

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Commerce)
(DIRECTORATE GENERAL OF TRADE REMEDIES)
NOTIFICATION
(Final Findings)

New Delhi, the 8th September, 2020

Case No. ADD-SSR 15/2019

Subject : Sunset Review investigation concerning anti-dumping duty on imports of ‘Diketopyrrolo Pyrrole Pigment Red 254 (DPP Red 254)’ originating in or exported from China PR.

No. 7/27/2019 - DGTR: Having regard to 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’ or ‘AD Rules’) thereof;

A. BACKGROUND OF THE CASE

1. The Designated Authority (hereinafter also referred as the ‘Authority’) initiated an anti-dumping investigation on imports of “DPP Red 254” (hereinafter also referred as the ‘subject goods’ or ‘product under consideration’ or ‘PUC’), originating in or exported from China PR and Switzerland vide notification No. 14/8/2014- DGAD dated 20th June 2014. The Authority thereafter notified the Final Findings No. 14/8/2014-DGAD dated 19th June 2015, recommending for imposition of anti-dumping duty against imports of the subject goods from China PR and Switzerland. Definitive anti-dumping duty was imposed by Ministry of Finance vide Customs Notification No. 41/2015-Customs (ADD) dated 17th August 2015 for five years and the same is in force.
2. In terms of Section 9A (5) of the Act, anti-dumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the DI, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
3. Rule 23(1B) of the Rules provides as follows:
“...any definitive anti-dumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”
4. M/s. Heubach Colour Private Limited (hereinafter referred to as ‘Applicant’ or ‘Domestic Industry’ or ‘DI’) filed an application on behalf of the domestic industry before the Authority, in accordance with the Act and the Rules alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from China PR and Switzerland and consequent injury to the domestic industry and have requested for review and continuation of the present anti-dumping duties, applicable on the imports of the subject goods, originating in or exported from China PR and Switzerland, for another five years.
5. In view of the said application with prima facie evidence of likelihood of dumping and injury filed on behalf of the DI and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated the Sunset Review Investigation vide Notification No.7/27/2019-DGTR dated 18th December 2019, published in the Gazette of India, Extraordinary, to review the need for continued imposition of ADD in respect of the Subject Goods, originating in or exported from China PR (hereinafter referred to as ‘subject country’) and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the DI.

6. The countries involved in the original investigation were China PR and Switzerland. However, for the purpose of this current sunset review investigation, the Authority initiated the investigation only against China PR, since prima facie analysis of information submitted by the Applicant did not show likelihood of dumping from Switzerland. Accordingly, China PR is the subject country for this sunset review.
7. The scope of the present review covers all aspects of the previous investigation concerning imports of the subject goods, originating in or exported from the subject country.

B. PROCEDURE

8. The scope of the present review covers all aspects of the Final Finding Notification No. 14/8/2014-DGAD dated 19th June 2015 which had recommended imposition of ADD on imports of subject goods originating in or exported from China PR and Switzerland.
9. The procedure, as described herein below, has been followed:
 - a. The Authority *vide* Notification No. 7/27/2019-DGTR dated 18th December 2019 published a notice in the Gazette of India, Extraordinary, initiating sunset review anti-dumping investigation against imports of the subject goods from the subject country.
 - b. The Embassy of the Subject Country in New Delhi was informed about the initiation of the Sunset Review investigation in accordance with Rule 6(2) along with the copy of the initiation notification and non-confidential version of the application.
 - c. The Authority forwarded copies of the notification to the known producers / exporters in the Subject Country (whose names and addresses were made available to the Authority by the Applicant) and provided an opportunity to make their views known in writing within thirty days from the date of the letter in accordance with Rule 6(2) and Rule 6(4) of the Rules.
 - d. The Authority forwarded a copy of the public notice to all the known importers and users association of the subject goods in India and advised them to make their views in writing within thirty days from the date of issue of the letter.
 - e. The Authority sent questionnaires to elicit relevant information to the following known exporters of subject goods in the subject country in accordance with Rule 6(4) of the Rules:
 - (i) CINIC Chemicals (Shanghai) Co. Ltd.
 - (ii) Shuangle Pigment Taixing Co. Ltd.
 - (iii) Shenyang Baiao Chemical Co. Ltd.
 - (iv) Nantong Zhengyan New Materials Technology
 - (v) Foshan Shunde Baost Pigment Co Ltd.
 - f. No producer/exporter from China PR has participated and filed the questionnaire response before the Authority in the present sunset review investigation.
 - g. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
 - (i) Nippon Paint (India) Pvt. Ltd.
 - (ii) The Indian Paint Association
 - (iii) Kansai Nerolac Paints Ltd.
 - (iv) Akzo Nobel India Limited
 - (v) Asian Paints Limited
 - (vi) Huber Group India
 - (vii) Voxco Pigments and Chemicals Pvt. Ltd.
 - (viii) Berger Paints India Limited

- (ix) PPG Asian Paints Pvt. Ltd.
 - (x) Soujanya Color Pvt. Ltd.
 - (xi) Red tone Industries
 - (xii) Parson Enterprises
- h. M/s. Berger Paints India Limited, M/s. Kansai Nerolac Paints, M/s. Voxco Pigments and Chemicals Private Limited have filed Importer/User Questionnaire response in the present investigation.
- i. M/s Parsons Enterprises has also filed their response. All their imports were from USA and none of their imports were from China, therefore, they mentioned in their response that they are not in a position to assist the Designated Authority towards fruitful investigation of this sunset review.
- j. L&L Partners Law Offices on behalf of Indian Paint Association and its member companies also made submissions during the course of the investigation which have been incorporated and duly addressed in these final findings.
- k. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by all interested parties. A list of all interested parties was uploaded on DGTR's website along with the request therein to email the NCV of their written submissions to all other interested parties since the public file was not accessible due to ongoing global pandemic.
- l. The Authority accepted the confidentiality claims, wherever warranted after due examination and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the confidential information to all other interested parties via email.
- m. Further information was sought from the Applicant and other interested parties to the extent deemed necessary. Verification of the data provided by domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- n. Investigation was carried on for the period 1st April 2018 – 30th June 2019 (15 months) (hereinafter referred to as the 'period of investigation' or 'POI') with injury analysis covering the period April 2015 – March 2016, April 2016 – March 2017, April 2017 – March 2018 and the POI.
- o. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide details of imports of subject goods for the past three years, and the period of investigation, and the said information obtained from DGCI&S has been adopted for the purpose of the present investigation.
- p. The Authority has examined the information furnished by the domestic industry to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods.
- q. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 9th July, 2020 which was attended by various parties. All the parties who presented their views in the oral hearing were requested to file written submissions of these views, in order to enable opposing interested parties to file rejoinders thereafter.
- r. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- s. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority has considered such interested parties as non-cooperative and recorded these final findings on the basis of the facts available.

- t. A Disclosure Statement was issued on 24.7.2020 containing essential facts under consideration of the Designated Authority, giving time up to 29.7.2020 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- u. ‘***’ in these final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- v. The exchange rate for the POI has been taken by the Authority for the subject investigation as 1 US\$ = Rs.70.63.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

10. The product under consideration in the present investigation is “Diketopyrrolo Pyrrole Pigment Red 254”(“DPP Red 254”). DPP Red 254 is a highly saturated medium shade red pigment with good hiding power, excellent fastness to organic solvent and outstanding light and weather fastness. The pigments are synthetic organic colors which retain their crystalline or particulate form throughout the application process. DPP Red 254 is having a brilliant shade, high color strength, opacity and saturation. The chemical name of DPP Red 254 is 3, 6-bis-(4chlorophenyl)-2, 5-dihydro pyrrolo (3, 4- c) pyrrole ,1,4 dione. The molecular formula of DPP 254 is C₁₈H₁₀Cl₂N₂O₂. The color index number of DPP Red 254 is 56110 and chemical abstract number is 84632-65-5.
11. DPP Red 254 may be manufactured in many different shades or variants. All variants and shades of DPP Red 254 are covered within the scope of the product under consideration. It may be sold in crude or finished forms. The product scope includes crude pigment in any form (e.g. dry powder, paste, wet cake, etc.) and finished pigment in any form; examples include press cake, dry color, pigment blends, pigment dispersions.
12. DPP Red 254 is widely used as a high-performance pigment in waterborne paints, air drying alkyds, stoving enamels, acid curing systems, amine curing epoxies, isocyanate cured systems, power coatings, etc. DPP Red 254 is also used in automotive and industrial paint applications. It is used to obtain metallic effect finishes and for formulation of new saturated metallic shades. It is used in plastic applications especially in polyolefin’s, PVC and PS where they offer excellent all-round properties and outstanding heat resistance. Other uses include transportation crates, caps, blow molded containers and films. DPP Red 254 is also used in making warp-free formulations for injection molded HDPE.
13. The subject goods are classifiable under Chapter 32 of the Custom Tariff Act, 1975 under tariff item 32041739. DPP Red 254 is also being imported under other sub-headings such as 32041111, 32041630, 32041711, 32041719, 32041720, 32041790, 32041973, 32041984, 32049000, 32061110, and 32064990.

C.1 Submissions made by the Domestic Industry

14. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a. The product description is the same as was decided by the Authority in the original investigation.
 - b. The product under consideration is ‘Diketopyrrolo Pyrrole Pigment Red 254’. DPP Red 254 is a highly saturated medium shade red pigment with good hiding power, excellent fastness to organic solvent and outstanding light and weather fastness. The pigments are synthetic organic colours which retain their crystalline or particulate form throughout the application process. DPP Red 254 is having a brilliant shade, high color strength, opacity and saturation.
 - c. The present investigation is a sunset review investigation and the PUC remains the same as defined in the previously conducted investigation as no significant developments have taken place over the period.
 - d. The chemical name of DPP Red 254 is 3, 6-bis-(4-chlorophenyl)-2, 5-dihydro pyrrolo (3, 4-c) pyrrole ,1,4 dione. The molecular formula of DPP 254 is C₁₈H₁₀Cl₂N₂O₂. The color index number of DPP Red 254 is 56110 and chemical abstract number is 84632-65-5.

- e. DPP Red 254 may be manufactured in many different shades or variants. All variants and shades of DPP Red 254 are covered within the scope of the product under consideration. It may be sold in crude or finished forms. The product scope includes crude pigment in any form (e.g dry powder, paste, wet cake, etc.) and finished pigment in any form (e.g. press cake, dry color, pigment blends, pigment dispersions, etc.).
- f. The subject goods are classifiable under Chapter 32 of the Custom Tariff Act, 1975 under tariff item 32041739. Other Tariff Headings under which DPP Red 254 have been imported are 3204 1719, 3204 1720, 3204 1711 and 3204 1740. However, custom classification is indicative only and in no way binding upon the scope of this investigation.
- g. There are no differences in quality, output or performance of the subject goods imported into India from the subject country and the goods manufactured by the Applicant. DPP Red 254 produced by the domestic producer and imported from China PR are comparable in all relevant parameters such as physical characteristics, manufacturing process & technology, functions & uses, etc. The domestic product and the imported product are being used interchangeably by Indian consumers.

C.2. Submissions made by other interested parties

15. The submissions made by other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:
 - a. VOXCO has stated that the domestic industry is not able to produce the subject goods of certain specifications that some of the User industry wants. Many end customers prefer using the imported PUC in spite of the prices being higher after the anti-dumping duty was levied. The PUC is still being imported in India which confirms that quality is different and accordingly, the actual end users do not want to replace the imported product with the domestic product in their formulation.

C.3. Examination by the Authority

16. The PUC in the present sunset review investigation is “Diketopyrrolo Pyrrole Pigment Red 254”. This being a sunset review investigation, the scope of the PUC remains the same as that in the original investigation. The PUC in the original investigation was defined as under:

“The product under consideration in the present investigation is ‘Diketopyrrolo pyrrole Pigment Red 254’ (herein after referred as ‘DPP Red 254’ or ‘subject goods’ or ‘product concerned’). DPP Red 254 is a highly saturated medium shade red pigment with good hiding power, excellent fastness to organic solvent and outstanding light and weather fastness. The pigments are synthetic organic colors which retain their crystalline or particulate form throughout the application process. DPP Red 254 is having a brilliant shade, high color strength, opacity and saturation. The chemical name of DPP Red 254 is 3, 6-bis-(4-chlorophenyl)-2, 5-dihydro pyrrolo (3, 4- c) pyrrole ,1,4 dione. The molecular formula of DPP Red 254 is C18H10Cl2N2O2. The color index number of DPP Red 254 is 56110 and chemical abstract number is 84632-65-5.

DPP Red 254 may be manufactured in many different shades or variants. All variants and shades of DPP Red 254 are covered within the scope of the product under consideration. It may be sold in crude or finished forms. The product scope includes crude pigment in any form (e.g. dry powder, paste, wet cake, etc.) and finished pigment in any form; examples include press cake, dry color, pigment blends, pigment dispersions.

DPP Red 254 is widely used as a high performance pigment in waterborne paints, air drying alkyds, stoving enamels, acid curing systems, amine curing epoxies, isocyanate cured systems, power coatings, etc. DPP Red 254 is also used in automotive and industrial paint applications. It is used to obtain metallic effect finishes and for formulation of new saturated metallic shades. It is used in plastic applications especially in polyolefin’s, PVC and PS where they offer excellent all round properties and outstanding heat resistance. Other uses include transportation crates, caps, blow molded containers and films. DPP Red 254 is also used in making warp-free formulations for injection molded HDPE.

The subject goods are classifiable under Chapter 32 of the Custom Tariff Act, 1975 under tariff item 32041739. DPP Red 254 is also being imported under other sub-headings such as 32041111, 32041630, 32041711, 32041719, 32041720, 32041790, 32041973, 32041984, 32049000, 32061110, and 32064990. However, the customs classification is indicative only and in no way binding on the scope of this investigation.”

17. Rule 2 (d) of the Rules relating to the definition of “like article” specifies that “like article” means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.
18. From the above definition of the term “like article”, it is clear that the like article has to be identical or alike in all respects to the article under investigation. The scope of the term like article shall also include those articles having closely resembling characteristics to those under investigation in the absence of articles identical or alike in all respects.
19. The Authority notes that regarding the Domestic Industry’s goods not being a like Article to PUC, there is no evidence of any technical specifications provided by the users to establish their case. Further being a SSR, the Authority has not enlarged the scope of PUC.
20. On the basis of information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian domestic industry. Product under consideration produced by the Indian domestic industry is comparable to the imported subject product in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
21. Thus, the Authority holds that product produced by the applicant domestic industry is like article to the subject product under consideration imported from the subject country in accordance with the Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the Domestic industry

22. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
 - a. The present application has been filed by M/s. Heubach Colour Private Limited. The Applicant is neither related to an importer in India nor exporter from subject country, nor has the Applicant imported the product under consideration. The Applicant is the sole manufacturer of the subject goods in India. The Applicant commands 100% of the total domestic production of subject goods in India. The Applicant, therefore, satisfies the requirement of standing and constitutes domestic industry within the meaning of the Rules.
 - b. Applicant submits that in terms of definition of domestic industry under Rule 2(b) of the AD Rules, there is no explicit exclusion of EOUs from the scope of domestic industry. Apart from the original investigation on imports of subject goods, the Authority in its final findings in a number of investigations has held that an EOU is eligible to be a domestic industry under Rules 2(b) and 5(3) of the AD Rules. The Authority in the following cases has considered EOUs as domestic industry under Rules 2(b) and 5(3) of the AD Rules:
 - (i) Anti-dumping investigation on Solar Cells from Malaysia, China PR, Chinese Taipei and USA, Final Findings notified vide Notification No. 14/5/2012-DGAD dated 22 May 2014;
 - (ii) Anti-dumping investigation on Vitamin-A Palmitate from China PR and Switzerland, Sunset Review Final Findings notified vide Notification F. No. 15/07/2011-DGAD dated 21 August 2013;
 - (iii) Anti-dumping investigation on Alloy Road Wheels from China PR, Korea RP and Thailand, Final Findings notified vide Notification No. 14/7/2012-DGAD dated 9 June 2014;

- (iv) Anti-dumping investigation on Polypropylene from Oman, Saudi Arabia and Singapore, Final Findings notified vide Notification No. 14/5/2009-DGAD dated 23 August 2010;
- (v) Anti-dumping investigation on Compact Discs-Recordable (CD-Rs) from China PR, Hong Kong, Singapore and Chinese Taipei notified vide Notification No. 14/15/2005-DGAD dated 2 April 2007;
- (vi) Anti-dumping investigation on Digital Versatile Discs-Recordable (DVD-R and DVD-RW) from China PR, Hong Kong and Chinese Taipei notified vide Notification No. 14/17/2007-DGAD dated 19th November 2008;
- (vii) Anti-dumping investigation on Compact Disc-Recordable (CD-R) from Iran, Malaysia, Korea RP, Thailand, UAE and Vietnam notified vide Notification No. 14/9/2007-DGAD dated 6 March 2009.

The above final findings indicate that the Authority has earlier accepted EOUs to qualify as domestic industry under Rules 2(b) and 5(3) of the AD Rules. Even in *Safeguard investigation on imports of Solar Cells whether or not assembled in modules or panels into India*, the Authority held that an EOU is eligible to be a domestic industry. Thus, mere fact that the activity is carried out in an EOU facility does not adversely affect the status of the Applicant as “domestic industry”.

- c. As regards the cases mentioned by other interested party, Applicant submitted that in *AD investigation on imports of Phthalic Anhydride*, M/s. IG Petrochemicals (100% EOU) was neither an Applicant nor supporter. Thus, issue of eligibility of M/s. IG Petrochemicals as DI was not dealt by the Authority in its finding.
- d. With respect to the other anti-dumping investigation on imports of *Ceftriaxone Disodium Hemiheptahydrate- Sterile* mentioned by other interested party, Applicant submitted that M/s. Orchid Chemicals (100% EOU) never filed an application for initiation of the said anti-dumping investigation and never participated during the course of the entire investigation. Further, during the course of the investigation when the Designated Authority requested information from M/s. Orchid Chemicals, it was found that M/s. Orchid Chemicals did not have sales in the domestic market. Therefore, it is obvious that an entity which neither filed the application before the Designated Authority nor participated in the investigation and also did not have domestic sales would not be considered as domestic industry under the Rules. Accordingly, the contentions raised by the opposing interested parties are baseless and devoid of merit.

D.2. Submissions made by other interested parties

- 23. The submissions made by various interested parties with regard to scope of domestic industry & standing are as follows:
 - a. The applicant is a 100% Export Oriented Unit (‘EOU’) and is not eligible to be treated as a domestic industry under the present investigation.
 - b. The other interested parties have acknowledged that the Applicant was considered as part of the DI in the original investigation. However, it is submitted that the DA has erred in its interpretation of Rule 2(b) and 5(3) of the AD Rules as the applicant does not qualify the threshold requirements to constitute DI.
 - c. It is submitted that the purpose of an anti-dumping duty is to eliminate unfair trade in the domestic market, occurring on account of dumping which is leading to injury to the DI. But this purpose gets defeated when the DI is an EOU since EOUs are not primarily meant for the domestic market but are meant for the export market and therefore, they do not compete with the imported goods in the domestic market. In this regard, attention of the Authority was drawn to Sunset Review Investigation concerning imports of Vitamin E originating or exported from China PR and para 10 of the CESTAT Judgment in the matter of *Indian Refractory Makers Association v. Designated Authority*, 2000(119) ELT319.

- d. It is submitted that the prime focus of an EOU is to cater the export market and the same is very much evident from the provisions provided under the law regarding the functioning of an EOU and its orientation.
- e. The past practice of the Authority establishes that it has in the past not included EOUs with an export focus within the scope of the DI. The Authority, in Anti-dumping investigation against import of Phthalic Anhydride from Indonesia, had noted that one of the domestic producers was IG Petrochemicals which was not included within the scope of the domestic industry as it was an EOU. Also, in Anti-dumping investigation against import of Ceftriaxone Disodium Hemiheptahydrate-Sterile from China PR, the Authority has concluded that Orchid Chemicals, which was a 100% EOU, was not fit to be considered as DI on account of its characterization as an EOU.
- f. The provisions of foreign trade policy make it abundantly clear that an EOU unit focuses its production and sales for overseas markets and is not set up to cater to the domestic need.

D.3. Examination by the Authority

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

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

25. The present sunset review application has been filed by M/s. Heubach Colour Private Limited. The Applicant is neither related to an importer in India nor any exporter from the subject country. Further, the Applicant has not imported the subject goods during the POI. Applicant is the sole producer of the subject goods in India during the POI.
26. The Authority notes the submission of interested parties to not to consider 100% EOU as part of DI. The Authority holds that since EOU is a part of Domestic Tariff Area (DTA), it has been considered as a part of DI to the extent of the sales made by it in the domestic market as has been considered in past cases. EOU by virtue of being in DTA, is at the same footing as a non EOU domestic producer.
27. The Authority notes that under Rule 2(b) of the Rules there is no explicit exclusion of EOUs from the scope of domestic industry. It is the consistent practice of the Authority to consider EOUs as eligible constituents of the domestic industry as done in a number of investigations in the past. The Authority also notes that in the original investigation of the subject goods, the Authority has considered the Applicant to be eligible as a domestic industry. None of the interested parties had challenged the decision of the Authority to treat the Applicant as an eligible domestic industry on the ground of the Applicant being an EOU.
28. One of the interested party has submitted that production and sales of the EOU are primarily meant for export market and they do not compete with the imported goods in the domestic market. In this regard, interested party relied on Sunset Review Investigation concerning imports of Vitamin E originating or exported from China PR and CESTAT Judgment in the matter of Indian Refractory Makers Association v. Designated Authority. It is further submitted by interested party that Authority in the past has not included EOUs within the scope of the Domestic industry. In this regard, Authority notes that EOUs are not debarred from selling in the domestic market. In fact, Applicant has significant sales of the subject goods in the domestic market.
29. As regards the cases mentioned by opposing parties, the Authority notes that in AD investigation on imports of Phthalic Anhydride, M/s. IG Petrochemicals (100% EOU) was neither an Applicant nor supporter. Thus, issue of eligibility of M/s. IG Petrochemicals as DI was not dealt by the Authority in its finding. With respect to the other anti-dumping investigation on imports of Ceftriaxone Disodium Hemiheptahydrate- Sterile mentioned by Respondent, it is submitted that M/s. Orchid Chemicals (100% EOU) never filed an application for initiation of the said anti-dumping investigation and never participated during the course of the entire investigation.

Further, during the course of the investigation when the Designated Authority requested information from M/s. Orchid Chemicals, it was found that M/s. Orchid Chemicals did not have sales in the domestic market. Therefore, it is noted that an entity which neither filed the application before the Designated Authority nor participated in the investigation and also did not have domestic sales would not be considered as domestic industry under the Rules.

30. In view of the above, the Authority considers the Applicant as the eligible domestic industry within the meaning of Rule 2(b) of the Rules and considers that the applicant satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY AND OTHER ISSUES

E.1 Submissions made by the Domestic Industry

31. The following submissions have been made by the domestic industry with regard to confidentiality and other issues:
- a. Applicant is the sole producer in the POI and, thus, its information, even in terms of volume parameters such as production, sales, etc. has not been disclosed on actual basis as the same are not in public domain. Disclosure of such highly business sensitive information, would be of significant competitive advantage to competitors and consumers and would seriously impact the interest of Applicant Company. The Applicant has, however, provided indexed information wherever required.
 - b. Applicant has provided sufficient information justifying initiation of the investigation. Applicant has provided all information as required under the application proforma. As regards failure of evaluation of certain parameters in the write up, the Applicant submits that it is not necessary for the Applicant to evaluate all the parameters in the application. The Applicant is obliged to provide all relevant information, which it has done.
 - c. DI has filed the application containing data for China PR and Switzerland separately such as market share, imports etc. However, the Authority has initiated the investigation only against China PR. Nevertheless, there are no imports from Switzerland after 2016. Thus, the information provided in the petition largely covers the data from the prospect of China PR only. Also, the information with regard to market share, imports etc. has been provided separately for China PR and Switzerland. Accordingly, the analysis based on the data corresponding to China PR can be done. As regards the filing of updated petition, there is no such requirement under the Rules.
 - d. In fact, there are no imports from Switzerland during POI and previous two years. DGCI&S data is a confidential data and therefore cannot be circulated. The interested party is free to collect transaction-wise data from DGCI&S if they so desire. Reference is made to the trade notice F. No. 4/2/2017 dated 8th December 2017.
 - e. The Applicant submitted that it has provided the data in indexed form in the non-confidential version of the application in accordance with Rule 7 of the Rules and Trade Notice No. 10/2018 dated September 7, 2018.
 - f. Indexed information has been provided wherever possible. The injury analysis is essentially an analysis of trend which can be easily seen through trends of various parameters provided in the application.
 - g. In reply to the contention that China Pigment Red 254 market depth analysis and prospect report (prepared by Beijing Zhongjing Information Technology Co. Ltd.) has been kept confidential in the application, Applicant submitted that non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out. It is further submitted that the information contained in the report is third party information and the domestic industry is not required to disclose the same as it is not available in the public domain. In fact, Authority in sunset review investigation concerning imports of “*Certain Rubber Chemicals, namely, TDQ & PX-13*” originating in or exported from the European Union and MOR and MBTS originating in or exported from the Peoples Republic of China accepted such reports containing third party information as confidential.

E.2 Submissions made by Other interested parties

32. The following submissions have been made by other interested parties with regard to confidentiality and other issues:
- The DI in their petition have claimed excess confidentiality on the figures related to imports, NIP calculation, productivity, purchases, research and development cost, export price, purchase (quantity as well as value), loan and advances and other related cost. This prevents the respondents from properly defending themselves.
 - The Authority in the SSR initiation notification has identified the subject country in the investigation to be China PR only. However, the data provided by the DI in its petition corresponds to both China PR and Switzerland. The DI has not provided an updated petition pursuant to initiation of investigation. In the absence of such segregated information for China PR, the respondents are unable to effectively rebut the DI's claims.
 - The Authority should appropriately assess the confidentiality claims of the DI and take into consideration the clarifications issued in this regard vide relevant Trade Notices. In the present case, the NCV of the DI petition has significant errors, based on its nondisclosure of essential information relating to the economic performance of the DI. This has resulted in serious impairment of the rights of the interested parties in appropriately assessing the position of the DI and defending their interest. In addition, the DI should also make available information pertaining to the alleged excess capacities for the PUC in China PR for the benefit of a fair examination and rebuttal by the respondents. Accordingly, the respondents respectfully request the Authority to reject the claims of excessive confidentiality by the DI and make available the cogent information pertaining to the economic/ injury indicators, to the other interested parties.

E.3 Examination by the Authority

33. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:
- “Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
- (2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization 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 authorise its disclosure in a generalized or summary form, it may disregard such information.”*
34. Non-confidential version of the information provided by various interested parties were made available to all interested parties through the public file as per Rule 6(7) and Trade Notice No. 10/2018 dated September 7, 2018.
35. With regard to the confidentiality of information, the Authority notes that the information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claims in accordance with Rule 7 of the Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential.
36. With regard to updated petition containing data corresponding to China PR, the Authority notes that the Applicant has provided the data for both China PR and Switzerland. However, for the

purpose of present sunset review investigation, the Authority initiated the investigation only against China PR, since prima facie analysis of information submitted by applicant does not show likelihood of dumping from Switzerland. In the facts and circumstances of the present case, the Authority notes that there is no requirement to provide an updated petition containing data for China PR only as the data corresponding to China PR has already been provided separately by the domestic industry in its application.

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

F.1 Normal Value

37. 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.

F.2 Submissions made by the Domestic industry

38. The following are the submissions made by the Applicant in respect of normal value:

- a. China should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
- b. Applicant has referred to a report published by European Commission. European Commission examined the market situation in the China PR in specific sectors and found that there exist countrywide market distortions related to land, energy, capital, raw materials and other material inputs, and labour in China PR.
- c. Paragraph 1 to 6 of Annex I of the Rules do not apply for computation of normal value for imports from China PR, unless a producer/exporter shows with sufficient evidence that he is operating under market economy conditions. As a result, normal value for China PR has to be determined in terms of paragraph 7 of Annex I of the Rules. Para 7 of Annex I of the Rules provides that the calculation of the normal value in a non-market economy may be determined on the following basis:
 - i. the price in a market economy third country;
 - ii. constructed cost in a market economy third country;
 - iii. the price from such a third country to other countries, including India;
 - iv. the price actually paid in India, adjusted to include a reasonable amount of profit.
- d. The Applicant has constructed the normal value for China PR, treating it as a non-market economy, in the following manner:

- (i) **Raw materials and other consumables:** The raw material consumption and prices have been taken on the basis of domestic industry's experience. The majority of raw materials required for manufacture of subject goods are imported by domestic industry. Therefore, the raw material prices of domestic industry reflect the international prices of the major raw materials and the same prices have been considered for construction of normal value.
- (ii) **Other Manufacturing Costs/ Conversion Costs:** Other manufacturing costs have been considered based on the experience of the domestic industry.
- (iii) **SGA Costs and Finance costs:** SGA costs and Finance costs have been considered based on the experience of the domestic industry.
- (iv) **Profit Margin:** A profit margin of 5% has been considered for working out the normal value.
- e. Applicant has derived net export price based on DGCI&S transactions wise data. From the CIF price calculated based on DGCI&S transaction wise data, adjustment has been done on account of ocean freight, marine insurance commission, bank charges, port expenses and inland freight charges to arrive at the net export price at ex-factory level.
- f. Applicant submitted that in the original investigation the Authority has made appropriate adjustments on account of "Non Refundable VAT" while calculating the ex-factory exports price. Applicant further submitted that Authority make adjustment on account of "Non Refundable VAT" in all anti-dumping investigations against China PR. During the period of investigation, VAT refund/export refund rate was 0% and accordingly, Authority needs to make appropriate adjustment on account of "Non Refundable VAT" while calculating the ex-factory export price in the present review investigation.
- g. It is an admitted fact by the Chinese producer itself in the original investigation that CINIC Chemicals (Shanghai) Co. Ltd. is 100% subsidiary of CINIC Holdings Ltd. (Hong Kong). CINIC Holdings Ltd. (Hong Kong) is incorporated in Hong Kong. None of the related companies of CINIC Holdings Ltd. (except CINIC Chemicals (Shanghai) Co. Ltd.), are engaged in the manufacturing of PUC. In fact, no importer has provided any evidence or information to substantiate that the subject goods coming from Hong Kong into India are in fact produced in Hong Kong. Thus, it is clear that no manufacturing facility of PUC exists in Hong Kong. It is further submitted that the goods being imported from Hong Kong bear the same description and brand name as that of the goods imported from China PR. The same can be verified by the Authority from the transaction wise DGCI&S import data.
- h. Applicant submitted that transaction wise DGCI&S import data is usually provided on the basis of country of export. It is further submitted that the subject goods are transhipped through Hong Kong which are basically originated from China as there is no manufacturing facility of subject goods is available in Hong Kong. Applicant requested the Authority to verify this aspect after obtaining transaction wise DGCI&S import data on the basis of country of origin rather than country of export.
- i. None of the producer/exporter from China PR has participated in the present review investigation deliberately so that the relevant information required by the Indian authority for proper conduct of the sunset review investigation is not made available to the Authority and also to escape scrutiny from the Indian authority as to why the Chinese producers are transhipping the subject goods through Hong Kong.
- j. Chinese exporters have increased the export price to India by 15-20% during the POI deliberately in anticipation of sunset review investigation, whereas, increase in export price of other countries is only 1-2%. This clearly shows that the Chinese export prices to India during the POI are not in the ordinary course of trade and have been artificially inflated with the intent of getting a good result in the sunset review investigation.

F.3 **Submissions made by other interested parties**

39. No relevant submission has been made by the exporters/other interested parties with regards to determination of dumping margin.

F.4 Examination by the Authority**Market Economy status for Chinese producers**

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

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

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

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

ii. The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

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

41. It is noted that while, the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO Anti-Dumping Agreement read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status. It is noted that no producer/exporter from China PR has participated in the present sunset review investigation. Accordingly, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules. The normal value and export price for the all the producers/ exporters from the subject country have been determined as below.

F.5 Determination of Normal Value

42. As none of the producers from China PR have filed the Supplementary Questionnaire response for market economy treatment, the normal value has been determined in accordance with Para 7 of Annexure I of the Rules. In the absence of sufficient information on record, regarding, the other methods enshrined in Para 7 of Annexure I of the Rules, The Authority has, therefore, constructed the normal value for China PR by adopting cost of production in India as normated with due adjustment for SGA expenses and a reasonable profit at the rate of 5% on cost of production in accordance with Para 6(8) of the Rules.

43. The constructed normal value so determined for Chinese producers/exporters is mentioned in the dumping margin table below.

F.6 Determination of Export Price

44. The Authority notes that none of the producers/exporters have furnished information in the form and manner prescribed which could be used for determination of the export price and calculation of individual dumping margin. Therefore, the Authority has determined the export price from subject country considering volume and value of imports for the period of investigation as per DGCI&S transaction wise data.
45. As regards the contention that Authority is required to make adjustment of “non-refundable VAT” while calculating the export price, while DI has stated availability of 13% refundable VAT in 2020, the other interested parties have mentioned about non export of VAT in exports consignments. The Authority notes the submission of the DI and the interested parties on VAT. Since no producer/exporter has cooperated and keeping in view DI’s clarification and non-cooperation of producers/exporters, the Authority has computed the ex-factory export price net of VAT, since it is the ex-factory price of producer which needs to be captured for evaluating the dumping margin.
46. Accordingly, the export price has been adjusted on account of ocean freight, insurance, commission, bank charges, port expenses, inland freight charges and non-refundable VAT to arrive at the net export price at ex-factory level on the basis of evidence/consistent norms being adopted by the Authority in case of non-cooperation. Accordingly, the net export price at ex-factory level for exports from China PR has been calculated and is shown in the dumping margin table below.

F.7 Dumping Margin

47. Based on normal value and export price determined as above, the dumping margin for producers/exporters from China PR has been determined by the Authority and the same is provided in the table below. It is seen that the level of dumping margin is positive and above *de-minimis* levels.

Dumping Margin Table

S.No.	Country	Producer	Normal Value (US\$/KG)	Export price (US\$/KG)	Dumping Margin (US\$/KG)	Dumping Margin %	DM Range %
1	China PR	Any	****	****	****	****	20-30

G. ASSESSMENT OF INJURY, CAUSAL LINK AND LIKELIHOOD OF CONTINUANCE OR RECURRENCE OF DUMING AND INJURY

48. 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 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.
49. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 18, 19 and 20 shall apply *mutatis mutandis* in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and likelihood analysis as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

50. The Authority notes that the application for imposition of antidumping duty has been filed by M/s. Heubach Colour Pvt. Ltd. In terms of Rule 2(b) of the Rules, the Applicant has been treated as the domestic industry for the purpose of this investigation. Therefore, the cost and injury information of the Applicant, constituting the domestic industry as defined in Rule 2(b) has been examined.

G.1 Submissions made by the Domestic Industry

51. The following submissions have been made by the domestic industry with regard to injury and causal link:
- a. There is significant price undercutting/underselling due to low priced dumped imports coming into India. There is significant price suppression due to low priced dumped imports coming into India.
 - b. The dumping margin and the injury margin from the subject country is not only more than *de minimis* but also very substantial. The impact of dumping on the domestic industry is very significant.
 - c. The cessation / discontinuance of ADD in force is likely to lead to continuation of dumping and injury. In case the duties applicable on the imported goods from China PR cease to exist, the Chinese exporters would capture the Indian market causing significant injury to the DI.
 - d. After POI, the applicant has expanded its installed capacity of PUC to cater to the increasing domestic demand. Demand supply gap is not a reason for discontinuation of duties as has been consistently held by the Authority.
 - e. Designated Authority has to reach a conclusion that there is no possibility of any continued dumping or injury or otherwise recurrence of dumping or injury to the domestic industry from the dumped imports from subject country before deciding not to extend the anti-dumping duty. Thus, the level of improvement in some of the injury factors *per se* during the period of investigation or the decrease in imports is not directly relevant.
 - f. Only less than 1% of the production of subject goods is captively consumed by the domestic industry which is negligible and the claim of the Indian Paint Association and importers does not have any merit.
 - g. It is submitted that the performance of the domestic industry has shown some improvement as a positive outcome of the anti-dumping duty levied by the Authority. However, the subject country continues to export the subject goods to India at dumped prices causing significant injury to the domestic industry. Therefore, continuation of anti-dumping duty would be in the interest of domestic industry and the discontinuance of anti-dumping duties would certainly lead to continuation or recurrence to even greater extent, of dumping and injury.
 - h. The level of dumping, volume of imports, various injury parameters, surplus capacities available with the exporters, inventories of the exporters and their prices to the world need to be examined to evaluate the likelihood of continuance or recurrence of dumping and injury. The analysis of dumping and injury to the DI is required to be made keeping in view the level of ADD in existence and the likely future behaviour of the exporters.
 - i. Domestic selling price is significantly below the NIP.
 - j. Imports from China PR seem to have reduced from 2015-16 onwards. However, it is pertinent to mention that huge imports were made into India during the period April 2015 to August 2015 (Period just prior to levy of duty) in anticipation of levy of duty. In fact, more than 85% of the imports during 2015-16 took place during the period April 2015 to August 2015. Accordingly, it is not appropriate to do a trend analysis for imports using 2015-16 as the base year as imports during this year were exceptionally high in anticipation of levy of duty.

- k. Imports during POI(A) are still significant in volume and more or less at the same level as compared to the POI of the original investigation wherein imports from China PR were approx. 49 MT. Imports from China PR continue to be significant in relation to total imports, Indian production and Indian demand.
- l. Imports from countries other than China PR are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry except USA. In case of USA, price is much higher than the price from China PR.
- m. The DI has submitted that it is a settled position of law that causal link analysis is not mandatorily required to be done in sunset review investigations. In this connection, the DI has invited the attention of the Authority to the Appellate Body's decision in the case of Oil Country Tubular Goods from Mexico (WT/DS282/AB/R dated 2 November 2005). Applicant further submitted that in Para 17.28 of *Manual of Operating Practices for Trade Remedy Investigations*, it is mentioned that absence of causal link or breaking of the causal link in a sunset review may not have a direct bearing on the outcome of the sunset review. Accordingly, causal link analysis is not mandatorily required to be done in a sunset review investigation.
- n. Return on investment (ROI) is ranging between **** to **** during injury period. This is well below the 22% return considered appropriate by the Authority.
- o. The profitability of the Applicant has improved over the years due to imposition of anti-dumping duty on the subject goods. However, during the POI the profitability of the Applicant has also improved due to significant reduction in utility cost as a result of setting up of a wind turbine and coal boiler in the plant. Utility cost in POI is reduced by approximately **** in comparison to other periods. If there were no reduction in utility cost in POI, ROI would be approximately below ****.
- p. In response to the contention of interested party, domestic industry submitted that dumped imports continue to come from China PR despite imposition of anti-dumping duty. The volume of dumped imports is still significant during the period of investigation. The performance of the domestic industry has shown some improvement as a positive outcome of the anti-dumping duty levied by the Authority, however, domestic industry is unable to achieve optimum level of rate of return on investment because of the fact that imports of subject goods from China PR are coming at dumped prices which are exerting price pressure on the domestic industry. Consequently, domestic industry is suffering price injury and it is sufficient ground to continue the anti-dumping duty on imports of subject goods from China PR.
- q. In response to the contention that there is no injury to the domestic industry, Applicant submitted that the performance of the domestic industry has shown some improvement as a positive outcome of the anti-dumping duty levied by the Authority. However, the subject country continues to export the subject goods to India at dumped prices causing significant injury to the domestic industry. The dumping margin and the injury margin from the subject country is not only more than *de minimis* but also very substantial. The cessation / discontinuance of Anti-dumping duty in force is likely to lead to continuation of dumping and injury. In case the duties applicable on the imported goods from China PR cease to exist, the Chinese exporters would capture the Indian market causing significant injury to the Domestic Industry.
- r. The Indian customers quote the prices at which the imported goods are coming into the country and ask the domestic industry to match the imported prices. The factors that adversely affect the domestic industry are both the volume of imports as well as the prices at which the imported goods enter the country.
- s. It is an admitted fact by the Chinese producer itself in the original investigation that CINIC Chemicals (Shanghai) Co. Ltd. is 100% subsidiary of CINIC Holdings Ltd. (Hong Kong). CINIC Holdings Ltd. (Hong Kong) is incorporated in Hong Kong. None of the related companies of CINIC Holdings Ltd. (except CINIC Chemicals (Shanghai) Co. Ltd.), are

engaged in the manufacturing of PUC. In fact, no importer has also provided any evidence or information or certificate of origin to substantiate that the subject goods they are importing from Hong Kong into India are produced in Hong Kong. Thus, it is clear that no manufacturing facility of PUC exists in Hong Kong. It is further submitted that the goods being imported from Hong Kong bear the same description and brand name i.e. Cinilex as that of the goods imported from China PR. The Authority can verify the same from the transaction wise DGCI&S import data. Applicant has also provided the evidence that website of CINIC Chemicals (Shanghai) Co., Ltd. clearly mentions that CINIC has two production facilities in China i.e. Shanghai and Taixing only. CINIC doesn't have any production facility in Hongkong.

- t. None of the producer/exporter from China PR has participated in the present review investigation deliberately so that the relevant information required by the Indian authority for proper conduct of the sunset review investigation is not made available to the Authority and also to escape scrutiny from the Indian authority as to why the Chinese producers are transhipping the subject goods through Hong Kong.
- u. Imports are also coming into India under advance authorisation scheme without payment of any customs duty and anti-dumping duty.
- v. DI performance has improved largely on volume parameters after imposition of anti-dumping duty. In terms of profitability and ROI there has been improvement, but it is still well below the optimum levels. It is submitted that there is a likelihood that if duties are removed injury to the domestic industry on volume parameters will again recur and the profitability will diminish.
- w. As regards to the expansion of installed capacity, Applicant submitted that after considering the demand of the product, domestic industry has invested additional capital and installed one Filtration unit (Filter press) and one Rotary Vacuum Dryer with condenser, vacuum and packing system in DPP Red plant to remove bottleneck at filtration and drying stage of the production. If the anti-dumping duty is not continued, dumped imports from China PR will surge and the efforts made by the Applicant to increase its capacity will be jeopardized.
- x. Applicant in its application has applied basic custom duty of 7.5% for calculating the landed value and the same can be verified by the Authority. It is also submitted that there is significant price undercutting/underselling due to low priced dumped imports coming into India.
- y. The Authority in the past has continued the anti-dumping duties in the following sunset review investigations despite the fact that economic parameters of DI have been improved after levy of anti-dumping duty:
 - Final Findings in Sunset review investigation concerning imports of '**Measuring Tapes**' originating in or exported from China PR dated 18th June 2020.
 - Final Findings in Sunset review investigation concerning imports of '**Grinding Media Balls**' (excluding Forged Grinding Media Balls) originating in or exported from China PR and Thailand dated 11th June, 2018.
 - Final Findings in Sunset review anti -dumping investigation concerning imports of '**Purified Terephthalic Acid**', originating in or exported from Korea RP and Thailand dated 28th June, 2019.
 - Final Findings in Sunset Review of Anti-dumping duty imposed on the imports of '**Sodium Nitrite**' originating in or exported from China PR dated 19th July, 2017.

It is submitted that the aforesaid cases are only illustrative examples and there are a number of other findings, wherein, the Authority has continued the anti-dumping duty in sunset review investigations despite the fact that economic parameters of Domestic Industry have improved after levy of anti-dumping duty.

G.2 Submissions made by other interested parties

52. The following submissions have been made by other interested parties with regard to injury and causal link:
- a. The imports of PUC in India also indicates that there is demand-supply gap existing in the Indian market.
 - b. Domestic manufacturer has capitalized on the opportunity and increased its profitability and sales after imposition of anti-dumping duty.
 - c. There is huge demand supply gap prevailing in the Indian market. Despite witnessing an increase in its domestic sales of DI by 82% where the demand for the PUC increased by 50%; the demand supply gap continued to increase by 30% during the same period. Therefore, it is clear that the DI is not capable of catering to the entire domestic demand.
 - d. The DI is an EOU and has maintained an 'export focus' over the years. This would continue as it is required to achieve a positive NFE to enjoy the benefits of an EOU before it can sell its production in the DTA. Thus, the domestic market in India is not a priority of the DI and there is a requirement of an extra source of supply of PUC in Indian market.
 - e. The DI is backward integrated and consumes a part of its production of the PUC as captive consumption. This implies that it is not only a manufacturer/producer of the PUC but also constitutes a part of the user industry in domestic market. Accordingly, the availability of the PUC to the user industry in India is further reduced due to priority of the DI here being exports as well as captive consumption.
 - f. The DI has wrongly derived price undercutting and price underselling in the DI's petition. In determining the landed value, the DI has used 5%, instead of the requisite i.e. 7.5% rate of basic custom duty. The use of lesser rate of duty in calculating price underselling has led to undervaluation of the landed value. Moreover, the DI has also wrongly considered imports from Hong Kong as imports from China PR.
 - g. On the basis of re-calculation, the price undercutting is between 0-10%, which is almost at the same level as the domestic selling price.
 - h. There is a decrease in price underselling from 20-30% in the original findings to 10-20% in the present investigation.
 - i. There is no price depression/suppression. The cost of sales of the DI has increased by merely 1% during the POI(A) when compared with 2015-16; whereas the domestic selling price has increased by 6% and landed value has increased by 15% respectively. In other words, the increase in domestic selling price is more than the increase in the cost to make and sell.
 - j. The reasoning provided by the DI cannot lead to the assumption that imports coming from Hong Kong are being transhipped from China unless a positive evidence is provided in this respect by the DI. Thus, in the absence of any supporting evidence with respect to its claims, treatment of import of PUC from Hong Kong as being imported from China PR is unjustified. Such a treatment leads to incorrect and inflated import data which is unreliable and hence must be outrightly rejected by the Authority.
 - k. It is submitted that it is not possible to get a Rules of Origin certification from Hong Kong for transhipped products. Hong Kong Rules of Origin provides that products must either be natural products from Hong Kong or must have undergone significant value addition to obtain the Hong Kong Certificate of Origin. It is submitted that given the objective nature of the analysis to determine injury, mere speculation regarding the origin of goods is not sufficient in the absence of proof to establish their actual origin country. It is also to be noted that the remedy against any alleged circumvention may only be addressed in an anti-circumvention investigation.
 - l. Treatment of import of PUC from Hong Kong as being transhipped from China PR is unjustified. The origin of the PUC must be verified against the certificate of origin issued by the competent authorities in Hong Kong and cannot merely be assigned as imports from China PR in case such certificate is valid.

- m. Even if the Authority considers the import volume from Hong Kong as part of the imports from China PR, an analysis of such aggregated data too provides that import volumes have decreased by more than 69% in comparison to the base year. This clearly shows that there is no continued injury on account of imports of the PUC, nor is there any possibility of its recurrence.
- n. Domestic demand of the PUC has increased from 2015-16 to POI (A) by 50%. The production of the PUC by the DI has increased by 13%. Thus, the DI is not equipped to cater to the domestic demand.
- o. The domestic sales of the PUC by the DI have significantly increased by 82%. Similarly, the share of DI in relation to domestic market share of the PUC has also increased by 21%. Thus, there is positive growth by DI.
- p. While the installed capacity has remained the same during the injury period, the capacity utilization has increased by 13%. The DI is also planning to expand their installed capacity with respect to the PUC by removing bottlenecks at filtration and dying stage in DPP 254 plant. However, the protection of future production plan which is still to come up cannot be addressed in the ongoing sunset review investigation.
- q. The overall profit of the DI has tremendously increased by 500% in span of 4 years. Similarly, Profit before Interest and Tax ('PBIT') and Cash Profits has increased by 231% and 98% during the investigation period. Return on Average Capital Employed ('ROCE') of the DI, shows an overall increase by 125% in a span of 4 years.
- r. There is a significant decrease of 70% in overall stock volume during the investigation period which indicates that the DI can exhaust most of its production by sales.
- s. India currency has depreciated which resulted in increase in raw material prices from China PR. This may have led to increased production costs.
- t. The imports of the PUC from other countries excluding the subject countries has shown an increase of 375% during investigation period. The share of import of PUC from other countries in relation to domestic market share has also increased by 215%.
- u. The user industry comprises of the entire paint industry in India and it is an important segment within the Indian manufacturing sector. Therefore, the interest of the user industry which is making significant contribution to the GDP should not be overlooked to provide protection to a 100% EOU which does not cater much to the domestic market in India.
- v. There is a significant increase in import volume of PUC from USA. In terms of volume of import of PUC from USA, there is an increase from 34.16 MT in 2015-16 to 164.10 MT during the POI (A). Similarly, the imports of PUC from the USA in relation to total imports of PUC has increased from 20.59% in 2015-16 to 75.89% during the POI (A).
- w. An analysis of the performance parameters indicate that the DI has performed exceedingly well. The import share of China PR stands at 4% with significant rise in the import prices during the injury period leading up to the POI. Moreover, the current landed prices from China PR is higher than the NIP of the DI by 15.23%. Thus, it is clearly demonstrable that there is exists no material injury to the DI.
- x. DI's argument that once a likelihood of dumping is established, the same can be sufficient for recommending extension of the existing anti-dumping duty is without merit. In the absence of 'likelihood of recurrence of injury', presence of on-going dumping cannot be the sole criterion basis which an anti-dumping duty can be extended in an SSR investigation. In this regard it may also be noted that less than 22% rate of return on capital is insufficient to prove existence of likelihood of recurrence of injury on its own.
- y. The DI during the oral hearing has accepted the fact that there is no volume injury from the imports of the PUC from China PR. Thus, injury if any in this regard is on account of the high volume of US imports which has increased by 380% in comparison to the base year against an 85% decline in volumes from China PR. Additionally, exports from Hong Kong

cannot be clubbed as exports from China PR in the absence of proof of their actual origin being China PR.

- z. The DI has also not made any claims in their post oral hearing submissions to support their claim regarding the extension of the duty being in public interest. This indicates that the duty if extended will not be in the interest of the downstream user industry and the public at large. Given that the nature of the DI is that of an EOU whose focus is on export markets and the fact that there exists a demand supply gap, an extension of the anti-dumping duty will only cut the steady supply of the PUC while the DI which is the sole manufacturer of the PUC is able to monopolize the supply chains at whim.
- aa. Significantly different SSR DPP Red 254 variants have been imported that are different in their application and therefore command significantly different prices.
- bb. Despite the levy of the antidumping duty, significant imports are coming in from China; which also exposes the inability of the domestic industry to substitute these imports and increase its sale and market share. Importantly such imports from China also entail expenses and profits of the actual importer, besides the levy of the antidumping duty. Despite these facts, significant volumes of the subject goods have been imported by the User industry as they do not have a choice. The sole domestic producer is simply not able to provide the subject goods of the desired specifications that are needed by the Indian User industry. It is further apparent that the goods produced by the domestic industry are not at par with the imported goods, else Why would the User industry choose to use the subject goods imported from the subject country that is attracting huge amount of antidumping duty? Further, why does the domestic industry choose to export the subject goods at significantly lower prices as compared to the prevailing domestic prices of the subject goods in India? And not sell these in India?
- cc. The Landed values of these imports from the US are significantly lower than the landed values of the subject goods from the subject country. Since the Indian Authority applies the Lesser Duty Rule, it is assumed that the duty in force is based upon the injury margin. Thus, it would be found that significant volumes of the subject goods have been imported from the US that have landed into India at much lower than the assumed NIP of the domestic industry. As the landed values of the subject goods from the US in particular hasn't bothered the domestic industry at all, it would be safe to assume that import of the subject goods from the subject country at similar prices/values as those from the US, is not likely to injure the domestic industry by their own yardstick.
- dd. Why do the imports from the US do not bother it at all, in particular because the Landed values from the US have been consistently lower than the Landed values from China? How is it that the Injury to it, is restricted to the subject country; despite the US goods have come in huge volumes and at comparable or lower prices.
- ee. Does every sector of the industry always at all points of time achieve a ROI @ 22%? We humbly submit that irrespective of NIL imports, it cannot be and ought not to be assured that every time and in all situations the domestic industry must obtain an ROI @ 22%. Besides, ROI significantly vary from sector to sector and time to time and in particular varies as per the age of the plant. Importantly it also depends, inter alia, upon its efficiency, productivity and as well as the competition in the market. Undisputedly, significant volumes of the subject goods are competing in the Indian market from the US. But amazingly, the domestic industry is not injured by it? Besides, its inability to realise a higher ROI is also due to the presence of huge volumes of imports from the US.

G.3 Examination by the Authority

53. Article 3.1 of the WTO Agreement and Annexure-II of the Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With

regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

54. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. 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 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.
55. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of the Rules states as under:
- “(iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”*
56. As regards the contention of the interested parties that domestic industry is backward integrated and consumes a part of its production of the PUC as captive consumption, the Authority notes that the captive consumption of the subject goods by the domestic industry is very negligible and it is in fact less than 1% of the total production of the subject goods.
57. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between the dumping and injury, if any.
58. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some may show improvement. The Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments submitted by the domestic industry and interested parties. Accordingly, certain economic parameters as well as the volume and price effect of dumped imports have been examined as follows:

I. ASSESSMENT OF DEMAND

59. For this purpose, demand or apparent consumption of the product in India is taken as the sum of domestic sales of the Indian producers and imports from all sources. Share of imports from the subject country in demand/consumption in India determined by the Authority is as under:

Particulars	Unit	2015-16	2016-17	2017-18	POI(A)	POI
Imports from China PR/Hong Kong	MT	122	31	42	38	47
Trend	Indexed	100	26	34	31	39
Imports from other countries	MT	44	79	124	179	223
Trend	Indexed	100	179	282	405	507

Particulars	Unit	2015-16	2016-17	2017-18	POI(A)	POI
Total imports	MT	166	110	166	216	270
Trend	Indexed	100	66	100	130	163
Domestic Sales of Applicant	MT	****	****	****	****	****
Trend	Indexed	100	163	163	182	228
Total Demand	MT	****	****	****	****	****
Trend	Indexed	100	104	124	150	188
<u>Market Share</u>						
Share of Domestic Industry	%	****	****	****	****	****
Trend	Indexed	100	157	131	121	121
Share of Imports from China PR/Hong Kong	%	45%	11%	12%	9%	9%
Trend	Indexed	100	25	27	21	21
Share of Other countries	%	16%	28%	37%	44%	44%
Trend	Indexed	100	173	227	270	270

60. As regards exports from Hong Kong, the Authority notes that the brand name of PUC from Hong Kong is same as that of China of the producer M/s CINIC Chemicals Ltd. DI has evidenced that the production facility of CINIC is only in China and only the holding company of M/s CINIC Holdings Ltd. in Hong Kong. The other interested parties especially importers who have imported from Hong Kong have not filed any evidential documents like certificate of origin, Bill of lading, commercial invoice etc. disputing the fact of transshipment of China goods from Hong Kong. The Authority therefore proposes to consider the imports from Hong Kong having its origin in China.
61. The Authority notes that imports from China PR have reduced from 122 MT in 2015-16 to 38 MT in POI (A). However, the Authority agrees with the Domestic Industry's contention that more than 85% of the imports during 2015-16 took place during the period April 2015 to August 2015 in anticipation of levy of anti-dumping duty as compared to previous years. The Authority also notes that the imports from the subject country are coming into India in POI (A) are more or less at the same level as prevailing before levy of anti-dumping duty. Therefore, the imports of subject goods from China PR are still significant in quantum.

II. VOLUME EFFECT OF DUMPED IMPORTS

i. Import Volumes and Share of Subject Country

62. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The Authority has examined the volume of imports of the subject goods from the subject country and other countries based on the transaction-wise import data provided by DGCI&S. The import volumes of the subject goods and share of the dumped imports during the injury investigation period are as follows:

Particulars	Unit	2015-16	2016-17	2017-18	POI(A)	POI
Imports from China PR/Hong Kong	MT	122	31	42	38	47
Trend	Indexed	100	26	34	31	39
Imports from other countries	MT	44	79	124	179	223
Trend	Indexed	100	179	282	405	507
Total imports	MT	166	110	166	216	270
Trend	Indexed	100	66	100	130	163
Subject country import in relation to total	%	73%	28%	25%	17%	17%

Particulars	Unit	2015-16	2016-17	2017-18	POI(A)	POI
imports						
Trend	Indexed	100	39	34	24	24
Subject country import in relation to total Indian Production	%	****	****	****	****	****
Trend	Indexed	100	28	35	27	27
Demand	MT	****	****	****	****	****
Trend	Indexed	100	104	124	150	188
Subject country import in relation to demand	%	****	****	****	****	****
Trend	Indexed	100	25	27	21	21

63. The Authority notes that even though imports from subject country have reduced in absolute terms and also in relation to production and consumption in India, imports during POI(A) are still significant in volume and more or less at the same level as prevailing during the period prior to levy of anti-dumping duty.

III. PRICE EFFECT OF THE DUMPED IMPORTS

64. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price underselling, price suppression and price depression, if any.

i. Price Undercutting

65. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the 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 to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product from the subject country and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at ex-factory level.

Particulars	UOM	2015-16	2016-17	2017-18	POI(A)
Import Volume	MT	122	31	42	38
Trend	Indexed	100	26	34	31
Landed Price	Rs./KG	955	1,077	949	1100
Trend	Indexed	100	113	99	115
Domestic Sales Price excluding Freight	Rs./KG	****	****	****	****
Trend	Indexed	100	99	102	106
Price Undercutting	Rs./KG	****	****	****	****
Trend	Indexed	100	-36	122	20
Price Undercutting	%	****	****	****	****
Trend	Range	10-20	(10)-0	10-20	0-10

66. The Authority notes that imports of the subject goods from China PR are undercutting the domestic selling price of the like article in India.

ii. Price Underselling

67. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject country. For this purpose, the NIP determined in terms of Annexure III of the Rules has been compared with the landed price of imports as obtained from the DGCI&S import data. Comparison of the NIP of the domestic industry with weighted average landed price of imports shows as follows:

Particulars	UOM	Value
Imports	MT	47
Landed Price	Rs/KG	1100
NIP	Rs/KG	****
Injury Margin	Rs/KG	****
Injury Margin	%	****
Trend	Range	0-10

68. It is noted that the landed price of imports is below the non-injurious price of the domestic industry. The Authority notes that the domestic industry has suffered price underselling during POI due to dumped imports of the subject goods from the subject country.
69. The Authority further notes that the price underselling would be much higher in case of imports made under Advance Authorisation.

iii. Price Suppression and Depression

70. In order to determine whether the dumped imports are depressing the domestic prices or whether the effect of such imports is to suppress prices to a significant degree and prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices and landed value over the injury period. The position is shown as per the table below:

Particulars	Unit	2015-16	2016-17	2017-18	POI(A)	POI
Cost to make and sell	Rs. /KG	****	****	****	****	****
Trend	Indexed	100	96	101	101	101
Domestic Selling Price	Rs. /KG	****	****	****	****	****
Trend	Indexed	100	99	102	106	106
Landed Value	Rs./KG	955	1,077	949	1100	1100
Trend	Indexed	100	113	99	115	115

G.4 Impact on Economic Parameters of the Domestic Industry

71. Annexure II to the Rules requires that determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential

decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth and the ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below:

a) Capacity, Production, Capacity Utilization and Sales

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

Particulars	UOM	2015-16	2016-17	2017-18	POI(A)	POI
Capacity	MT	****	****	****	****	****
Trend	Indexed	100	100	100	100	125
Production	MT	****	****	****	****	****
Trend	Indexed	100	90	97	113	141
Capacity utilization	%	****	****	****	****	****
Trend	Indexed	100	90	97	113	113
Domestic Sales	MT	****	****	****	****	****
Trend	Indexed	100	163	163	182	228

73. From the above table, the following can be seen:
- Capacity throughout the injury investigation period and the period of investigation has remained constant.
 - Production, capacity utilisation and domestic sales have increased over the injury period in view of increase in demand.

b) Profits, Return On Capital Employed and Cash Profit

74. The cost of sales, selling price, profit/ loss, cash profits and return on investment of the domestic industry has been analysed as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI(A)	POI
Profit/(Loss)	Rs/KG	****	****	****	****	****
Trend	Indexed	100	235	144	329	329
Profit/(Loss)	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	381	234	600	750
PBIT	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	203	146	313	391
Cash Profit	Rs Lacs	****	****	****	****	****
Trend	Indexed	100	123	125	198	247
ROI	%	****	****	****	****	****
Trend	Indexed	100	214	125	225	225

75. It is seen that profits, and return on investment first increased during 2016-17 after levy of anti-dumping duty, thereafter declined in 2017-18, and again improved during the POI. There is no constant trend in terms of profits, return on investment and cash profits. However, the Authority notes that return on investment is ranging between **** to **** during injury investigation period which has been claimed by the domestic industry to be much below the optimum levels. The Authority also notes that the profitability and return on investment of the domestic industry has improved during the POI due to significant reduction in utility cost achieved by the domestic industry by setting up of a wind turbine and coal boiler in the plant.

c) Market Share in Demand

76. The effect of the dumped imports on the market share in demand of the domestic industry has been examined as below:

Particulars	Unit	2015-16	2016-17	2017-18	POI(A)	POI
Share of Domestic Industry %	%	****	****	****	****	****
Trend	Indexed	100	157	131	121	121
Share of Imports from China PR/Hong Kong	%	45%	11%	12%	9%	9%
Trend	Indexed	100	25	27	21	21
Share of Other countries	%	16%	28%	37%	44%	44%
Trend	Indexed	100	173	227	270	270

77. The Authority notes that the market share of the domestic industry increased significantly during the year 2016-17 but has declined thereafter during 2017-18 and POI (A).

d) Employment, Wages and Productivity

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

Particulars	UOM	2015-16	2016-17	2017-18	POI(A)	POI
Employee	No.s	****	****	****	****	****
Trend	Indexed	100	92	100	100	100
Production/Employee	Per Employee	****	****	****	****	****
Trend	Indexed	100	97	97	113	113
Production	MT/Day	****	****	****	****	****
Trend	Indexed	100	90	97	113	113

79. The Authority notes that employment of the domestic industry remained at the same level during the entire injury period. Productivity per employee has marginally improved in the POI.

e) Inventory

80. The data relating to inventory of the subject goods is shown in the following table:

Particular	Unit	2015-16	2016-17	2017-18	POI(A)	POI
Opening Stock	MT	****	****	****	****	****
Trend	Indexed	100	299	176	85	85
Closing Stock	MT	****	****	****	****	****
Trend	Indexed	100	59	28	12	12
Average Stock	MT	****	****	****	****	****
Trend	Indexed	100	119	65	30	30

81. The Authority notes that level of inventories with the domestic industry has decreased during the POI (A).

f) Magnitude of Dumping

82. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India and are consequently causing or likely to cause injury to the domestic industry. It is noted that imports from the subject country are entering into India at dumped prices and the margin of dumping are above *de minimis* limits and significant. The dumping continues to exist despite anti-dumping duty in force.

g) Ability to raise capital investment

83. The domestic industry has enhanced capacity for production of product under consideration considering the present and potential demand for the product in the country. However, dumping has continued and would affect the domestic industry's ability to raise additional capital in case of cessation of anti-dumping duty.

h) Growth

84. The data relating to growth of the domestic industry is shown in the following table:

Growth	Unit	2016-17	2018-19	POI(A)	POI
Production	%	****	****	****	****
Domestic Sales	%	****	****	****	****
Domestic Profit - Per unit	%	****	****	****	****
Domestic Profit - Rs Lacs	%	****	****	****	****
Cash Profit	%	****	****	****	****
PBIT	%	****	****	****	****
ROI	%	****	****	****	****

85. The Authority notes that domestic industry has registered positive growth in volume parameters such as production, sales etc. as a result of anti-dumping duty being in place. Profitability and return on investment have also shown positive growth trend during the injury investigation period.

i) Factors Affecting Domestic Prices

86. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from the subject country is below the selling price and the non-injurious price of the domestic industry causing price undercutting and price underselling in the Indian market. The Authority notes that the prices of the product under consideration in general should move in tandem with the prices of key raw materials and the domestic industry has been fixing its prices considering these input prices and landed price of imports. Thus, the landed value of subject goods from the subject country is an important factor for determination of domestic prices.

Other Known Factors & Causal Link

87. The Authority has noted other factors listed under the Rules, which could have contributed to injury to the domestic industry for examination of causal link between dumping and material injury to the domestic industry.

a) Volume and price of imports from third countries

88. The Authority notes that significant volume of imports of PUC are coming into India from USA. However, the import price from USA is significantly higher than the import price from China PR (against which anti-dumping duties are already in force). Thus, it cannot be said that imports from countries other than China PR are causing injury to the domestic industry.

b) Export Performance

89. The claimed injury to the Domestic Industry is solely on account of domestic operations and there is no impact of exports on the injury suffered by the domestic industry.

b) Technology

90. The Authority notes that the technology for producing the PUC has not undergone any significant development. Possible development in technology is not a factor to cause injury to the domestic industry.

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

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

d) Changes in pattern of consumption

92. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.

e) Performance of the domestic industry with respect to other products

93. Performance of other products being produced and sold by the Applicant is not a possible cause of injury to the domestic industry as the information on performance furnished by the Applicant relates to product under consideration only.

H. MAGNITUDE OF INJURY AND INJURY MARGIN

94. The Authority has determined Non-Injurious Price 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 verified information/data relating to the cost of production for the period of investigation. NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. The non-injurious price so determined has been compared with the landed price of imports from the subject country to determine the injury margin as follows:

Injury Margin Table

S.No.	Country	Producer	NIP- US\$ / Kg	Landed Value US\$/ Kg	Injury Margin US\$/ Kg	Injury Margin %	Injury Margin Range- %
1	China PR	Any	****	15.57	****	****	0-10

J. LIKELIHOOD OF CONTINUANCE OR RECURRENCE OF DUMPING AND INJURY**J.1 Submissions made by the domestic industry**

95. There is a clear likelihood of the continued dumping being further intensified by exporters from China PR leading to a situation of further intensified injury to the domestic industry, if the existing duties are withdrawn.

a. Continued dumping even after imposition of AD Duty

96. It is submitted that the dumped imports continue to come from China PR despite imposition of anti-dumping duty. If the duty is withdrawn, there is a strong likelihood of an increased volume of

dumped imports coming into India from China PR. It is further submitted that the imports coming into India from China PR are above *de minimis* level and dumping margin is quite significant.

b. No participation by Chinese Producers/Exporters in the present review investigation

97. None of the producer/exporter from China PR has participated in the present review investigation including CINIC Chemicals Co. Ltd., Shanghai who had participated in the original investigation and to whom individual rate of duty was granted.

98. CINIC Chemicals Co. Ltd is the biggest exporter from China PR who had cooperated with the authority in the original investigation. Non-participation of CINIC Chemicals Co. Ltd. and other producers/exporters have foreclosed the gate for provision of various necessary information required for the sunset review investigation. Below listed basic information can normally be assessed from the response filed by the producer/exporter:

- i. Capacity and idle capacity available with the producers
- ii. Inventory of the product under consideration available with producers/exporters at the end of the POI and injury period
- iii. Export orientation of the producers/exporters
- iv. Sales and profitability in domestic market
- v. Various export benefits
- vi. Any capacity expansion plans by producers/exporters

99. Also, there could be one more reason for non-participation of Chinese producers that they don't have any evidence to establish that there is no likelihood of continuation or recurrence of dumping from China PR.

100. It is an established practise not only in India but in other jurisdictions like Canada, US and EU that non-participation of foreign producer/exporter in the review investigation who have participated in the original investigation indicates a clear likelihood of continuation of dumping in future. In this regard, domestic industry has relied on the judgment of Hon'ble CESTAT in the matter of *SI Group India Pvt. Ltd. v. Designated Authority*. In para 22 of the said judgment dated 28th November, 2019, Hon'ble CESTAT has considered non-participation of producer/exporter from the subject country as one of the most important factor for continuation of the anti-dumping duties.

c. Domestic industry has been forced to match the import prices and accordingly sell at prices below NIP/Fair Price

101. It is submitted that the domestic industry has been forced to sell the like article at prices offered by the exporters from China PR in order to maintain its market share. As stated in injury analysis, dumped imports are undercutting the prices of the domestic industry in India and the dumped imports are also causing a price underselling effect.

d. Huge capacities and increased production of subject goods in China PR

102. The Applicant has obtained market report titled "China Pigment Red 254 market depth analysis and prospect report" prepared by Beijing Zhongjing Information Consulting Co., Ltd. A perusal of the Report brings out certain relevant observations regarding the subject goods. These observations are presented below:

(i) Market Competition of Organic Pigment in China PR

103. In recent years, China's organic pigment enterprises have achieved rapid development. The number and scale of production enterprises in the organic pigment industry have been greatly improved. A number of enterprises with strong scientific research strength and considerable production capacity have emerged, such as Changzhou North America Chemical Group Co., Ltd., Lilium Group Co., Ltd. and Shanghai Jiehong Pigment Chemical Group Co., Ltd.

104. There are about 10 enterprises whose output of organic pigment is more than 10000 tons in China, and about 30 enterprises whose output is between 1000 and 10000 tons.

(ii) Production analysis of Pigment Red 254 in China

105. The output of China's Pigment Red 254 industry in 2014 was **** tons; the output of China's Pigment Red 254 industry in 2015 was **** tons, a year-on-year increase of 12.0%; the output of China's Pigment Red 254 industry in 2016 was **** tons, a year-on-year increase of 2.5%; the output of China's Pigment Red 254 industry in 2017 was **** tons, a year-on-year increase of 4.9%; the output of China's Pigment Red 254 industry in 2018 was **** tons, a year-on-year decrease of 3.5%; the output of China's Pigment Red 254 industry in the first half of 2019 was **** tons.

(iii) Investment heat of Pigment Red 254 industry and projects to be built

106. With the growth of demand for Pigment Red 254 products, the future market prospect is still relatively broad. More enterprises join the production and supporting industry chain of Pigment Red 254, and the industrial investment heat will continue to rise.

(iv) Capacity in China PR

107. Production capacities for some of the Chinese producers as per the report are mentioned below:

Exporters/Producers	UOM	Capacity
Shuangle Pigment Taixing Co., Ltd	MT	****
Shenyang Baiao Chemical Co., Ltd	MT	****
Nantong Zhengyan New Material Technology Co., Ltd	MT	****
Foshan Shunde BAOST Pigment Co., Ltd	MT	****

108. In addition to this, the production capacity of CINIC Chemicals (Shanghai) Co., Ltd is 2500 MT (as reported in final finding dated 19th June 2015).
109. Based on the above, it can be seen that China PR has huge production capacities available for production of subject goods and in case the anti-dumping duty is withdrawn, there is a strong likelihood that surplus production will be exported to India at dumped prices.

Decrease in domestic market size of China PR

Particulars	UOM	2015	2016	2017	2018
Market scale	RMB Million	****	****	****	****
Growth rate	%	****	****	****	****

110. It can be seen from the above table that in 2017 market size of Chinese domestic market was **** RMB Million which decreased to **** RMB Million in 2018. This clearly shows that there is idle production capacity available with them which can be utilized to increase their exports to India in the event of withdrawal of the anti-dumping duty in force.

e. Domestic selling price below NIP

111. Currently, domestic selling price of the subject goods in India for the applicant is below the NIP.

Particulars	UOM	Value
Domestic selling price	Rs./Kg	****
NIP	Rs./Kg	****
Difference	Rs./Kg	****
Difference as a % of domestic selling price	%	****
Difference as a % of domestic selling price	Range	0-10

112. If the duties are allowed to lapse, the domestic selling price in India will fall further leading to significant damage to the domestic industry.

f. Export refund of 13% on DPP Red Pigments w.e.f. 20 March, 2020

In order to promote exports of pigments, Chinese government has started granting VAT refund/export refund of 13% on exports of DPP Red pigment and other Pigments with effect from 20th March, 2020. The VAT refund/export refund which was not in existence earlier has been increased from 0% to 13% which will lead to significant increase in imports of subject goods from the subject country in case the duty ceases to exist. In this situation, Chinese producers will take the benefit of this 13% VAT refund/export refund advantage and will aggressively export the subject goods to India. The Applicant submitted that in the present pandemic situation wherein Chinese government is granting all sorts of benefits to promote its exports, Authority should not take away the legitimate protection which is existing with domestic producers in India and leave them unprotected to fight with Chinese producers/exporters having strong support of their government. In such a scenario, producers in China PR must look for alternative markets to dispose of their excess production. India would be a natural choice for Chinese producers as demand in India would remain strong in near future. Therefore, there is a strong likelihood that Chinese producers would reduce their prices further to sell-off their excess production causing injury to domestic industry in India in the event of withdrawal of anti-dumping duty.

J.2 Submissions made by other interested parties

113. The following submissions have been made by other interested parties with regard to likelihood of continuation or recurrence of dumping and injury:

- a. With reference to 'Refund of 13% on exports of DPP Red pigment and other Pigments with effect from 20th March, 2020, at the outset, the importers request the DI to provide proof of the existence of such a program to even make a claim in this regard which is beyond even the Post-POI period. The importers also note that the export refund being export market neutral, there is no evidence to suggest that any increase in exports will be directed toward Indian markets only. Additionally, the remedy against a duty drawback program which is in the nature of a subsidy lies in an anti-subsidy investigation and cannot be claimed in the SSR of an anti-dumping duty levy. Thus, the DI may approach the correct forum for the redressal of such issues.
- b. Post the issuance of anti-dumping duties, imports from China PR have reduced from 100 indexed points in 2015-16 to 38 indexed points in POI(A).
- c. There is no merit in the DI's claim that it has been forced to sell at prices below fair market price on account of alleged low-priced imports. Additionally, the price undercutting is in the range of 0-10% and the price underselling is negative. The landed value has also been calculated incorrectly.
- d. The DI has claimed confidentiality on the data relating to existence of excess capacities in China PR. Even for the sake of argument, the existence of excess capacities is not sufficient for the extension of anti-dumping duties as was held by Hon'ble CESTAT in *Indian Spinners Association v. Designated Authority*.
- e. The DI has stated that DPP Red is a highly attractive product for both high-end applications to mid-end applications. However, the DI goes on to discuss this argument on attractiveness only with respect to BASF which is a Swiss company having another facility in the USA. Thus, this argument is not relevant for imports of PUC from China PR which is the only subject country in this investigation.
- f. Domestic selling price is not below the non-injurious price (NIP) for the PUC.
- g. An analysis of overall factors does not indicate any likelihood of recurrence of injury to the DI from China PR. Among other factors these are – declining imports from China PR, low priced imports at prices lower than China PR from the US in the post POI period and significantly higher domestic selling prices as compared to the NIP.

J.3 Examination by the Authority

114. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping and injury in the event of cessation

of the duty. The Authority has considered various information, as made available by the domestic industry and other interested parties in order to evaluate the likelihood of continuation or recurrence of dumping and injury.

115. The present investigation is a sunset review of anti-dumping duties earlier imposed on the imports of subject goods from China PR. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, inter alia for factors which may be taken into consideration viz.:

- a) A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
- c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- d) Inventories of the article being investigated.

116. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows:

(i) **Continued dumping**

117. It is noted that despite imposition of anti-dumping duties on imports of subject goods from China PR, the Chinese import prices continue to be at dumped and injurious levels and the volume of imports from the subject country are almost at the same level as prevailing prior to the imposition of anti-dumping duties on the subject goods from the subject country. Further, it is seen that dumping margin determined in the original investigation and in the present review investigation are all positive and significant. Thus, dumping is likely to continue in the event of cessation of anti-dumping duty.

(ii) **Surplus capacity with the exporters**

118. The domestic industry has provided evidence for existence of surplus capacities of the subject goods in China PR. Domestic Industry has provided the market report “China Pigment Red 254 market depth analysis and prospect report” prepared by Beijing Zhongjing Information Consulting Co., Ltd. Based on the report the Authority notes that, there are huge production capacities available for production of subject goods in China PR. Further, there is a decrease in market size of subject goods in China PR because of which there is idle production capacity available with them which can be utilized to increase their exports to India.

119. As regards the contention that Authority is required to make adjustment of “non-refundable VAT” while calculating the export price, while DI has stated availability of 13% refundable VAT in 2020, the other interested parties have mentioned about non export of VAT in exports consignments. The Authority notes the submission of the DI and the interested parties on VAT. Since no producer/exporter has cooperated and keeping in view DI’s clarification and non-cooperation of producers/exporters, the Authority has adjusted the ex-factory export price with the non-refundable VAT. Accordingly, the export price has been adjusted on account of ocean freight, insurance, commission, bank charges, port expenses, non-refundable VAT and inland freight charges to arrive at the net export price at ex-factory level on the basis of evidence/consistent norms being adopted by the Authority in case of non-cooperation.

120. On the basis of evidence on record, it is noted that there exist excess production capacities in the subject country and there is a possibility of diversion of the excess capacities to Indian market, in the event of cessation of anti-dumping duties.

(iii) **Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports**

121. The Authority notes that at the current landed price in India, there is positive price undercutting and price underselling during POI.

(iv) **Inventories**

122. The Authority notes that China PR has huge production capacity available for production of subject goods which can be utilized to increase their exports to India.

(v) **Non-participation by Chinese producer/exporter**

123. CINIC Chemicals (Shanghai) Co. Ltd. had participated in the original investigation and received an individual rate of duty. However, none of the producer/exporter from China PR has participated in the present review investigation. Domestic industry has submitted that the producer/exporter from China PR are not participating in the present review investigation deliberately so that the relevant information required by the Indian authority for proper conduct of the sunset review investigation is not made available to the Authority and also to escape scrutiny from the Indian authority as to why the Chinese producers are transshipping the subject goods through Hong Kong. Domestic industry has also submitted that Chinese exporters have increased export price to India by 15-20% during the POI deliberately in anticipation of sunset review investigation, whereas, increase in export price of other countries is only 1-2%. In view of these submissions and the facts available on record, the Authority notes that non-participation of foreign producer/exporter in the facts of the present case shows that there is a likelihood of the continued dumping by exporters from China PR leading to a situation of continued injury to the domestic industry, if the existing duty is withdrawn.

124. In view of the above, the likelihood analysis points to the situation that exporters from the subject country are exporting the subject goods at dumped prices. In the original investigation as well as in the present review investigation, the dumping margin is positive. In such a situation, the Authority has no reason to believe that dumping will not continue if the existing duty is revoked.

K. POST DISCLOSURE COMMENTS

Submission filed by Domestic Industry

125. The product under consideration and the product offered by the domestic industry is a like article to the subject goods imported into India from China PR has been clarified by the Authority. It is requested to confirm the same in the final finding.

126. The Authority has noted that the Applicant satisfies the standing requirement and constitutes the domestic industry in terms of Rule 2(b) and Rule 5 (3) of the AD Rules. The same may be confirmed in the final findings.

127. As regards confidentiality, Applicant submits that the indexed numbers of the third party market analysis report provided by them may only be disclosed.

128. The Applicant submits that during the period of investigation, VAT rate prevailing in China PR for the subject goods was 16% for the period April 2018 to March 2019 and 13% for the period April 2019 to June 2019. VAT refund/export refund rate applicable on subject goods was 0% for the entire period of investigation. Accordingly, non-refundable VAT was 16% during April 2018 to March 2019 and 13% during April 2019 to June 2019 (relevant evidence is attached). Applicant sincerely requests the Authority that while determining dumping margin, Authority should reduce the export price on account of adjustment for non-refundable VAT as per the consistent practice of the Authority.

129. In order to promote exports of pigments, Chinese government has started granting VAT refund/export refund of 13% on exports of DPP Red pigment and other Pigments with effect from 20th March, 2020 (relevant evidence is attached). Consequent to this increase in VAT refund/export refund from 0% to 13% it is but natural that there will be a significant increase in imports of subject goods from the subject country to India. Chinese producers/exporters will take the benefit

of this 13% VAT refund/export refund advantage provided to them by the Chinese government and will aggressively export the subject goods to India. Due to this 13% VAT refund/export refund advantage granted to Chinese exporters by the Chinese government with effect from 20th March, 2020, there is a clear likelihood that Chinese exporters will intensify their dumped exports to India and this will result in aggravated injury to the domestic industry. In such a situation, if Government of India will remove the shield provided to the domestic industry in the form of anti-dumping duty protection, this will certainly lead to collapse of the domestic industry.

130. Authority in Para 41 of the disclosure statement has stated that domestic industry was unable to establish the impact of refund of VAT on the export price of the producer if the exports were made directly or through a trader.
131. Applicant submits that non-refundable VAT was 16% during April 2018 to March 2019 and 13% during April 2019 to June 2019 on the exports of subject goods from China PR. The impact of this non-refundable VAT is that the quantum of non-refundable VAT is to be adjusted from the VAT credit balance available with the foreign producers/exporters. This results in enhancing the cost of the export product. Accordingly, authorities' world over including India have been making the adjustment of non-refundable from the export price so that a proper comparison can be made between export price and normal value. Since it is the admitted position of the Authority to adjust the non-refundable VAT from the export price, Applicant submits that in none of the anti-dumping investigations against China PR, the burden of proof is put on the domestic industry to establish the fact as to why adjustment should be made from the export price.
132. Applicant fails to understand as to why the Authority has put the burden on the domestic industry in this particular case to explain the impact of VAT refund on the exporter if the exports are made directly to India or through a trader. Applicant submits that none of the producers/exporters from China PR have participated in the present review investigation and the Authority is giving unnecessary advantage to Chinese producers/exporters despite the fact that they have not participated. In the present investigation, since no Chinese producer/exporter has participated to counter the claims made by the domestic industry, the Authority cannot penalize the domestic industry for non-cooperation of the foreign producers.
133. Impact of VAT refund on the exporter if the exports are made through a trader, it is submitted that in the original investigation M/s. CINIC Chemicals (Shanghai) Co. Ltd. itself admitted that they exported the subject goods directly to India. So, there is no cause for the Authority to seek explanation from the Applicant regarding the impact of VAT refund on the exporter if the exports made through a Chinese trader. Notwithstanding the above, Applicant submits that in the original investigation, CINIC Chemicals (Shanghai) Co. Ltd. had themselves claimed adjustment for non-refundable VAT and accordingly, the Authority had made appropriate adjustments on account of "Non Refundable VAT" while calculating the ex- factory exports price.
134. It is submitted that in Para 12.25 of *Manual of Operating Practices for Trade Remedy Investigations*, Authority allows the adjustment of non-refundable VAT and the same is included in the list of various adjustments which are to be made in export price for arriving at the net export price.
135. It is the consistent practice of the Authority to make adjustment on account of "Non-Refundable VAT" in all anti-dumping investigations against China PR wherever the refund rate is lower than the applicable VAT rate. A list of anti-dumping investigations against China PR containing relevant portions of the final findings, wherein, the Authority has made adjustment on account of "Non-Refundable VAT" is also annexed. In this regard, some of the relevant findings issued by Authority are as under:
 - (i) Sunset review investigation concerning imports of 'Measuring Tapes' originating in or exported from People's Republic of China, Final Findings notified vide Notification No. 7/24/2019-DGTR dated 18 June 2020, Anti-Dumping Investigation concerning imports of 'Ciprofloxacin Hydrochloride' originating in or exported from People's Republic of China, Preliminary Findings notified vide Notification No. 6/36/2019-DGTR dated 15 June 2020, Anti-dumping investigation concerning imports of "Digital Offset Printing Plates" originating in or exported from China PR, Japan, Korea RP, Taiwan and Vietnam. Final Findings notified

- vide Notification No. 6/7/2019-DGTR dated 15 May 2020, Sunset Review Investigation concerning imports of “*Sodium Citrate*” from *People’s Republic of China*. Final Findings notified vide Notification No. 7/21/2019-DGTR dated 30th April 2020, Anti-dumping investigation concerning imports of “*Aluminium and Zinc Coated Flat Products*” from *China PR, Vietnam and Korea RP*. Final Findings notified vide Notification No. 6/4/2019-DGTR dated 21 February 2020, Anti-dumping investigation concerning imports of “*Chlorinated Polyvinyl Chloride (CPVC)- Whether or not further processed into compound*” from *Korea RP and China PR*. Final Findings notified vide Notification No. 6/3/2019-DGTR dated 19 February 2020.
136. In view of the above, we request to make appropriate adjustment by reducing the export price for non-refundable VAT as per its consistent practice and accordingly, revise the dumping margin in the final findings.
 137. The Authority has correctly undertaken most of various injury parameters in para Paragraphs 55, 56, 58, 70, 72, 61, 63, and 64 of the disclosure statement. However, as regards the calculation of non-injurious price, the domestic industry has following concerns:
 - The raw materials specified at clause (v) of Format-A has not been considered in determining the NIP which has led to a significant reduction in the non-injurious price.
 - The consumption norms have been considered for the period of investigation, whereas, the best consumption norms were in 2016-17. Resultantly, the non- injurious price for the domestic industry has increased.
 - The utilities specified at clause (v) of Format-A and D have not been considered in determining the NIP which has led to a significant reduction in the non-injurious price.
 138. While calculating the NIP, the Authority has disallowed “**Pollution Control Expenses**” which is grouped under other Manufacturing Overheads. Pollution Control Expenses are legitimate expenses which are necessary to run the plant and these expenses are consistently allowed by the Authority while calculating NIP in all the investigations. Therefore, the same should be allowed in the present investigation as well.
 139. The Authority many correct the above errors in NIP and also CNV while issuing the final findings.
 140. While we agree with Authority’s observation in para 119 of the disclosure statement that dumping will intensify if the existing duty is revoked, in para 112 of the disclosure statement that despite imposition of anti-dumping duties on imports of subject goods from China PR, the Chinese import prices continue to be at dumped and injurious levels and the volume of imports from the subject country are almost at the same level as prevailing prior to the imposition of anti-dumping duties on the subject goods from the subject country, in para 113 of the disclosure statement that there are huge production capacities available for production of subject goods in China PR, in para 116 of the disclosure statement that there is positive price undercutting and price underselling during POI, in para 117 of the disclosure statement that China PR has huge production capacity available for production of subject goods which can be utilized to increase their exports to India, in para 118 of the disclosure statement that non- participation of foreign producer/exporter in the facts of the present case clearly demonstrates that there is a clear likelihood of the continued dumping being further intensified by exporters from China PR leading to a situation of further intensified injury to the domestic industry, if the existing duty is withdrawn.
 141. In view of the above, it is clearly established that there is a likelihood of continuation of dumping from China PR and continuation/recurrence of injury to the domestic industry in the event of cessation / discontinuance of Anti-dumping duty in force. In case the anti-dumping duties applicable on the imported goods from China PR cease to exist, the Chinese exporters would capture the Indian market causing significant impairment to the Domestic Industry.
 142. As regards the adjustment of non-refundable VAT, we reiterate that the Chinese producers will take the benefit of this 13% VAT refund/export refund advantage and will aggressively export the subject goods to India.

143. It is clear that cessation / discontinuance of Anti-dumping duty in force is likely to lead to intensified dumping by Chinese producers/exporters causing significant injury to the domestic industry. ***In such a situation, we request the Authority to continue the existing quantum of anti-dumping duty because of the reasons enumerated below:***
- A.** Utility cost of Domestic Industry has decreased resulting in low Constructed Normal Value and Non-Injurious Price.
 - B.** Conduct of Chinese producers/exporters is not proper in the present investigation due to non-participation of Chinese Producers/Exporters due to which information such as third country export price, surplus capacities, inventories etc. is not made available to the Authority due to non-participation of Chinese producers/exporters. Accordingly, the Authority should not give benefit to the Chinese producers/exporters for their non-participation by reducing the existing quantum of anti-dumping duty in the sunset review investigation.
 - C.** The subject goods being imported from Hong Kong bear the same description and brand name i.e. Cinilex as that of the goods imported from China PR. In this regard, no participating importer has also provided any evidence or information or certificate of origin to substantiate that the subject goods being imported by them from Hong Kong into India are actually produced in Hong Kong. In fact, there is no production facility for subject goods in Hong-Kong. Chinese producers/exporters are merely transshipping their products through Hong-Kong to take advantage in this sunset review investigation.
 - D.** Chinese exporters have increased the export price to India by 15-20% during the period of investigation deliberately in anticipation of sunset review investigation, whereas, increase in export price of the subject goods from other countries is only 1-2%.
144. ***Applicant requests the Authority to extend the same quantum of anti- dumping duty of US\$ 7.58/ KG on imports of subject goods from China PR and the quantum of anti-dumping duty should not be reduced in the present sunset review investigation.*** In certain cases with regard to the sunset review investigation the Authority has extended the same quantum of anti-dumping duty as levied in the original investigation. These are as under:
- Partially Oriented Yarn (POY) originating in or exported from China PR, Final Findings notified vide Notification No. 15/27/2010-DGAD dated 10 February 2012.
 - Hexa Methylene Tetramine (Hexamine) originating in or exported from Islamic Republic of Iran, Final Findings notified vide Notification No. 15/10/2007-DGAD dated 26 February 2009.
 - Sun/Dust Control Polyester Film) originating in or exported from Taiwan and UAE, Final Findings notified vide Notification No. 15/17/2008-DGAD dated 13 August 2009.
 - ‘Grinding Media Balls’ (excluding Forged Grinding Media Balls) originating in or exported from China PR and Thailand, Final Findings notified vide Notification No. 7/7/2017-DGAD dated 11 June 2018.
 - ‘Sheet Glass’ originating in or exported from People’s Republic of China, Final Findings notified vide Notification No. 7/10/2019-DGTR dated 21 February 2020.
 - ‘Electronic Calculators’ originating in or exported from People’s Republic of China, Final Findings notified vide Notification No. 7/15/2019-DGTR dated 26 March 2020.
 - Viscose Staple Fibre excluding Bamboo Fibre, originating in or exported from China PR and Indonesia, Final Findings notified vide Notification No. 15/9/2015-DGAD dated 8 July 2016.
 - ‘PVC Flex Film’ originating in or exported from China PR, Final Findings notified vide Notification No. 15/13/2015-DGAD dated 30 June 2016.

- 'Front Axle Beam' and 'Steering Knuckles' meant for heavy and medium commercial vehicles originating in or exported from China PR, Final Findings notified vide Notification No. 15/11/2014-DGAD dated 11 September 2015.
- 'Ductile Iron Pipes' originating in or exported from China PR, Final Findings notified vide Notification No. 15/1006/2012-DGAD dated 4 September 2013.

Submission by L & L representing Indian Paint Association and its member companies

145. The respondent notes that the DA in paragraph 15 (a) of the DS has noted VOXCO's (one of the opposing interested parties in this investigation) disagreement with treating all grades of the PUC as one and the same. However, this quote is not the entire representation of the submissions made by VOXCO in this regard. VOXCO in its separate rejoinder submission dated 21 July 2020 has elucidated on the reasons for certain imported grades being better than the PUC manufactured in India. To this end VOXCO has provided letters from the user industry claiming that the imported grades are superior and cannot be substituted by the domestically manufactured grades. The user industry has also claimed that the DI is unable to provide the PUC to the specifications required by them which is forcing them to rely on imports despite the anti-dumping levy.
146. The respondent notes that the DA in paragraph 25 of the DS has stated that there exists no need to revisit the standing of the DI in a review of anti-dumping duties because the status of the DI as decided by the DA in the original anti-dumping investigation has not been challenged before the CESTAT. The respondent respectfully disagrees with the above rationale of the DA and submits that such an understanding, that the decision does not need to be revisited merely because it was not challenged – is misplaced. There have been past anti-dumping investigations wherein the DA has changed its decisions in the review investigation as compared to its previous decision in the original investigation. Hence, even in the present case the DA must consider the submissions made by the respondent in all its previous written representations – with regard to the DI's ineligibility to be considered 'domestic industry' on account of it being an export oriented unit ('EOU'). The respondents reiterates that the past practice of the DA establishes that it has not included EOUs with an export focus within the scope of the DI. The DA, in Anti-dumping investigation against import of Phthalic Anhydride from Indonesia, excluded one of the domestic producers (IG Petrochemicals) from the scope of the DI for being an EOU. Also, in Anti-dumping investigation against import of Ceftriaxone Disodium Hemiheptahydrate-Sterile from China PR, the DA has concluded that Orchid Chemicals, which was a 100% EOU, was not fit to be considered as DI on account of its characterization as an EOU.
147. The respondent notes that the DA in paragraph 31 of the DS has stated that the DI's confidentiality claims have been granted on being satisfied of its necessity in accordance with Rule 7 of the Indian Anti-dumping Rules. The respondent respectfully disagrees with this statement. Excess confidentiality has been granted on the figures related to productivity, purchases, research and development cost, loan and advances and other related cost. The discrepancies in this regard have been tabulated and detailed in our written submissions dated 27 March 2020.
148. The respondent notes that the DA in paragraph 32 of the DS has dispensed with the requirement for an updated petition with data pertaining to China PR only, to the exclusion of Switzerland. The respondent respectfully disagrees with this observation. The DI in its petition has claimed that there is an instance of likelihood of injury from both China PR and Switzerland, the respondent notes that certain arguments consider the effect of collective injury from both the countries; e.g. market share of the DI is affected by imports from both countries. Thus, in the absence of segregated data pertaining solely to China PR, the 'likelihood of injury' analysis is vitiated because it presumes that the injury may recur from both Switzerland and China PR while the DA has already ruled against the same by excluding Switzerland from the list of subject countries in the initiation notification. Thus, using the data in the DI petition without the necessary revision to exclude data pertaining to Switzerland leads to a loss of objectivity and vitiates the analysis in the present investigation.
149. The respondent notes that the DA in paragraphs 41 and 114 of the DS has rejected the DI's claim regarding adjustment of an alleged refundable VAT program in China PR for exports at 13% - with regard to calculation of the Export Price. The respondent notes that the DI by not submitting

any evidence to back such a claim, has not fulfilled a fundamental obligation to necessarily support its claims with evidence. Thus, the respondent wishes to put on record that it agrees with the decision of the DA in rejecting the claim for such an adjustment.

150. The respondent notes that the DA in paragraph 55 of the DS has considered imports from Hong Kong as imports from China PR. In doing so it has noted that the same has been done because the respondents have not submitted any documents (e.g. certificates of origin, bills of lading, etc.) to prove that the imports are actually of Hong Kong origin, and have not been transhipped by exporters of the PUC from China PR, through Hong Kong. We respectfully disagree to the above conclusion of the DA. The obligation is not on the respondents to prove that the imports are actually coming from Hong Kong and are not being transhipped. Rather the obligation lies on the DI to prove that the imports have actually been transhipped, as such a claim has been made by the DI. Also, this issue can easily be verified by the DA by perusing the official DGCI&S data which will also record country of origin for each shipment. In fact, the respondent notes that the DA has not noted that the conclusion in paragraph 55 is arrived at after analyzing DGCI&S data. Thus, the burden of proof cannot be shifted on the respondent, especially when official data exists to verify the authenticity of the DI's allegations.
151. The respondent additionally notes that the DA in paragraph 56 and 58, has also claimed that imports of the PUC from China PR remains significant and at the same level preceding the anti-dumping duty levy. To begin, the respondent notes that the purpose on an anti-dumping duty is not to reduce or limit imports, it is rather singularly aimed at providing a level playing field to the DI in case exports are being made at lesser than normal value. Notwithstanding the above, the respondent reiterates that, such a statement regarding imports remaining significant, cannot be taken without context. Notably, the current market share of imports from China PR stand at an insignificant 4% of the total demand for the PUC in India. Considering the above the respondent records its disagreement regarding the DA's conclusion that imports from China PR still remain significant.
152. The respondent notes that the DA in paragraph 80 of the DS has noted that the DI's profitability and return on investment ('ROI') has shown positive growth trend during the injury investigation period. Further, it has been noted that the ROI is ranging between 4%-9% during the injury investigation period, which is below the optimum level. In the above context, the respondent also reiterates that a 22% ROCE as considered by the DA in paragraph 89 of the DS – cannot be applied as a set yardstick for all kinds of PUC, e.g. the margins on FMCG products will be much lower than margins on cosmetics or other luxury goods. Thus, the ROI of 4-9% as noted by the DA is adequate and in line with the historical rate of return for the organic pigment industry.
153. The respondent notes that the DA in paragraph 83 of the DS has stated that the import prices for the PUC from USA is significantly higher than the import prices from China PR. The respondent respectfully submits that this statement is factually incorrect as would be evident from an analysis of the post-POI import price data. In an SSR investigation where the duty is extended on the basis of a likelihood of recurrence of injury, it is necessary to look into the future to assess whether the dumping could possibly recur and this necessitates a look into the post POI data. The same has been held by the CESTAT in M/s. P.T. Asahimas Chemicals v. Designated Authority which the DI too has relied upon. As submitted earlier, on an examination of the post-POI import data from DGCI&S21 it becomes amply clear that the landed value of US imports of the PUC is 46% lower than the landed value of imports from China PR. The table below records the post-POI data for the two subsequent quarters i.e. July – September 2019 and October – December 2019. The respondent notes that the essential examination in an SSR investigation is a likelihood of recurrence of injury, especially so when there is no ongoing injury as is the present case. Therefore, in terms of assessing likelihood of recurrence of injury the DA's conclusion that there is no injury from USA which has a 40% market share at price which is 46% lower than Chinese prices is untenable and has no factual basis to stand upon.
154. The respondent notes that the DA in paragraph 113 of the DS has considered the presence of surplus capacities for manufacturing the PUC in China PR as one of the factors that would lead to a conclusion regarding the likelihood of recurrence of injury. It is reiterated that in a situation where the DI is not suffering from injury, mere presence of surplus capacities is insufficient to

prove that such capacities would be directed to Indian markets. This held by the CESTAT in Indian Spinners Association v. Designated Authority.

155. The respondent notes that the DA in paragraph 118 of the DS has stated that that exporters from China such as CINIC have not participated in the present SSR investigation to escape scrutiny and that such non-participation makes out a clear case of likelihood of continuation of dumping. In this regard, the respondent humbly state that there is no legal provision or set precedent that would empower the DA to conclude on a likelihood determination on the basis of non-participation of exporters in the review proceedings. Non-participation of CINIC has no bearing on the assessment of the recurrence of injury. Such an assessment is based on an examination of the injury parameters of the Indian manufacturer during the investigation period leading up to the POI.
156. Finally, the respondent notes that the DA in Section – IV of the DS on page 52 has detailed upon the methodology used by it to arrive at the NIP for the DI. The respondent with respect to the same expresses its reservations concerning a 22% ROCE. As stated in the preceding paragraphs, a 22% ROCE cannot be applied as a set yardstick for all kinds of PUC as the same varies from industry to industry. An assessment of historical rate of returns on investment for the respective manufacturing industry, has to be made before using it for the calculation of NIP in every anti-dumping investigation.

Submission filed by M/s Voxco Pigments and Chemicals Pvt. Ltd

157. In a SSR investigation, the Authority is obligated under the law to form an opinion at the time of making its decision as regards whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. Axiomatically, the Authority must necessarily procure the most recent information and data available and examine and evaluate the same as per the extant law. It is for this reason in a SSR investigation, there is no sanctity attached to the POI as in an original investigation. Thus, the Authority must examine and evaluate the information and data including of the Post POI period till date to enable it to form its opinion whether cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. In order to carry out the likelihood analysis in a meaningful way, the Authority must base its analysis primarily on the data that covers the most recent period. In the instant investigation, the gap between the POI and the date of initiation in the present investigation is nearly 6 months and even thereafter more than 7 months have elapsed. Thus, we submit that Authority takes due cognizance of this vital issue and only upon its examination and evaluation determine whether the cessation of the duty is likely to lead to continuation or recurrence of dumping and consequent injury or not.
158. Kind attention is invited to Para 7 of the Disclosure Statement that states categorically thus: “The scope of the present review covers all aspects of the previous investigation concerning imports of the subject goods, originating in or exported from the subject country. However, while addressing the issues flagged by ‘other interested parties’ including us, it has merely referred to its previous decision of the original investigation, without revisiting the issues flagged with an open and fresh mind.
159. In Para i and j of the Disclosure Statement, while enumerating the procedure, a mention has been made of the submissions filed by some interested parties; but surprisingly VOXCO’s name has not been mentioned therein. Therefore, we once again request the Authority to carefully peruse all our submissions filed in the instant matter and duly address the issues raised by us by rendering a reasoned determination.
160. In Para 15 (a) of the Disclosure Statement, it has been wrongly mentioned that “VOXCO is not aware about the differences between PUC manufactured by domestic industry vis-à-vis the imported PUC...” Infact, VOXCO has squarely flagged the point that the domestic industry is not able to produce the subject goods with certain specifications thereby necessitating their imports and we have even adduced due evidence in this regard by attaching the sample letters from the Indian User industry substantiating this fact.
161. In Para 25, mention has been made as regards ‘no specific exclusion of an EOU’ from the ambit and scope of Rule 2(b) that defines ‘Domestic industry’ but the intent of the Rule is amply clear;

and further there have been cases wherein this very Authority has excluded an EOU from the ambit and scope of being considered as a 'domestic industry'.

162. In Para 83, the "Authority notes that significant volume of imports of PUC are coming into India from USA. However, the import price from USA is significantly higher than the import price from China PR (against which anti-dumping duties are already in force). Thus, it cannot be said that imports from countries other than China PR are causing injury to the domestic industry." (Emphasis added). We humbly submit that this is factually inaccurate as would be evident by a perusal of Annexures A & B attached along with our 'Written submissions'.
163. In Para 84, it has been mentioned that "the claimed injury to the Domestic Industry is solely on account of domestic operations and there is no impact of exports on the injury suffered by the domestic industry." But the domestic industry has failed to disclose the material fact that it has exported significant volumes of the subject goods at much lower prices as compared to the prevailing domestic price, thereby creating a scenario of self-inflicted injury.
164. The Authority should also compare the 'Landed value' of the subject goods from the US with the NIP and find the truth as regards the actual injury to the domestic industry. Needless to say, it would be evident that the landed value of the subject goods from the US is much lower than the NIP. Importantly, these imports from the US have landed into India at much lower than the NIP of the domestic industry. Further, as the Landed values of the subject goods from the US hasn't bothered the domestic industry at all, it would be safe to assume that import of the subject goods from the subject country at similar prices/values as those from the US, is not likely to injure the domestic industry at all. Obviously, the domestic industry is looking to pick and choose the source to move an anti-dumping application; however, we humbly submit that the same ought not to be permitted as that would not only be discriminatory but also against the WTO cardinal principles.
165. We refute the above claims made by the domestic industry, because before making any such claims it must answer the following questions: Why is it exporting at lower prices than the prevalent domestic price in India? Why it is not impacted adversely by the huge volumes of imports at comparable / lower priced from the US as against the subject country? Is this cherry-picking the source permitted under the WTO? SSR DPP Red 254 Comments on the Disclosure Statement Issued by the Designated Authority on behalf of Voxco Pigments and Chemicals Pvt. Ltd., Mumbai ¶ Why has it remained mute till date as regards the lower Landed values of the subject goods from the US as compared to its own NIP and its NSR? ¶ Is it not a fact that the price pressure, if any, is due to the presence in huge volumes of the lower priced imports from the US?
166. Examination of Causal Link: The legal provisions stipulate it must be demonstrated that the dumped imports are likely, through the effects of dumping, cause injury to the domestic industry. However, this causal relationship between the dumped imports and the injury to the domestic industry must be demonstrated and has to be based on an examination of all relevant evidence before the authorities. The Authority is also obliged to examine any known factors other than the dumped imports which at the same time are likely to injure the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Some of these factors that have been specifically mentioned include, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.
167. Axiomatically, a fair comparison can be only had with the Landed value of the subject goods vis a vis the prevailing domestic price of the subject goods. Since, the domestic industry is the sole producer of the subject goods; it should be able to sell its goods at non-injurious price without ado, so far as any competition from China is concerned. If it has not been able to do so, then primarily it is because of the presence of the imports of the subject goods from the US. Now, as the domestic industry has not chosen to initiate any action against them, means that it is not being injured and also not likely to be injured by imports of the subject goods at these prices.

Examination by the Authority

168. The Authority notes that submission of interested parties to not to consider 100% EOU as part of DI. The Authority holds that since EOU is part of Domestic Tariff Area (DTA), it has been considered as a part of DI to the extent of the sales made by it in the domestic market as has been considered in past cases. EOU by virtue of being in DTA, is at the same footing as a non EOU domestic producer.
169. The Authority notes the submission of the DI and the interested parties on VAT. Since no producer/exporter has cooperated and keeping in view DI's clarification and non-cooperation of producers/exporters, the Authority has adjusted the ex-factory export price with the non-refundable VAT.
170. The Authority notes that regarding the DI's goods not being a like Article to PUC, there is no evidence of any technical specifications provided by the users to establish their case. Further being a SSR, the Authority has not enlarged the scope of PUC.

Conclusion

171. Having regard to the submissions made in the investigation, the post disclosure comments and facts available, the Authority concludes that:
- Subject goods exported from the subject country are at prices below their normal value, thus resulting in dumping.
 - Imports are undercutting the prices of the domestic industry in the market.
 - Dumping margin and injury margin are positive in respect of imports of the product under consideration from the subject country.
 - In event of cessation of anti-dumping duty, undercutting may continue as the producers/exporters in the subject country are holding significant capacities and the imports which are dumped and injurious despite existence of AD measure, are likely to increase in the event of cessation of anti-dumping duty. Performance of the domestic industry is therefore likely to deteriorate in the event of cessation of anti-dumping duty.
 - The Authority, thus, in order to remove likely injury to the Domestic Industry considers it necessary to recommend continuation of definitive ADD on imports of the subject goods from the subject country.

Recommendations

172. Having concluded as above, the Authority is of the view that the antidumping measure is required to be extended as specified in the duty table below.
173. The Authority has noted the request of DI to continue the same level of existing ADD in the present SSR investigation as well. Authority notes that the extent of injury evidenced during the POI needs to be mitigated through a future anti-dumping measure. In case either the dumping or injury increase in the future, the DI could always file a review and seek appropriate modification in anti-dumping duty. Accordingly, Authority is recommending the appropriate anti-dumping duty, keeping in view the provisions of Lesser Duty Rule, for the quantum of dumping and consequential injury to DI as evaluated during the POI in the present SSR investigation.
174. Having regard to the lesser duty rule, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the anti-dumping duty equal to the amount indicated in the column no. 7 of table below is recommended to be imposed by the Central Government on the imports of the subject goods, originating in or exported from the subject country.

DUTY TABLE

S. No.	Heading/Sub-Heading	Description of Goods	Country of Origin	Country of Export	Producer	Duty Amount	Currency	Unit
1	2	3	4	5	6	7	8	9
1.	32041739	Diketopyrrolo Pyrrole Pigment Red 254 (DPP Red 254)	China PR	China PR	Any	1.31	US\$	KG
2.	32041739	Diketopyrrolo Pyrrole Pigment Red 254 (DPP Red 254)	China PR	Any Country other than China PR	Any	1.31	US\$	KG
3.	32041739	Diketopyrrolo Pyrrole Pigment Red 254 (DPP Red 254)	Any country other than China PR	China PR	Any	1.31	US\$	KG

FURTHER PROCEDURE

175. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Customs Tariff Act, 1975.

BIDYUT BEHARI SWAIN, Spl. Secy. & Designated Authority