible.
- vii) The subject goods are made from stainless steel. Hence, they are non-toxic and environment friendly to plastic bottles. It is a sustainable alternative to plastic bottles and

thus, can help reduce the detrimental impact of plastic waste on the environment, wildlife and wellbeing of the populus of the country. Further, with the rising awareness of the ill-impact of plastic, the demand for the subject goods is only going to increase.

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

155. 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 country 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.
156. The Authority issued initiation notification inviting views from all the interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information about the present investigation including any possible effects of anti-dumping duty on their operations. Information was sought on, *inter-alia*, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of anti-dumping duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty.
157. The Authority has received quantification of impact from the domestic industry and from one importer (out of 9 responding parties) i.e., Cello. The domestic industry has calculated impact on the public at large consuming the product considering the longevity of the product. The importer has considered the impact on per flask after considering the increase in price at every level of the chain of distribution including distributors. It is noted from Cello's questionnaire response that it employs three channels of resale, (a) through distributors (b) through the online portal and (c) through website. The Authority has compared the import price of Cello with the resale price with the price of the products on Amazon and on the website. It is seen there is very significant difference between imports and resale price to the end customer.
158. Thus, it is not established that the impact of ADD cannot be absorbed by the chain and the end customers will have a significant impact of the proposed measures.
159. The Authority also notes that the price of the subject goods being offered to the consumers is not dependent on the landed price of imports. The ultimate consumer of the subject goods did

not reap the benefit to the extent of the price difference between the domestic and imported product. It is noted from the data provided by the domestic industry that the sales predominantly occur through distributors in this product, who further sell the product after adding a mark-up. Further, retailers sell the product with significant margins. The domestic industry further submitted that it sells the product on-line on through its own website and also through e-commerce platform, where agencies mark up the price by about 30%. Thus, any incidence on account of anti-dumping duty is not likely to impact the public at large. The distribution chain can easily absorb such price increase.

160. It is noted that various producers have recently started producing subject goods considering the growth in the domestic market. The domestic industry contended that while there is a demand-supply gap in the country, the Indian industry is adding capacities. Further, the domestic industry submitted that one production line of \*\*\* MT requires an investment of Rs. \*\*\* crores and thus provides significant opportunities for the MSME sector to grow and create employment opportunities. Further, a level playing field in the market would result in a situation where capacity with the Indian industry shall be sufficient to cater to the current and potential demand in the country.
161. The Authority further notes that the demand-supply gap in the country does not bar the domestic industry from seeking redressal from dumped imports. The Authority refers to the case of *DSM Idemitsu Ltd. vs. Designated Authority* before the Hon'ble CESTAT where it was held that the demand-supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at un-dumped prices. Imposition of anti-dumping duty does not restrict or bar imports into the country.
162. It is also noted that the product provides tremendous employment opportunities being a labour-intensive industry. The domestic industry submitted that similar is the position of other domestic producers generating employment opportunities in the Country.
163. One of the interested parties has provided on record a list of Indian Producers as published on the BIS website. It is be noted that the domestic industry and many other Indian producers of the subject goods predominantly belong to the MSME category, which is fragmented and unorganized. It is essential that the MSME industries maintain a certain level of profitability to keep their operations functional. The imposition of duties would help in improving their performance, in terms of sales and price parameters. The duties would also help in maintaining a competitive domestic industry supplying the product to the customers in the presence of fair-priced imports.
164. The other interested parties have contended that the subject goods produced in China PR are manufactured with better quality steel that the ones produced by the domestic industry. It is

noted in this regard that domestic industry holds BIS license to manufacture the products. This attests to the standard of the product produced by the domestic industry when compared to the imports from China PR.

165. The Authority also acknowledges the environmental benefits associated with the subject goods. While bottles made out of plastics have a detrimental impact on the environment and contribute to pollution, subject goods offer a clear advantage over them and need to encourage such environment-friendly products.
166. Further, with demand to likely increase further due to the growing consumer awareness regarding environmental protection, health and hygiene and benefits of using vacuum flasks. This increase in demand can have a significant positive impact on the Indian economy with the imposition of duties as it will lead to increased investment, production, employment, government revenue, innovation in the country.

## **L. POST DISCLOSURE COMMENTS**

### **L.1 Views of other interested parties**

167. The following comments were submitted by the other interested parties on the essential facts disclosed by the Authority.
- i. The denial of margin is inconsistent with the Authority's own practice. Differential treatment to the exporters is very apparent in the present investigation . The opportunity to meet the DA after the issuance of the disclosure has also been denied.
  - ii. The email dated 22<sup>nd</sup> June 2024 pertained to importers and no specific information was sought from exporters. The authority may accordingly revise its observations that reply has not been given to the email by Authority.
  - iii. Documents were called from the exporter for the first time on 11<sup>th</sup> July 2024. The Authority has wrongly used the word 'again'. The exporter had provided information as per appendix I. No adjustments were claimed and hence no documents were necessitated.
  - iv. Inability to comprehend the limited documents filed in Chinese language was not intimated even at the time of table verification. The exporter was able to clarify the documents in Chinese language and such a decision is unwarranted.
  - v. Customs declaration forms were not part of the email dated 18<sup>th</sup> July 2024. Such documents could not be collected due to holidays and personal leaves at the end of the exporter. The same were submitted at the time of table study and also vide email 4<sup>th</sup> September 2024 in reply to mail dated 3<sup>rd</sup> September 2024. No deficiency was issued in this regard and the authority's observation is unwarranted.

- vi. There were two mails marked to the exporters on the same date with same subject. The Legal Representative inadvertently missed out the second mail and only replied to one of the emails on 11th July 2024. This was an error of judgment and not something done wilfully. Consequent to discussions with the Authority, information as sought was submitted on 7<sup>th</sup> August, 2024 itself.
- vii. The reply was submitted to email dated 3<sup>rd</sup> September 2024 on 4<sup>th</sup> September 2024. It was explained that a typographical error had occurred and the same was explained at the time of the table study. 2 grams of weight was the result of this error and the exporter was allowed to rectify the same. 8 rows had to be highlighted because the error occurred in two invoices with more than 1 entry. It cannot be said that the exporter failed to provide information in its reply. The approach of the authority is not fair at all and is a highly targeted approach and is unusual in a quasi-judicial investigation.
- viii. The only mail received by the exporters was dated 1<sup>st</sup> October 2024 which pertained to circulation of the NCV which was already done by the exporter earlier and hence it did not respond to the said email. The authority has noted that an opportunity to explain why response should not be rejected was provided to the exporter. However, no such opportunity was provided.
- ix. The authority sent out a mail dated 3<sup>rd</sup> October 2024. Reply was sent dated 7.10.2024 which had two attachments containing the specific replies to the queries of the Authority. There has been no further communication.
- x. Electroplating stage has been mentioned in the response and it is subcontracted hence no adjustment was sought for this process. It is not considered for PCN nor any PCN was warranted. No opportunity for clarification was provided to the exporter. Even the PUC definition in the disclosure is quiet on the aspect of electroplating. Exclusion of electroplated or coated or flasks containing a copper lining on the inside of the inner layer etc from the scope of PUC was not mentioned. It is assumed that the definition of PUC contained all such products. No deficiency was issued in this respect and it was not even pointed out during table verification.
- xi. The PUC was already defined by the Authority as inclusive and was not stated as “vacuum insulated flask or other vessels of stainless steel” with copper coating or electroplated is out of the scope of PUC. The name of the product mentioned in the description column in the Appendix was only to identify the PUC as defined and thereafter details as per PCN has been provided. Since copper coating etc. has not been part of PCN, the same was not provided separately.
- xii. Authority has referred to submission of Cello regarding copper lining but has not accepted the claim of Cello. Authority has contradicted its own definition of PUC by differentiating between coated/ electroplated item and even in disclosure such items are kept outside scope of PUC

- xiii. The EQR contained ample information as verified through table study for the purpose of determining individual margin. The issues cited are clarificatory in nature and exporter provided clarifications wherever sought.
- xiv. Capacity of a bottle was part of PCN and accordingly the same for 750 ml bottle has been reported under respective PCN assigned. Reporting done under Appendix 3A and 3B pertain to PUC only irrespective of length of name mentioned on the invoice or name mentioned in 'product' column. No such issues were pointed out during table study. With regard to the observation that "in Appendix 4A, the exporter merely described product exported by it as "vacuum bottle", "vacuum cup", - Appendix 4A pertains to domestic sales by exporter. It was not informed that domestic sales would be considered as basis for determination of normal value when no MET is claimed by exporter. No clarification of Appendix-4A was sought during the investigation. Even if the name of product is mentioned as flasks, cups, bottles, kettles, carafe and dispensers in context of PUC is still PUC and the usage of such terms cannot be a reason to reject the response.
- xv. Of the total transactions, terms of delivery have not been mentioned only for 12 transactions inadvertently. Authority could have issued deficiency letter or adopted the facts available for the 12 transactions. Payment terms are inadvertently missed for 41 transactions. Such error was not pointed out by the Authority at time of table study. No deficiency letter was also issued in this regard. Further, both weight of the product and unit in terms of pieces were given in appendix 3A and 3B and also 4A. This aspect was discussed with the Authority but it was not pointed out that the response would be rejected for this reason.
- xvi. The observations and reasons noted by the Authority for not accepting the information provided by the Respondent are being made for the first time in the disclosure statement. Respondent had no opportunity to clarify these issues during the course of investigation.
- xvii. The Authority has noted that the exporter has suppressed vital facts, did not timely point out product parameters that were relevant for undertaking fair comparison and proper fixation of PCN. At the same time, it has noted that the subject goods produced by the domestic industry is "like article" to the imported PUC. Therefore, it is not clear why the Authority is not able to ensure fair comparison.
- xviii. Article 2.4 requires that the Authority shall indicate to the parties information necessary for fair comparison. Hence, the primary obligation to ensure fair comparison is on the Authority. Interested parties can claim differences which affect price comparability, but it is not possible or mandatory for an NME exporter to exhaustively study the like-article, identify key differences in physical characteristics and propose adjustments.
- xix. The Domestic industry is also responsible for not identifying such specific difference in product characteristics, especially when the investigation involves an NME where Normal value is based on the data of the Domestic industry. The Authority is required to indicate information necessary for fair comparison and shall not impose unreasonable burden of proof on the parties.

- xx. If EQRs are rejected merely because of this reason, it would be advantageous for the domestic industry to withhold specifications of the like article at the time of PCN discussion because when doubt arises regarding PCN at a later stage, the exporter can be held responsible and the EQR can be rejected.
- xxi. The Authority may record its findings on the basis of available facts in the event that an interested party refuses access to, does not provide information within a reasonable time or significantly impedes investigation. The Respondent, however, has complied with all requirements and has provided complete information whenever requested by Authority and in the event any information may still be missing or is unverifiable, that does not merit to rejection of complete information.
- xxii. WTO Jurisprudence supports that mere unavailability of some information cannot justify rejection of entire information. Unless the missing information is shown to affect the reliability or validity of remaining information, information submitted can be used. Since the Respondent has provided accurate export price of PUC on FOB delivery terms, the Authority ought to consider the same to determine export price and landed value of Respondent.
- xxiii. Any determination based on available facts must aim at filling gaps or missing information rather than being used to impose penalty, to ensure fairness and due process during investigation.
- xxiv. The Authority observes that the respondent were directed to specify whether the product exported by them falls within the defined ambit of PUC or has any specific characteristics or usage that differs it from products falling under PUC. No such question or direction was issued by Authority. Even if such direction was issued, furnishing of further information would be redundant since the product falls squarely within the scope of PUC as notified via notice dated 26 February 2024. It is not possible for the product to ‘fall within the description of PUC defined by Authority’ while also ‘differing from the PUC’.
- xxv. Section B.2 of the EQR requires that in the event that the product sold in domestic market or countries other than India are different in physical/technical/chemical characteristics, the Respondent is required to give evidence of such difference along with effect on production costs and selling price; is inapplicable in the present case. Firstly, the Respondent has clearly stated that there is no difference between products sold domestically and exported to India. Secondly, since the subject country is China PR which is a NME, domestic selling price is neither used by the Authority to determine normal value nor the Authority has requested any supporting documents during verification process regarding domestic sales in China PR.
- xxvi. The Authority has observed that the Respondent failed to specify that product exported by the Respondent differs from PUC or has characteristics which single it out from PUC. However, this observation is irreconcilable since the Authority acknowledges that Respondent had stated that the product falls withing PUC albeit production costs can vary per specifications, including copper coating material, and the same was mentioned in

exports of PUC with copper coating in Appendix 3A of EQR. It is contradictory therefore, that the Respondent failed to disclose copper-coated products were exported to India while also disclosing the export of PUC with copper coating in appendix 3A.

- xxvii. Exports of PUC made by the Respondent have copper coating, which is applied to support temperature control function of the flask, an inherent feature of the PUC and a global industry standard. It is neither special nor extraordinary characteristic of PUC which sets it apart from other product covered in the PUC or has a significant impact on price. The Domestic Industry uses aluminium layer/coating instead of copper to attain the same function. During the entire investigation, however, the difference between subject goods due to copper coating and aluminium layer was not raised by any interested party for PCN or in order to make adjustment to export price for fair comparison. This indicates that the difference in layer/coating was inconsequential for fair comparison.
- xxviii. Even the domestic industry has not provided separate cost/price information of aluminium layer in relation to total cost and price. The Respondent cannot be held responsible for not providing information regarding this or for absence of sufficient information on record regarding necessary adjustment to be made to account the difference, especially when such information was not requested by the Authority during investigation. The Authority at best may exercise its discretion to make appropriate adjustment, with available information, to ensure fair comparison.
- xxix. Information on quantum of appropriate adjustment from Respondent regarding copper coating may not be reasonably insisted for by the Authority, since its cost of production is not taken into consideration at all due to the presumption of NME of the subject country. Regardless, the cost of copper coating is less than 0.5% of average selling price of PUC and thus, is insignificant. Thus, the Authority's observation that PUC falls within the description of defined product but differs from PUC is irreconcilable.
- xxx. If the Authority is still of the opinion that the product exported with copper coating is not PUC, the same may be expressly excluded from the scope of PUC.
- xxxi. The Authority rejected the claim of PCN based on casing/pouch in the final PCN Methodology, indicating that it wasn't considered a relevant factor affecting fair comparison. When PCN itself doesn't distinguish between PUC with pouch/casing etc. and PUC without pouch/casing etc., then not only is there no obligation on the Respondent to still disclose and provide adjustment for such information in Appendix 3A of the EQR but the question to do so doesn't arise.
- xxxii. Despite the request for separate PCN being rejected and ignoring the final PCN methodology, if the Respondent provides any adjustment, it would amount to disregarding express direction of Authority and would be considered non-cooperation and non-compliance.
- xxxiii. The Respondent requested the Authority to compare vacuum flask body exported by the Respondent with vacuum flask body of the Domestic Industry, in order to make appropriate adjustments for fair comparison. The Respondent also complied with the Authority's notice

dated 10 May, 2024 by submitting updated questionnaire providing data of vacuum insulated body separately. Despite its inputs, the DI has not provided any data or non-confidential version of appropriate adjustments of vacuum flask body. In absence of contrary evidence therefore, the Respondent's proposed adjustments in NIP and CNV should have been considered. Neither availability of data by DI was notified nor any subsequent directions were issued by the Authority, indicating sufficiency of information provided by Respondent.

- xxxiv. On the point of the Respondent adding a uniform price for lids, caps and bottoms without corresponding weight adjustments, was to simplify reporting and to ensure consistency. The respondent, based on the information received from Hamilton India Pvt. Ltd. India, importer responsible for processing Vacuum Flask body in order to make finished vacuum flask, calculated estimated 'per KG' cost of the lids, caps and bottom etc. In addition, the Respondent also provided relevant documents and justifications in updated questionnaire for proposed adjustments whereas the DI did not propose any adjustments at all in the matter.
- xxxv. A blanket rejection of the Respondent's questionnaire response in thus, completely unwarranted. Firstly, seeking adjustments in an anti-dumping for subject goods, is not a routine matter and thus in light of lack of rigid guidelines, the Respondent submitted all information to the best of its abilities. Secondly, the Authority has DGCI&S information available which can determine appropriate adjustment for fair comparison, but the same has not been considered.
- xxxvi. The Authority has observed discrepancies in freight data provided by the Respondent and Bills of entry from Hamilton, the importer. The Respondent, however, has exported the subject goods to India at FOB delivery terms where ocean freight is not included in the export price, as reported in the questionnaire response. Thus, no adjustment of ocean freight has been claimed by Respondent for determining net export price. There is no discrepancy between accuracy of FOB and ocean freight amount. The Authority can consider DGCI&S data or DG Systems data to further identify the appropriate amount of ocean freight.
- xxxvii. The mail from Authority dated 22th June 2024, requested information on Appendix 1, Appendix 2 and Appendix4, not Appendix 3A/3B and Appendix 4A/4B (these are not part of importer questionnaire). Further, the claim that the Authority sought supporting information from importer M/s Hamilton Housewares Pvt. Ltd. in July 2024 is not tenable, since it had concluded on 4th April 2024 that its questionnaire response was not considered. The Email of July 11 2024, or any other mail, did not request supporting documents for information provided in 4A/4B. Thus, the facts, keys and dates provided are conflated and has affected investigation and determination of Export Price.
- xxxviii. The observation that records pertaining to Appendix 1, as mentioned in excel sheet was not authenticated or verified, is also not tenable. Excel is a widely used tool for recording data. There is no prescribed requirement or guideline regarding authentication and pertinent

documents. Additionally, verification process would rely on data rather than the format it is presented in.

- xxxix. Full translation of Chinese language was also never requested nor deficiency letter indicating lack of sufficient translation was issued. Therefore, Respondent cannot be penalised for not complying with ambiguous requirements.
- xl. The Authority has disregarded the information of Respondent alleging mismatch or revision of certain adjustments of freight etc. However, all revisions submitted by the DI has been accepted.
- xli. Authority may recommend reference price form of anti-dumping duty for a period of 2 years instead of fixed ADD of 5 years since DI is only impacted by lower price of PUC, there is significant demand-supply gap and imports are necessary, there are negligible exports by Respondent since QCO came to effect and exports are at fair price.
- xlii. The Authority in DS noted that the production flowchart submitted by Exporter includes copper coating as one of the stages of production process. Further, it is claimed that the exporter has exported some copper-coated products to India during POI that has not been reported in Appendix 3A of EQR. These observations are contradictory since it is alleged that the exporter did not disclose copper coated products were exported but the EQR clearly disclosed that copper-coating was part of production process.
- xliii. The Authority has claimed that description of product in DG Systems data is not reported by Respondent. However, the subject good has in fact been reported by Xiongtai in Appendix 3A. Further if such data claiming inaccuracy is relied on, such transaction wise DG Systems/DGCI&S data should be disclosed. Non- disclosure violated principle of natural justice. The Supreme Court has provided that in AD investigation, Authority cannot claim any information as confidential on its volition. Additionally, in similar situations in the past, DG Systems data was provided to the exporter for clarification (Stainless Steel Seamless Tubes and Pipes from China PR, final finding date 23<sup>rd</sup> September 2022).
- xliv. The Importer's Questionnaire Response (IQR) was filed on 27<sup>th</sup> Marc 2024, eight days beyond stipulated deadline, a reasonable and minor delay in light of the complexity of information required.
- xlv. Rejecting IQR risks overlooking critical data with material impact on investigation. The Authority has condoned similar delay in the past.
- xlvi. All revisions suggested by DI has been accepted by Authority. Dumping margin and Injury margin determined by Authority is lower than margins claimed in petition, despite lower average export price and landed price of imports from China than claimed by DI. Thus, CNV and NIP in DS has been substantially revised.
- xlvii. DI has been given the benefit of doubt despite lack of information regarding production and imports made by domestic producers whereas claim of Respondent on eligible producers was rejected despite being corroborated by BIS license, website, brochure etc.
- xlviii. Authority has not disclosed essential facts such as how the landed price of imports are lower than claimed by DI, if adjustments to landed price has been made considering

vacuum flask body, how unit of measurement has been changed from pcs to INR per MT, reason for revision in CNV and Export price or why such inaccurate application by DI is not terminated.

- xlix. There has been no export of subject goods by Respondent since QCO came into effect. Consequently, there is no requirement of ADD since the QCO is operating as an import ban.
  - l. As per IQR, the landed price of imports is significantly higher than NIP. Thus, the respondent is not causing any injury and no ADD should be recommended.
  - li. Zhejiang Xiongtai Houseware Corp Ltd. and Zhejiang Haoqi Industry & Trade Co Ltd. should be considered as co-operating producers/exporters and individual rate of ADD for the entities should be determined.
  - lii. The disclosure statement was received at 10.16 PM after office hours and could be communicated to the clients on 4.12.24. The issue of non-completion of our submissions has been communicated to us for the first time that in the disclosure statement.
  - liiii. The sole ground for non-acceptance of response is that some appendices and excel sheets were not filed. The deficiency was rectifiable and inadvertently missed while filing the response due to some technical glitch.
  - liv. Previous year data in Appendix 3 do not have any impact on the duty calculation and thus not relevant for the purpose of this investigation. The Authority has already taken the same approach in the investigation concerning Gypsum Board / Tiles from China PR and Oman.
  - lv. The Authority does not undertake verification of unrelated importers. The reasons for any deviation from this well-established practice are not discernible from the disclosure statement. Further, the email dated 11.6.2024 issued by the Authority had the subject stating “Subject - Re: Rescheduled Oral Hearing in the anti-dumping investigation concerning imports of “Vacuum Insulated Flask or other Vacuum Vessels, of Stainless Steel” originating in or exported from China PR.” which misled the respondent.
  - lvi. Since other communications for verification, although addressed to respondent, always talked about exporters format and information pertaining to export price and landed value, respondent was always under the impression that the DGTR as per their practice, does not propose to call any data for verification from importer.
  - lvii. It is also not clear as to why verification mail meant for producers / exporters was marked to importer.
  - lviii. The fact that the Authority called for verification data (which was overlooked due to incorrect subject) clearly indicates that the non-submission of the said deficiency was not a matter of concern for the Authority. Thus, the sudden rejection at the stage of disclosure statement is complete arbitrary, unfair and discriminatory.
  - lix. The email of 1.10.2024 which has been used to make a positive assertion that the Authority had indeed given an opportunity to explain the reasons for non-rejection was meant for circulation of NCV submissions. Since the instructions were only to share non-confidential

version of the responses not already shared, to use that correspondence as opportunity given to the interested parties is simply incomprehensible.

- lx. Subsequent email of 4.10.2024 from the Authority was also about circulation of NCV submissions. Even in this email, there is no whisper about any deficiency or the so-called opportunity to rectify the inadvertent errors by the interested parties. Referring to the email dated 1.10.2024 as an opportunity given to exporters for any rectification, is not correct.
- lxi. Rejection of the response filed by respondent is against the obligations under Articles 6.1, 6.9 and 6.13 of the Anti-dumping Agreement. The Authority is required to give notice to all interested parties of the information required from them to reach to a conclusion. However, in the instant investigation, Authority has not provided any notice to respondent, which indicates partial submission of the information.
- lxii. There is significant difference in the import data provided in the nonconfidential version of the application and used by the Authority in the disclosure statement. Since the Authority had issues while sorting of import data due to various units of measurements, it would be in the fitness of things for the Authority to get the quantum of import data re-checked with the help of interested parties also.
- lxiii. While quantum of import quantity increased, landed value declined significantly. This also needs re-examination in the light of the issues admittedly faced by the Authority in conversion of the import data.
- lxiv. In relation to ability to raise capital, it is submitted that DGTR has noted that many industries set up their facilities post POI. Here, the Authority failed to appreciate the reason for commencement of manufacturing of PUC by other domestic producers in the country.
- lxv. The Authority has also ignored the fact that despite increase in production and sales, their closing inventory reduced significantly as compared to opening inventory. This shows positive growth of the industry and no adverse impact of imports.

## **L.2 Views of domestic industry**

168. The following comments were submitted by the other interested parties with regard to the disclosure statement:
- i. Domestic industry reached out to other alleged domestic producers of the subject goods multiple dates. The authority sent communication to these alleged producers and also to the ministry of consumer, affairs, food and public distribution. The Authority is not required to keep hunting for information and evidence. The duty of the Authority is limited to seeking information from parties and then based on information received make an appropriate determination.
  - ii. Despite these efforts, neither the Authority nor the domestic industry received any information regarding production by these entities listed by the interested parties. However, these entities have not provided relevant data barring, Crown Craft India Pvt Ltd, which did submit relevant production information. The Authority cannot hold noncooperation by

- other entities in prejudice of the applicant but can only proceed with the best facts made available by the parties.
- iii. The interested parties who alleged existence of other domestic producers provided no material evidence with regard to quantum of production by other entities. These interested parties merely made allegation and left it open ended.
  - iv. Exporter responses should be rejected. The exporters' responses, which were either incomplete or absent, should have been rejected at the outset, and the exporters should have been considered non-cooperative. Further, the Authority need not have extended so many opportunities to the respondents, in the first place when the interested parties did not provide required data in time. The right to submit information is not unlimited.
  - v. If an interested party fails to adhere to the time limits prescribed by the authority, the authority should not accept the responses. In *US — Hot-Rolled Steel*, the United States authorities had rejected certain information provided by two Japanese exporters which was submitted beyond the deadlines for responses to the questionnaires, and thus applied “adverse facts” in the calculation of the dumping margins.
  - vi. The NCV versions of submissions of the exporters were not shared with the domestic industry and thus are liable to be rejected. The domestic industry was deprived of the opportunity to make meaningful comments to the same. There has been violation of (a) Rule 7 of the AD Rules, (b) directions as given under the notice of initiation, (c) violation of the trade notices issued by the Authority. Reference is also laid upon the practices of the other countries with respect to time barred, deficient replies or untimely new factual information is presented by the parties.
  - vii. The Authority has rightly rejected the responses for the export price determination. The deficiencies relate to incomplete, inaccurate, or inadequate information, and the failure to comply with required documentation protocols and time limits. They also include the failure to meet deadlines for submitting requested information, providing vague or incomplete product descriptions, submitting documents in an unverified language (Chinese without translation), and discrepancies in the reported costs such as ocean freight and pricing for components.
  - viii. The authenticity of key documents like commercial invoices and packing lists, when questioned, undermines the credibility of the exporter’s claims, raising concerns about the potential for misrepresentation or fraud. Inaccurate reporting of production processes, such as the omission of electroplating, can affect the correct classification of goods and compliance with regulatory standards. Additionally, the lack of clarity on terms of delivery, payment, and the misreporting of weight or freight costs can result in incorrect tariff assessments and delays in customs processing.
  - ix. There has also been suppression of facts by the exporters. Products with copper coating were exported by the parties but not highlighted at the stage of providing comments on the PCN methodology. The authority was not informed that certain characteristics result in cost difference of more than 5%. The same should have been highlighted at the initial stage and considered as a separate PCN. Incomplete description of the products was also provided in the relevant appendices by the exporters. The exporters also failed to identify

and adjust the prices of accessories in their export prices when they had previously proposed PCN based on casing of the vessel.

- x. The exporter viz., Zhejiang Haoqi Industry & Trade Co Ltd and Zhejiang Xiongtai Houseware Corp Ltd failed to identify and adjust the price of accessories such as case/ pouch / plastic cup in their export price. This omission is particularly concerning given that the exporters had previously proposed a PCN based on the casing of the vessel in their comments on the PUC/PCN. In their submission, the exporters acknowledged that the cost and price of vacuum insulated vessels would vary depending on whether they are sold with or without a case, and requested the creation of separate PCN categories to reflect this difference. However, despite making this proposal, they did not adjust the price of the product to account for the presence of the case or pouch
- xi. By suppressing essential facts such as the presence of copper coating and the adjustment for accessories like the case or pouch, the exporters have prevented a fair, apple-to-apple comparison between the products exported by them and the like articles manufactured by the domestic industry. This deliberate omission of critical information further indicates the need for the Authority to reject the exporters' submissions.
- xii. By only reporting adjustment for value and not for the volume (weight) of the product, the exporter has artificially inflated the unit export price of the incomplete products. This is a significant discrepancy, as the adjustment based on value without accounting for the weight would make the export price appear higher than what it actually is, thus, distorting dumping margin. While the Authority has not revealed the percentage of the value addition proposed by the exporter on account of cap/ bottom/ lid in relation to gross export value of the products exported by it, it is seen that the Authority has stated that such value was too significant to be accepted without sufficient corroborative evidence.
- xiii. It is seen that while the exporter has quantified the value of the cap/ bottom/ lid etc., it has not quantified the associated weight. The Authority has noted that the exporter has stated having reported weight based on its packing list where imports were made of vacuum insulated body. This naturally indicates that the weight of cap/ bottom/ lid has not been provided.
- xiv. The authenticity of documents filed by exporters is questionable. The same has been observed by the authority in its disclosure statement.
- xv. The Indian industry is facing material injury due to the influx of dumped imports. This discourages domestic producers from scaling up their operations or investing in fresh capacities. However, the imposition of anti-dumping duties would provide remedy to the domestic manufacturers from dumped imports, thereby creating a conducive environment for fresh investments. With the duties in place, not only existing producers but also the new entrants would be incentivized to set up manufacturing facilities in India, aligning with the Government's "Make in India" initiative
- xvi. The authority has adopted the correct approach in evaluating transactions particularly with respect to adjustments made by exporters for missing parts like the cap, bottom, and lid. The exporters have quantified value of parts but not the associated weight. They have artificially inflated the export price of incomplete products.

- xvii. The information filed has not been in English language when it is provided under Trade Notice No. 01/2012 that the parties to the investigation are required to provide an English translated copy of any information that has been provided in any language other than English or Hindi.
- xviii. The imposition of duty would encourage fresh investments.
- xix. The duty imposed should be a fixed form of duty. Further, it should be imposed for 5 years in USD terms

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

169. The Authority has examined the post disclosure comments made by interested parties. It is noted that comments which are reiterations and have already been suitably examined and adequately addressed in the relevant paras of the final findings, are not being repeated in the post-disclosure examination by the Authority for the sake of brevity. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority have been examined as under:

- a. Kuangdi, Xinduo have argued that first email to them was sent on 11<sup>th</sup> July and that the email dated 22<sup>nd</sup> June 2024 pertained only to importers. It is noted in this regard that such statement is incorrect. The Authority had sent email dated 22<sup>nd</sup> June 2024 seeking supporting information from the producers and exporters for Appendix 1, Appendix 3A/3B, Appendix 4A/4B and, supporting documents for adjustments reported. It has also been argued that customs declaration documents could not be collected due to holidays and leaves at the end of the exporter which cannot be accepted. Information sought in July have been submitted much later in September. It is noted that the exporters did not even seek extension to provide the information. As noted by the WTO Panel on *US — Corrosion-Resistant Steel Sunset Review*, “*the right of interested parties to submit information in a sunset review cannot be unlimited. One of the important limitations that can legitimately be imposed on that right is deadlines for the submission of information*”. Further, even if it is assumed that the exporters inadvertently missed the email dated 11<sup>th</sup> July, 2024, even the belated reply did not address all the concerns raised and information sought.
- b. As regards not intimating the issue of receipt of untranslated documents even at the time of interactions with the respondent, it is noted that the prescribed questionnaire requires the interested parties to provide English translations when providing documents. Further, the purpose of interactions with the interested parties was limited to understanding the information that was provided by the parties. In any case, the purpose of such interaction is limited to satisfaction of the Authority to the information on record. It is not an opportunity to file fresh information. Further, it is the obligation of

the exporters to provide information in English. Documents filed in Chinese language without accompanying translations in English is insufficient for the present purpose.

- c. As regards the argument by Kuangdi, and revision in the weight, it is noted that the exporter gave no clarification and justification for changing the data. Further, multiple changes were made without any clarification, thus raising serious concerns on the credibility of the data.
- d. As regards demand for an opportunity to explain why response should not be rejected, the records of the Authority show that such email was in fact sent to the exporter on 1<sup>st</sup> October 2024. Further, the disclosure statement itself was an opportunity given to the exporter to defend its interests.
- e. As regards Kuangdi's argument that it had provided a reply to the information sought by the Authority vide email dated 3<sup>rd</sup> October 2024 on 7<sup>th</sup> October 2024, it is noted that while two attachments were received by the Authority in response, such response was deficient and did not address all issues raised by the Authority. Evidently, the exporters have not even responded to all the queries and supplementary information demanded by the Authority.
- f. As regards the argument that the exporters were unaware that electroplated vacuum flask is outside the scope of PUC, it is clarified that electroplated stainless steel vacuum flask is not excluded from the scope of PUC. The exporter's product descriptions were incomplete and inaccurate, especially regarding the copper plating on certain products. Although the production process involved copper plating, this crucial detail was omitted from the EQR, leading to a failure to disclose essential information needed for determination. The interested party ought to have disclosed parameters that affect price comparability. Electroplating has an impact on the cost of subject goods and the same should have been disclosed and information should have been provided for appropriate adjustments. The purpose of providing opportunity to the interested parties to comment on the scope of the PUC and suggest PCN methodology is to ensure that all relevant parameters for undertaking fair comparison are brought on record. The interested parties are obliged to point out all such parameters that would affect fair comparison. Further, the interested parties were obliged to identify PCN parameters appropriately, truthfully and completely. The interested parties have indeed given comments on the PCN methodology, but failed to inform the Authority and other interested parties that there were other critical and relevant parameters that were required to be considered in so far their exports are concerned. This was a vital suppression of material fact at the time of offering comments on the scope of the PUC and PCN. Further, this has come to the notice of the Authority at advance stage of the investigations and during interactions

with the exporters. The Authority holds that such interactions were limited to understanding the questionnaire response and information/documents filed by the exporters. The said opportunity is not an opportunity for providing fresh information. The exporters have withheld relevant information and have not timely provided such relevant information.

- g. The exporters have stated that the Authority referred to the submissions of Cello while also not accepting the claims of Cello. It is clarified that Cello's submission has only been referred to by the Authority to corroborate the information on record.
- h. As regards the argument that not providing complete and proper product descriptions, terms of payments and terms of delivery cannot be a reason to reject the response, it is noted that these are crucial for determination of dumping margin and injury margin. The PCN itself cannot be appropriately verified without sufficient and proper product descriptions.
- i. As regards the argument that information in Appendix 3A, 3B and 4A was provided in terms of both weight and numbers by Kuangdi and Xinduo, it is noted that the Authority has made an observation not in respect to these appendices but regarding Appendix 1 being reported in terms of numbers alone.
- j. The argument of Borosil that the previous year data under appendix 3 is not relevant and thus not provided cannot be accepted. The interested party, on itself cannot decide which information is relevant, more so when the Authority has issued a prescribed format for filing questionnaire response. As noted earlier, in Appendices 1 and 2, merely the first and last twenty (20) transactions have been mentioned by the importer while the revised appendices shared by the importer with its comments to the disclosure statement shows more than 400 line transactions. Thus, information on major imports were withheld by the importer and the reason for the same has not been provided till date. Moreover, while the NCV of the IQR stated that appendices 4 and 5 are enclosed with the confidential version of the IQR, it was found that the said appendices were not given at all even in confidential version. The NCV was thus misleading. Further, despite noting that the Authority has observed that the data that was required to be provided in the Excel sheet it was provided in a PDF format.
- k. As regards Borosil's argument that DGTR does not verify importer questionnaire response, it is clarified that the questionnaires and information are sought with the purpose to collect relevant information and use the same appropriately. The importer cannot first file questionnaire response and then plead that the same is not relevant and

necessary to the conduct of investigations and determination made. The Authority is justified in considering such response and verifying the same to the extent deemed necessary. Furthermore, the attempt to justify its failure to respond to the request for information/documents on the grounds of incorrect subject title cannot be accepted. While it is acknowledged that the email subject line referred to oral hearing (as it was based on an earlier email thread), it cannot be accepted that the importer did not read the content of the email simply because of the subject line. It was open to the importer to seek appropriate clarification. In any case, no response to the requirements raised by the Authority cannot be ignored only because of this reason. The importer should have noted the requirements and provided relevant verification information requested by the Authority.

1. It is clarified that there were two emails sent on 1<sup>st</sup> Oct, 2024, one pertaining to circulation of NCV and the other giving opportunity to the said parties to explain the reasons for non-rejection. The party has selectively referred to one email.
- m. Haoqi has argued that it is unclear why the Authority cannot undertake fair comparison when goods produced by the domestic industry are like article to the PUC. The Authority acknowledges that, in a situation where the PUC includes product with significant difference in cost, the Authority is required to frame different PCN for the same to determine dumping margin and injury margin. However, there still may be differences or factors that form part of price adjustments and may not be addressed through PCN. It is the obligation of the interested parties to identify all factors that may be considered for defining the scope of the PUC and prescribe PCN. The exporter's argument that it is impossible for an exporter in a non-market economy to exhaustively study and identify key difference in the like article and the PUC is not acceptable. The exporter was required to identify attributes in its own product and the same was very much within the knowledge of the exporter. It is also noted that the exporter has itself stated that the domestic industry has used aluminium layering in its product. This shows that the exporter is well aware of the attributes of the domestic industry product.
- n. The exporters have also argued that the domestic industry is also responsible for not identifying product characteristics when the normal value is based on the domestic industry's data. The Authority notes that the relevant consideration is whether the exporter identified attributed in its product appropriately and sufficiently. Evidently, the exporter has not done so. The exporter cannot shift burden of identifying such attributes in the imported product onto the domestic industry. It was the obligation of the exporter to identify the attributes in its own product and inform the Authority appropriately. The exporter was well aware of its own product manufactured and exported to India.

- o. The argument taken by Haoqi and Xiongtai that the Authority's observation is contradictory with respect to the respondent not disclosing copper coating when it was mentioned as part of the production process, it is noted that the interested parties were given the opportunity, at the time of initiation of the investigation, to offer their comments on the scope of PUC and proposed PCN methodology. The interested parties made detailed submissions in this regard, but the exporters never mentioned the fact of copper coating on its products. Such fact should have been specifically and separately reported to the Authority. The EQR is too belated stage for considering appropriateness of the PCN, considering that EQR was filed much after finalisation of PCN. It is noted that the exporter in its comments on proposed PCN methodology stated that "*cost of production varies due to variation in components and accessories used, shape, coating material, design, specific features etc. that are applicable in different types of vacuum insulated vessels*". However, the exporter never informed the Authority that there is significant difference in its product's price in respect of products with copper coating. In fact, while the transaction pertaining to export of copper coated product was reported by Xiongtai, the exporter did not even report copper coating in the description of the product in Appendix 3A. The fact that it had exported copper coated product was seen by the Authority from the DG Systems data. This is clear suppression of fact.
- p. Notwithstanding the above, it is seen that the exporters i.e., Haoqi and Xiongtai, have shared along with their comments to the disclosure statement only one sample invoice claiming the coating cost incurred by them (including material cost) for copper coating. At the foremost, it is noted that the exporters have provided only one invoice each as evidence. Secondly, it is seen that while the description of the invoice furnished by Haoqi states "copper processing fee", that furnished by Xiongtai states "**labor** copper plating processing fee for thermos flask liner", however, the invoice value of both the invoices is largely comparable. This indicates that such invoice only pertains to labor fee for copper plating and does not include material cost though the exporters have claimed that it includes material cost. Lastly, it is seen that the seller's name on the said evidence shared by Haoqi and Xiongtai is "\*\*\*\*" and "\*\*\*\*.", respectively, thus suggesting that this stage of the production process was outsourced/ subcontracted to a third party. However, the exporters in their EQR suppressed this fact and only stated that "*None of the stages of the production process are subcontracted*". This further casts serious doubt on the credibility of the EQR.
- q. It has been stated by the exporters that no directions were issued by the Authority for the respondents to specify whether the product exported by them falls within the defined ambit of PUC or has any specific characteristics or usage that differs it from products falling under PCU nor is the date for such communication mentioned. It is clarified that that such directions were part of the notice of initiation wherein the exporters were given

opportunity to comment on the scope of the PUC and were required to identify parameters relevant to fixation of appropriate PCN. Further, the prescribed exporters' questionnaire requires relevant information and therefore no separate communication is necessary in this regard.

- r. It has been argued by Haoqi and Xiongtai that there was no obligation on the respondent to disclose and provide adjustments for casing/ pouch when their claim of PCN based on casing/ pouch was rejected by the Authority. It is noted that cost and price of casing/ pouch was not considered significant enough by the Authority to prescribe a separate PCN. However, it is a factor relevant for making appropriate adjustment for determining dumping margin. In fact, the exporter was required to provide detailed information if it considered that its product, though falling within the product description defined by the Authority, differs from the PUC or has specific characteristics which single it out from the PUC. The exporters despite accepting difference in cost and price depending upon whether the product is with case or without case, did not disclose or provide information for making necessary adjustments.
- s. Regarding the exporters' request to impose a reference price-based duty and for only two years duration, it is noted that satisfactory justification for the form and duration of duty has not been provided by the exporter, particularly when the Authority normally recommends ADD for a period of five years. Reference price based duty would not be appropriate in the facts & circumstances of the case, considering that (i) the product is supplied using different grades of steel (200 and 300 series) carrying significantly different prices, (ii) the product is produced in varying size, (c) product is sold both in finished form and as a body, (d) product is sold with or without accessories & other items.
- t. It has been suggested that in absence of contrary evidence with respect to appropriate adjustment of vacuum flask body by the domestic industry, the respondent's proposed adjustment in NIP and CNV should have been considered. It is noted that information for making an appropriate comparison the Authority had specifically directed the interested parties to provide information on missing components. The interested parties however merely identified value of missing components, without providing corresponding associated weights. The interested parties inflated the gross export value of such transactions by a significant \*\*\*%, without an appropriate addition towards weight. It cannot be contended that the value of missing parts should be inflated by \*\*\*% without adding weight of such missing parts.

- u. As regards the argument taken by Haoqi that it provided relevant document and justification with the questionnaire response for the value added for cap/ bottom/ lid, the Authority in the disclosure statement did acknowledge the exporter adjusting a uniform price of cap/ lid/ bottom. No justification or methodology was disclosed by the exporter for identifying the value calculated by it. Nor any supporting evidence provided.
- v. As regards the argument by Haoqi and Xiongtai that the exports were made on FOB basis and no freight was reported or adjustment on that account was claimed in the EQR, it is noted that the exporters were directed to provide their claimed export price and landed value. On 11<sup>th</sup> July 2024, the exporter was asked to provide adjustments claimed for ex-factory export price and landed value. To reach landed value of import, ocean freight was reported by the exporter based on Bill of Entry of Hamilton. There was in fact a discrepancy between the ocean freight reported by the exporter and that reflected in the Bill of Entry and hence revisions were made by the exporter without providing a list of errors and corrections made as asked by the Authority.
- w. It has been argued that no email requested for supporting documents for verification of information provided in appendix 4A or 4B. The Authority had sent to the exporters an email on 22<sup>nd</sup> June , seeking information/ documents pertaining to Appendix 1, 3A/ 3B, 4A/ 4B and supporting documents relating to deductions claimed in the response. Such email is on record with the Authority.
- x. As regards the argument that there are negligible exports since QCO has come to effect, it is noted that QCO serves a purpose different than trade remedial measures. QCO does not aim to remedy the injury caused to the domestic industry by dumped imports. Contrary to what has been claimed by the other interested parties, QCO does not operate as a ban on imports.
- y. Hamilton has argued that a minor delay in filing of the response is reasonable in light of the complexity of the information required. It is noted that the importer neither filed a response within the stipulated timeline, nor sought an extension to file the response, nor mentioned any reason for the delay when filing a response, nor established alleged complexities in filing timely response. A party to the investigation cannot ignore the time limits prescribed by the Authority for conduct of investigation. As per the Rules and as also notified at the time of initiation, if an information is not received within the prescribed time limit or incomplete information is received, the Authority may record its findings based on facts available on record.

- z. It has been argued that the dumping margin and injury margin determined by the Authority is lower than the margins claimed in the petition indicating that the CNV and NIP has been substantially revised. It is noted that the applicant had calculated margins based on export price and landed value estimated as per DGCI&S published data for the codes 96170011 and 96170012. However, the Authority has made determination based on data from its own sources. In the current investigation, the Authority has relied on DGCI&S transaction-wise import data for the codes 96170011, 96170012 and 96170090. As regards the revision of CNV and NIP, these have been determined by the Authority based on the costs that have been considered appropriate and not as claimed in the application.

## **M. CONCLUSION AND RECOMMENDATION**

170. Having regard to the contentions raised, information provided, submissions made by the interested parties and facts available before the Authority, as recorded above, and on the basis of the above analysis of dumping and consequent injury to the domestic industry, the Authority concludes as follows:
- a) The product under consideration is “vacuum insulated flask and other vacuum insulated vessels, of stainless steel” such as vacuum insulated cups/ mugs, bottles/ flasks, and carafes/ kettles. The scope of the PUC also covers “vacuum-insulated body” of the flask with or without parts like lid, cap and bottom.
  - b) Vessels and containers like dispensers, casseroles, vacuum lunch boxes/ tiffin, ice buckets and boxes, etc. fall outside the scope of the product under consideration.
  - c) Single walled flask i.e., a flask with no vacuum, electric kettles and other electric vessels are excluded from the scope of the PUC.
  - d) The subject goods are imported under customs subheadings 96170011, 96170012, 96170090 of the Customs Tariff Act 1975. The customs classification is only indicative and is not binding on the scope of the product under consideration.
  - e) The Authority provided opportunity to the interested parties to provide relevant information and thereafter held interactions with the interested parties to decide the scope of PUC and notify appropriate PCN methodology. The Authority notified PCN methodology on the basis of product attributes informed by various interested parties and notified the scope of the PUC and the proposed PCN to the interested parties.
  - f) The goods produced by the domestic industry is like article to the subject goods being imported from the subject country in terms of Rule 2 (d) of the AD Rules.
  - g) The application for initiation of the anti-dumping investigation against the imports of the subject goods from China PR was filed by Placero International Pvt Ltd, also known as “Pexpo”.
  - h) Apart from the applicant, there are other producers of the subject goods in India. While the applicant estimated the total Indian production by quantifying production of other

producers that have not imported the subject goods during the POI, none of the interested parties provided any evidence of gross Indian production and production by a number of entities identified by the interested parties. Majority of the Indian producers of the subject goods fall within the MSME category. There is no published information with regard to production and sales of the subject goods in India. Hence, in addition to notifying initiation of the investigation in the official Gazette and on the DGTR website, the Authority wrote to the various entities identified by the interested parties, seeking information on their production, imports and any other information they may deem relevant. Additionally, the Authority wrote to the Ministry of Consumer Affairs, Food and Public Distribution. 4 producers of the subject goods responded to the Authority's emails supporting imposition of duties. However, barring Crown Craft India Pvt Ltd, none of the entities provided information regarding their production and import volumes. Further, out of the 4 responding domestic producers, two had started manufacturing the subject goods in the post-POI period. The domestic industry provided evidence of writing to other domestic producers repeatedly, requesting them to provide information concerning their production and sales to the Authority.

- i) While the Authority could examine the imports made by some of the other alleged domestic producers, since most of these entities chose non-cooperation, the Authority could not definitively ascertain their status. Examination of DG Systems data shows that some of the entities have imported the subject goods during the POI, however, their eligibility could not be ascertained due to lack of availability of information regarding their production. Further, some have been alleged to have been importing through traders, but their imports could not be ascertained in the absence of any information regarding the name of their traders. Hence, the Authority has considered available information on record for the purpose of determining Indian production.
- j) Based on information on record, the Authority has determined that the production by the applicant constituted \*\*\*% of Indian production. The Authority has therefore determined that the applicant constitutes domestic industry under Rule 2(b) of the Rules and meets the criteria for standing as per Rule 5(3).
- k) The Authority is satisfied with the confidentiality claim made by the interested parties and has accepted information provided by the interested parties on confidential basis.
- l) Four producing exporters from the subject country, viz., Yongkang Xinduo Cups Co Ltd, Zhejiang Kuangdi Industry & Trade Co Ltd, Zhejiang Haoqi Industry & Trade Co Ltd, and Zhejiang Xiongtai Houseware Cups Ltd. registered themselves in the present investigation and filed response to the prescribed exporter's questionnaire. The Authority found that the exporters have not provided information in the form and manner prescribed, failed to adhere to directions given by the Authority, and have not acted to the best of their ability.
- m) The Authority notes that interested parties are required to provide complete information in a timely manner, and truthfully disclose all relevant information and documents. It is global practice that the investigating authorities prescribe time limits and strictly adhere to the same. Further, investigating authorities globally accept questionnaire responses and determine individual dumping margin only when the exporters have

- acted to the best of their abilities, and truthfully and completely disclosed relevant information. It is also noted that the investigating authorities globally do not accept documents not accompanied with translations in the desired English. In the instant case, significant documents were provided by the responding exporters which were not accompanied with complete translation in English.
- n) Xinduo and Kuangdi refused timely access to information sought by the Authority by either providing deficient replies, or not filing replies within the stipulated timelines, or not filing a reply at all with respect to some of the information/ clarification/ documents sought by the Authority. Much of the information pertaining to Appendix 3A/ 3B was not provided by the exporters in a meaningful manner. In fact, some of the commercial invoices and packing list submitted by these exporters were not appropriately authenticated, making the reliability of their data is doubtful. Unexplained revisions have been made by Kuangdi in Appendix 3A of its EQR. While the former did not clarify whether all or some of its export volumes were electroplated, the latter suppressed facts regarding copper coating despite it being a part of its production process. The Authority even provided these exporters opportunity to explain the reason for not rejecting their response. But no reasons were provided by the exporters.
- o) Haoqi and Xuongtai, despite stating in their comments on PUC/PCN that coating material causes the cost of the product to vary, suppressed the fact that they have exported copper coated products thereby preventing fixation of appropriate PCN. Nor did they report necessary adjustments to the export price on that account. Similarly, despite themselves having proposed PCN based on casing, and being cognizant that such accessory is an additional cost item, the exporter did not adjust the price of such accessories in the EQR, thereby preventing a fair determination. In fact, while Haoqi claimed that it has exported both vacuum flask body and finished product, and that it has reported appropriate adjustments as per the instructions of the Authority, the exporter quantified only the value of cap/ lid/ bottom but did not propose any corresponding adjustment towards weight on this account, thereby artificially inflating the export price. Further, while both the exporters reported CIF price considering ocean freight based on BoE of their (participating) importer i.e., Hamilton, the ocean freight indicated by them did not align with the supporting documents. Though the exporters later revised the average ocean freight, such revision was done without providing a justification. In any case, it was seen that despite an increase in total ocean freight, the average freight rate decreased. Furthermore, both the exporters did not provide translations of all information provided. While the exporters failed to provide some of the information/ documents sought within the stipulated timelines, some of the document submitted by them could not even be authenticated.
- p) The veracity of the information submitted, and the export price reported by the responding exporters could not be established. Correct determination of export price is critical for both dumping margin and injury margin. However, the Authority is unable to determine individual dumping margin and injury margin in respect of exports made by these exporters.

- q) Considering the normal value and export price determined, the dumping margin for the subject goods from China PR is positive, more than de minimis and significant.
- r) The demand for subject goods has increased throughout the injury period. There has been an increase of more than 50% in demand, from the base year to the POI.
- s) Imports from the subject country have increased throughout the injury period, barring 2021-22. The increase in the volume of subject imports was significant in the POI despite there being unutilized capacities with the domestic industry. The volume of imports from the subject country constitutes almost 100% of the total volume of imports of the subject goods into the country.
- t) The volume of subject imports in relative terms decreased until 2021-22 and increased again in the POI. While the volume of imports in relation to production decreased over the injury period due to fresh capacities being installed in the country, due to increasing demand, and the consequent increase in production, imports in relative terms continue to remain significant.
- u) The subject imports have been undercutting the prices of the domestic industry throughout the injury period. The level of price undercutting increased significantly in the POI.
- v) The subject imports are priced even below cost. While there has been an increase in cost and price, the increase in volume and decrease in price of subject imports prevented the domestic industry from increasing its price to the extent of increase in cost. Imports are, thus, suppressing the prices of the domestic industry.
- w) As regards the effect of such dumped imports on the economic parameters of the domestic industry, the Authority has reached the following conclusion:
  - i) The domestic industry increased its capacity with an increase in demand. Consequently, the production and sales of the domestic industry also witnessed an increase.
  - ii) While the market share in demand of the domestic industry has increased over the injury period, subject imports capture majority of the domestic demand.
  - iii) Profitability of the domestic industry declined from profits earlier to significant financial losses in the POI.
  - iv) The level of inventory with the domestic industry has increased with an increase in the volume of subject imports in the POI.
  - v) While the volume parameters of the domestic industry have shown improvement with a rise in Indian demand and capacity of the domestic industry, PBT, PBIT, cash profits and ROI have witnessed a significant adverse impact.
- x) The domestic industry has suffered material injury.
- y) Considering the non-injurious price determined by the Authority and landed price of imports, it is seen that the injury margin is significant.
- z) Non-attribution analysis shows that no other factor has caused injury to the domestic industry, and it has suffered material injury as a result of the dumped imports.
- aa) The Authority examined the impact of anti-dumping duty on the consumer. It is seen that the subject goods are end-use products being consumed by the public at large and

the imposition of anti-dumping duties would not have any significant adverse impact on the end consumer.

- bb) Letters received from the domestic producers of the subject goods, including two that were in operation during the POI and three who commenced manufacturing of the like article in the post-POI period show that responding domestic producers are in favor of the duty. It has been stated that not only would the duties help better utilization of capacity and remedy the existing producers from injury caused due to dumping, but also ADD would encourage fresh investments, benefit the MSME sector, foster employment, and contribute to the "Make in India" initiative.

171. 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 the anti-dumping duty is required to offset the dumping and consequent injury. The Authority considers it necessary to recommend imposition of the anti-dumping duty on the imports of the subject goods originating in or exported from the subject country.

172. Having regard to the lesser duty rule followed, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury on imports of subject goods originating in or exported from the subject country, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of the anti-dumping duty on the imports of subject goods originating in or exported from the subject country, 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 Column 7 of the duty table appended below.

**Duty Table**

S N	Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Amount	UoM	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	96170011, 96170012, 96170090	Vacuum insulated flask and other vacuum vessels, of stainless steel*	China PR	Any including China PR	Any	1,732	MT	USD

*\*“Vacuum insulated flask and other vacuum insulated vessels, of stainless steel” such as vacuum insulated cups/ mugs, bottles/ flasks, and carafes/ kettles including vacuum-insulated body of flask and other vacuum-insulated vessels. Vessels and containers like dispensers, casseroles, vacuum lunch boxes/ tiffin, ice buckets and boxes, etc. fall outside the scope of the product under consideration. Further, single walled flask i.e., a flask with no vacuum, electric kettles and other electric vessels are excluded from the scope of the PUC.”*

**N. FURTHER PROCEDURE**

173. An appeal against the determination of the Authority in these final findings shall lie before the Customs Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Customs Tariff Act.



**Darpan Jain**

**(Designated Authority)**