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**File No. 7/19/2017 - DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF TRADE REMEDIES
4TH FLOOR, JEEVAN TARA BUILDING,
5, PARLIAMENT STREET, NEW DELHI-110001**

Dated the 13th of September, 2018

FINAL FINDING

Case No. SSR18/2017

Subject: Anti-Dumping Sunset review investigation concerning imports of ‘Phthalic Anhydride’ originating in or exported from Korea RP, Taiwan and Israel

1. **F. No. 7/19/2017-DGAD:** Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter 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, the Designated Authority (herein after referred to as Authority) recommended vide its Final Findings Notification No. 14/1/2011-DGAD dated 28th September 2012 recommended imposition of Anti-dumping duties against dumped imports of Phthalic Anhydride (hereinafter referred to as subject goods) originating in or exported from Korea RP, Taiwan and Israel (hereinafter referred to as subject Countries).
2. Consequently, Anti-dumping duties were imposed by the Central Government vide Customs Notification No. 58/2012-Customs dated 24th December 2012.
3. WHEREAS in terms of Section 9 A (5) the Customs Tariff Act, 1995, read with Rule 23 of the Rules, the antidumping duty imposed under the said Act shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, unless in a review, initiated before the expiry of the duty, the Designated Authority concludes that the cessation of the duties 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 within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. AND WHEREAS a petition has been filed by the domestic producers of Phthalic Anhydride i.e., M/s IG Petrochemicals Ltd. and M/s Thirumalai Chemicals Ltd., 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 the subject countries and consequent injury to the DI and requesting for initiation of sunset review investigation for continuation of anti-dumping duties in force on the imports of Phthalic Anhydride, originating in or exported from Korea RP, Taiwan and Israel.
5. In view of the duly substantiated 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 Anti-dumping Rules, the Authority issued a Notification No. 7/19/2017-DGAD dated 11th December 2017 published in the Gazette of India, initiating a Sunset Review investigation to review the need for continued imposition of the duties in respect of the subject goods, originating in or exported from the subject countries, and to examine whether the expiry of such duties is likely to lead to continuation or recurrence of dumping and injury to the DI. The validity of the anti-dumping duty on the imports of the subject goods from the subject countries was extended by the Central Government up to 23rd December 2018 vide Notification No. 56/2017-Customs (ADD) dated 21st December, 2017.
6. The scope of the present review covers all aspects of the original investigation concerning imports of the subject goods, originating in or exported from Korea RP, Taiwan and Israel.

A. GENERAL PROCEDURE

7. Procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority:
 - i. The Authority sent a copy of the initiation notification to the Embassies of the subject countries in India, known producers/ exporters in the subject countries, known importers/users in India, and the DI as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - ii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the AD Rules supra.
 - iii. The Embassies of the subject countries in India were also requested to advise the exporters/producers from Korea RP, Taiwan and Israel to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from Korea RP, Taiwan and Israel.
 - iv. The Authority sent Exporter's Questionnaire to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules.

- a. Aekyung Petrochemical Co. Ltd, Korea
 - b. L.G. Petrochemical, Korea
 - c. Humade Corporation, Korea
 - d. Hanwha Chemical Corporation, Korea
 - e. Hyundai Corporation, Korea
 - f. Raystar Corporation, Korea
 - g. Everlite Korea Co. Ltd., Korea
 - h. Daewoo International Corporation, Korea
 - i. Canko Marketing Inc., Korea
 - j. Polmac Co. Ltd., Korea
 - k. Nan Ya Plastics Corporation, Taiwan
 - l. UPC Technology Corporation, Taiwan
 - m. Methyl Co. Ltd., Taiwan
 - n. Gadiv Petrochemicals Industries Ltd., Israel
- v. The following producers/exporters, exporting the subject goods originating in or exported from the subject countries, have filed exporter's questionnaire response:
- a. L.G. Petrochemical, Korea
 - b. Aekyung Petrochemical Co. Ltd, Korea
 - c. Humade Corporation, Korea
 - d. Hyundai Corporation, Korea
 - e. Woori P&C Corporation
 - f. Canko Marketing Inc., Korea
 - g. Ubesco Corporation (UBESCO), Korea
 - h. Gadiv Petrochemicals Industries Ltd., Israel
- vi. The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
- a. Cray Valley Resins India Ltd.
 - b. Goodlass Nerolac Paints Ltd.
 - c. Gargi Industries
 - d. Hindustan Insecticides Limited
 - e. Kemrock Industries & Exports Ltd.
 - f. Shalimar Paints Limited
 - g. U.K. Paints India Pvt. Ltd.
 - h. KLJ Plasticizers Ltd.
 - i. Mazda Colours Limited
 - j. PCL Oil & Solvents Ltd.
 - k. Lona Industries Limited
 - l. Silvassa Plast
 - m. Aarti Industries Limited
 - n. Mechemco Industries
 - o. Rachna Plasticizers

- p. Micro Inks Ltd.
- q. Phthalo Colours & Chemicals (I) Ltd.
- r. Heubach Colour Pvt. Ltd.
- s. Ramniklal S. Gosala & Co.
- t. Sanman Trade Impex Pvt. Ltd.
- u. Pertochem Middle East (India) Pvt.
- v. A-One Chem Trade Pvt. Ltd.
- w. Amjey Chemicals
- x. Sanjay Chemicals (India) Pvt. Ltd.
- y. Hazel Mercantile Limited
- z. Indian Plasticizers Manufacturers Association
- aa. Indian Plastics Federation
- bb. Indian Paint Association
- cc. Chemical Industries Association
- dd. Indian Chemical Council
- ee. Alchemie Laboratories
- ff. Arkema Chemicals India Pvt. Ltd.
- gg. Asahi Songwon Colors Limited
- hh. B.M. Jain & Sons Pvt. Ltd.
- ii. Bhabani Pigments Pvt. Ltd.
- jj. Chemical Corp. Pvt. Ltd.
- kk. Ishan Dyes & Chemicals Limited
- ll. Liberty Chemtrade Private Limited
- mm. Macro Polymers Pvt. Ltd.
- nn. Maharashtra Aldehydes & Chemicals Ltd.
- oo. Meghmani Organics Ltd.
- pp. Narayan Organics Pvt. Ltd.
- qq. Nishant Organics Pvt. Ltd.
- rr. Shrey Overseas
- ss. Payal Petrochem Pvt Ltd / Payal Polyplast Pvt. Ltd.
- tt. Ritzy Chemicals Pvt. Ltd.
- uu. Shakti Chemicals
- vv. Paarichem Resources LLP
- ww. Vikas Organics Pvt. Ltd.
- xx. C J Shah & Co

vii. In response to the questionnaire issued by the Authority, following importers/ users of the subject goods have filed the importer's questionnaire responses:

- a. Berger Paints
- b. Asian Paints
- c. Kansai Nerolac Paints
- d. Shalimar Paints

viii. Further, the following interested parties have also filed response to the initiation of

the investigation:

- a. Indian Paint Association
 - b. Indian Paint & Coating Association
 - c. Indian Small-Scale Paint Association
 - d. Indian Plasticizers Manufacturers Association (IPMA)
 - e. KLJ Plasticizers Ltd
 - f. Payal Polyplast Pvt Ltd
 - g. PCL Oil & Solvents P Ltd
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- ix. The Authority made available non-confidential version of the evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
 - x. Transaction-wise data was called from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). The Authority has, relied upon the DGCI&S data and the data of co-operative exporters for calculating the volume and value of imports of the subject goods in India.
 - xi. The Authority held an oral hearing on 17th May, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6), which was attended by the representatives of DI, the responding exporter, importers and importers' association. The representatives who presented their views orally at the time of oral hearing were advised to file in writing the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the views expressed by opposing interested parties.
 - xii. Verification of the data of the DI and exporter questionnaire response was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of this investigation.
 - xiii. The Period of Investigation (POI) for the purpose of the present review is April 2016 – September 2017 (18 Months). The injury investigation period has been considered as the period April 2013 - March 2014, April 2014 - March 2015, April 2015 - March 2016 and the POI. Further, since the investigation period is a period of 18 months, all figures/data for the POI has been considered on annualized basis in order to be comparable with those of previous years.
 - xiv. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this document.
 - xv. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - xvi. Wherever an interested party has refused access to, or has otherwise not provided

necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.

- xvii. In accordance with Rule 16 of the Rules Supra, the Authority disclosed the essential facts vide its Disclosure Statement on 24th August 2018 to the concerned interested parties. Comments were requested by 4th September 2018. Comments received on the Disclosure Statement to the extent considered relevant by the Authority have been considered in this final finding.
- xviii. *** in this Final Finding represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- xix. The exchange rate for the POI has been taken by the Authority as ₹67.06 = 1US\$.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 8. The product under consideration for the purpose of present investigation is “Phthalic Anhydride”.

B.1 Submissions made by the Domestic industry

- 9. The DI has made following submissions with regard to the product under consideration and like article:
 - i. The product under consideration in the present investigation is ‘Phthalic Anhydride’ as determined by the Authority in the original investigation. Phthalic Anhydride is an organic chemical classified under Chapter 29 subheading 29173500 of the Custom Tariff Act, 1975.
 - ii. Phthalic Anhydride is used to produce Phthalate esters, which function as plasticizers. It is an important chemical intermediate in plastic industry.
 - iii. Present investigation is a review investigation. The Designated Authority has examined the issue of product under consideration and like article in the original investigation, which is relied upon.

B.2 Submissions by other Interested Parties

- 10. None of the producers/exporters/importers/other interested parties have raised any issues with regard to the product under consideration.

B.3 Examination by the Authority

- 11. The product under consideration for the purpose of present investigation is “Phthalic Anhydride”. The present investigation being a sunset review investigation, the scope of the product under consideration in the present review investigation remains the same as that in the original investigations. The product under consideration defined in the previous investigations is as follows:

“The product under consideration in the present investigation is “Phthalic Anhydride”, having molecular formula ‘C8H4O3’. Phthalic Anhydride, also referred as PAN or PA, is an anhydride of Phthalic Acid, and is commercially produced by catalytic oxidation of Ortho-xylene or Naphthalene. It is a colourless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. The product is produced only in one grade. As regards different applications, it does not have distinguishable different types of forms. It is mainly used in the production of phthalate esters, which functions as plasticizers. It is an important chemical intermediate in plastic industry. It is also used in making of the products like Polyester Resins, Alkyd Resins used in paints and lacquers, Unsaturated Polyester Resins, Polyester Polyols, Dyes and Pigments, Halogenated Anhydrides, Polyetherimide Resins, Isatonic Anhydride, Insect Repellents, etc.

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

12. In the original investigations, the Authority has held that the product under consideration as ‘Phthalic Anhydride in all its forms’. None of the interested parties have raised any concerns with regard to product under consideration and like article.
13. After considering the information on record, the Authority holds that there is no known difference in the product under consideration exported from the subject countries and the product produced and sold by the Indian industry. The subject product produced by the DI is comparable to the Product under consideration in terms of features 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.
14. The Authority holds that the subject product produced by the applicant DI is like article to the product under consideration as mentioned in the paragraphs above, in accordance with the Anti-Dumping Rules.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

15. The petition for review of anti-dumping duty in force on imports of the subject goods was filed by M/s IG Petrochemicals Ltd. and M/s Thirumalai Chemicals Ltd. as domestic producers of the product under consideration in India.

C.1 Submissions made by the Domestic Industry

16. The DI has made the following submissions with regard to scope and standing of the DI:
- a) The petition has been filed by M/s. IG Petrochemicals Ltd. and M/s Thirumalai Chemicals Ltd., for review and continuation of anti-dumping duty in force on imports of Phthalic Anhydride from Korea RP, Taiwan and Israel.
 - b) One of the petitioners, M/s IG Petrochemicals Ltd, has facilitated import of small quantity of the product from Taiwan in the POI for one of its customers. The bill of entry for home consumption has been filed by the customer. Therefore, the petitioner company should not be considered in strict sense as importer of the product under consideration in India within the meaning of the Rules.
 - c) There are two more producers of the subject goods in India, SI Group India Ltd. and Asian Paints India Limited. SI Group has supported the petition and the other producer, Asian Paints, have shut down their plant in the month of July 2017.
 - d) The petitioners along with the supporter satisfy the standing requirements and constitute DI within the meaning of the Anti-Dumping Rules.

C.2 Submissions by Other Interested Parties

17. The opposing interested parties have made the following submissions with regard to scope of DI and standing:
- a) The DI has knowingly withheld the information regarding its imports at the time of initiation of the investigation.
 - b) The definition of the DI excludes those producers of the product under consideration who are importers of the product under consideration as confirmed by the ruling of the Hon'ble High Court of Andhra Pradesh. Reference given to the final findings in the matters concerning imports of 'Saturated Fatty Alcohols' from Indonesia, Malaysia, Thailand and Saudi Arabia and 'Purified Terephthalic Acid' (PTA) from China PR, Iran, Indonesia, Malaysia & Taiwan.
 - c) Disclosure of volume of imports of product under consideration made by the applicants in the present investigation is required to determine the eligibility of the applicants to constitute the DI. Disclosure of data on volume of imports does not warrant confidential treatment. Reference has been made to final findings in the matter concerning Plain Medium Density Fibre Board and Nylon Filament Yarn cases.

C.3 Examination by the Authority

18. The present application was filed by M/s. IG Petrochemicals Ltd. and M/s Thirumalai Chemicals Ltd. as domestic producers of the product under consideration in India,

seeking review and continuation of anti-dumping duties in force on imports of Phthalic Anhydride from the subject countries.

19. As per the information on record and investigation conducted, besides the petitioners, the following are the other known producers of the product under consideration:
 - (a) SI Group India Limited
 - (b) Asian Paints Limited
20. SI Group India Limited extended its support to the request for extension of ADD during the course of investigation. Further, Asian Paints Limited has submitted Importer Questionnaire response as an importer of the product under consideration.
21. The opposing interested parties have contended that IGPL has imported the subject goods and therefore is not eligible to be considered as DI. They have relied upon the final findings of Saturated Fatty Alcohols and Purified Terephthalic Acid. In the case of Saturated Fatty Alcohols, the Authority had noted that M/s VVF (India) Limited was the petitioner and M/s Godrej Industries Ltd. was one of the producers of the subject goods and also a regular importer of the product, wherein M/s Godrej Industries Limited themselves had admitted that they were regular importer of the product and while the petitioner, M/s VVF (India) Limited, accounted for majority of the total Indian production, M/s Godrej Industries had been excluded from the purview of DI in terms of Rule 2(b) of the Antidumping rules. The interested parties have further contended that in case of Purified Terephthalic Acid (PTA), the Authority did not consider it appropriate to accept Reliance Industries Ltd. as an eligible DI as its subsidiary company in Malaysia (one of the subject countries) had exported significant volumes to India.
22. Imports made by IGPL were examined in detail. Details of imports made by IGPL are given in the table below:

S.N.	Parameter	POI
1	Volume of Imports - MT	378
2	Imports in relation to	
A	Total imports in India	0.24%
B	Consumption in India	0.07%
C	Production in India	0.08%
D	Production of the Company	0.17%

23. IGPL contended that it is not the importer of these goods, as the company has not filed bill of entry for home consumption, an essential requirement for being an importer of the PUC. Further, IGPL has submitted that the company has merely arranged these imports.
24. As regards reference to the past determinations, the Authority notes that the facts of

stated investigations are quite different from the present investigation. In case of PTA, Reliance Industries Ltd. was related to the sole exporter of the PUC, whose exports were beyond *de-minimus* limits under the rules and at dumped prices, and thus significant. In case of Saturated Fatty Alcohols, M/s Godrej Industries Limited was a regular importer of the PUC. In the instant case, the imports arranged by IGPL were insignificant in volume, quite sporadic in nature and the bill of entry for home consumption was not filed by IGPL. The claim of the opposing parties with regard to exclusion of IGPL in the facts of the present investigation is not justified. Incidentally, it is also noted that exclusion of IGPL works to the advantage (and not disadvantage) of IGPL. It is also noted that M/s IG Petrochemicals Ltd. is neither a regular importer of the subject goods nor has any affiliated company in the subject countries which are exporting significant volumes to India. IG Petrochemicals Ltd. has facilitated one-time import in the POI for one of its customers. IGPL is primarily a producer of the subject goods and continues to focus on domestic production and sales. The import facilitated by IGPL is not a normal business practice of the Company. IGPL is primarily a producer of Phthalic Anhydride, and not an importer of the product under consideration. Having regard to the facts of this case and the past practices followed in similarly placed cases, the Authority considers that IGPL constitutes eligible DI within the meaning of Rule 2 (b) of the Anti-Dumping Rules and the petitioners together satisfy the standing criteria in terms of Rule 5 (3).

D. CONFIDENTIALITY

D.1. Submissions by Domestic Industry

25. Submissions made by the DI in this regard are as follows:
- a) The respondents have claimed excessive confidentiality by not providing information in the public version of their questionnaire responses.
 - b) Vital information with regard to even sales distribution channel has been claimed confidential.
 - c) There cannot be any confidentiality in describing the manufacturing process, which is well known globally.
 - d) There is no logic in claiming names of shareholders as confidential when such information is readily available on websites.
 - e) The exporters have suppressed vital information such as sources of procurement of raw material and utilities, use of captive inputs and affiliation.

D.2. Submissions by Other Interested Parties

26. Submissions made by the other interested parties in this regard are as follows:
- a) The petitioners have claimed excessive confidentiality on information relating to capacity, profit/loss, cash profits, PBIT, demand, etc. and the costing information provided in the petition.
 - b) Data provided in the petition is not properly indexed in the non-confidential

version.

- c) The petitioners are listed companies and their core business is production and sale of subject goods. Since a lot of information is available in the public domain, adoption of excessive confidentiality approach by the petitioners is not correct.
- d) There is difference in approach towards confidentiality adopted by the DI in various investigations.
- e) The DI has filed a report document, justifying likelihood of dumping and injury on a confidential basis. The reasoning provided by the DI for claiming confidentiality stands vitiated on account of the provision in the Trade Notice No. 01/2013 wherein it has been explicitly stated that a request of claim of confidentiality to information which can be accessed by payment of fee will not be granted by the Authority.
- f) The DI has provided the report to the Authority, though the terms and conditions of the report as made available by the DI does not provide for any such exception. If the Authority can have access to this document, there does not appear any reason to exclude the other interested parties from having access to the same, especially, when the respondents are ready to provide an undertaking that the report will not be made public.
- g) Non-disclosure of a report to the other interested parties which has been relied upon by the Hon'ble DA and taken on record in the present investigation constitutes violation of Rule 6(7) of the Indian AD Rules.

D.3. Examination by the Authority

27. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:

“7. Confidential information:

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

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

28. Submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority were examined and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to the need for treating them as confidential. On being satisfied, the Authority has accepted the confidentiality claims of all the parties and accordingly not disclosed such information to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide non confidential summary of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

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

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

- (i) the comparable price, in the ordinary course of trade, for the like article when 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 trans shipped 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.

E.1 Submissions by the Domestic industry

30. The DI, *inter alia*, submitted as follows:
- a) The petitioners have claimed normal values in the subject countries based on constructed cost method. Normal values have been claimed on month-wise basis as the prices of Phthalic Anhydride and the major input i.e. Orthoxylene (OX) are highly volatile. OX prices have been claimed based on average import price of OX into Korea as per Korean Customs for Korea, average import price of OX into Taiwan as per Taiwan Customs for Taiwan and average import price of OX to the petitioner for Israel. Considering that as high as 80-85% cost is on account of OX, even a difference of US\$ 50 per MT is quite significant in the price of the present product.
 - b) The petitioners have claimed net export price by adjusting CIF export prices on the basis of DGCI&S transaction-wise import data for the expenses on account of ocean freight, marine insurance, port expenses, handling charges, bank charges and commission and the same are on record of the Authority.
 - c) The calculations of normal value and export price shows that the dumping margins are positive and significant.
 - d) The foreign producers are either captively producing the major input, Orthoxylene (OX), or procuring the same from affiliated companies. The valuation of captive input is a critical factor in determining normal value in this case as the raw material forms nearly 80-85% of the total cost of production.
 - e) The questionnaire responses are deficient and evasive with regard to the information relating to captive inputs and its pricing and also about purchase of inputs from related parties. The questionnaire response filed by the exporters failed to disclose whether the related party purchases were reflective and representative of a fair market price.
 - f) The adjustment claimed by these exporters in the name of “duty drawback” does not justify its acceptance unless the same is established with verifiable evidence that the drawback received by the company is in respect of the input that was consumed in the production of exported product.
 - g) A large number of products are produced by the exporters in the same plant, where the product under consideration is produced. The issue of allocation of cost on account of common utilities and raw materials to the cost of production of various products including subject goods on a reasonable basis is critical.
 - h) There is no clarity regarding the treatment of expenses such as trader’s commission and SGA expenses for arriving at the net export price of Aekyung.
 - i) Phthalic Anhydride is captively consumed as raw material for production of DOP. In the Exporter Response of DOP filed by Aekyung, the exporter has intentionally evaded reply to the question seeking information on the basis of pricing of captively consumed raw material.
 - j) Phthalic anhydride is also used to produce alkyd resins by related company of Aekyung, Aekyung Chemical Co. Ltd. Similarly, Phthalic Anhydride is being captively used by LG Chem for production of plasticizers. If captive sales are

included in sales claimed to be domestic sales, such captive sales should be ignored for the purpose of determining normal value based on domestic selling price.

- k) Aekyung has claimed to have made export sales through five exporters only. In case there are more exporters, failure to respond by even one exporter should entail rejection of response filed by Aekyung.
- l) The claim of Aekyung that they were awarded NIL duty in the original investigations and the present investigations against them should be terminated, is not correct. NIL duty does not prohibit the Authority from conducting sunset review on such exporters. Indian Authority, by practice, conducts full midterm and full sunset reviews which focus on existence, degree and effect of dumping. The Authority determines the existence of dumping margin in respect of actual exports in the review period.
- m) LG Chem has exported very low volume of subject goods to India. In spite of the few transactions, these transactions should be considered for determination of dumping margin.
- n) LG has claimed that they produce Phthalic Anhydride for captive consumption for production of DOP and not for regular external sales. In that case, their claim for consideration of price of domestic sales as normal value is inappropriate. Even if domestic sales price is considered as normal value, it is requested that value of captive sales should be excluded from it for the purpose of determining normal value.
- o) LG Chem exports to India directly and also through trading agents. Net export price of LG Chem should be calculated after deducting commission paid to traders.
- p) Gadiv Petrochemical has been a non-cooperating exporter, as the company has failed to file response to Exporter Questionnaire Part II.
- q) The claim of Gadiv for consideration of sales to Italy as normal value on the basis of “appropriate third country” lacks any justifiable reason.
- r) In the original investigations, Gadiv had claimed normal value on the basis of export sales to Portugal. The Authority did not accept their claim as Gadiv had not provided any justifications why Portugal alone should be considered as appropriate third country when the company had exported to other third countries as well. The Authority also did not accept the cost of production of Gadiv as it allocated the total cost of production of the company to Phthalic Anhydride on production basis. The Authority had constructed the normal value for Gadiv on the basis of international price of Orthoxylene in the original investigation.

E.2 Submissions by Exporters, Importers and Other Interested Parties

31. The other interested parties submitted as follows:

- a) The petitioners have claimed excessive level of dumping margin. Data provided by cooperating exporters should be used for determination of dumping margin.

- b) The present investigation against Aekyung and its exporters should be terminated, as the Authority recommended NIL duty in the original investigations on the imports of the product from Aekyung Petrochemical Co. Ltd. and its trader Humade Corporation in accordance with Rule 14(c) and Article 5.8 of Article VI of GATT. Reference has been made to Paragraph 219 of Appellate Body Report in Mexico - Definitive Anti-dumping Measures on Beef and Rice WT/DS295/AB/R dated 29 November 2005.
- c) Aekyung has claimed that where there is no anti-dumping duty in force, the question of review for cessation or withdrawal of duty does not arise.
- d) LG Chem has claimed normal value based on sales in home market.
- e) Gadiv has claimed export sales price to Italy to be considered as normal value on the basis of "appropriate third country".
- f) The interested parties have contended that if the DI is in the process of upgrading to the latest technology; this implies that the DI cannot claim to be the most efficient producer and their cost cannot be taken into consideration for computation of constructed normal value for non-cooperating exporters.
- g) The DI cannot provide the positive and negative dumping margin calculations on transaction wise basis without fulfilling the mandatory requirements of Article 2.4.2 and paragraph 6(iv) of Annexure I of the Indian AD Rules.

E.3 Examination by the Authority

32. The following producers/exporters have filed exporter questionnaire response (both, Part-I and Part-II): -
- a) Aekyung Petrochemical Co. Ltd. (Producer) – Korea
 - b) Woori P&C Corporation (Exporter) – Korea
 - c) Hyundai Corporation (Exporter) – Korea
 - d) Humade Corporation (Exporter) – Korea
 - e) Canko Marketing, INC. (Exporter) – Korea
 - f) Ubesco Corporation (Exporter) – Korea
 - g) LG Chem Ltd. (Producer & Exporter) – Korea
 - h) Gadiv Petrochemicals Industries Ltd. (Producer & Exporter) – Israel
33. The Authority has determined individual dumping margin for each known producer who has cooperated with the Authority. In those cases, where the producer has exported the PUC through one or more related/unrelated traders, it was examined whether such traders have filed questionnaire response. In those cases where exporters have not filed questionnaire response, it was ascertained whether the volume of exports made by non-cooperative exporters was significant. Wherever such volume was found insignificant, the questionnaire response of the producer has been accepted for determination of individual dumping margin.
34. The general methodology adopted by the Authority for determination of normal value for these producers is to first examine whether the domestic sales of the subject goods

by the responding exporters in their home markets were representative and viable for permitting determination of normal value on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents. In such cases, the normal value has been determined based on domestic selling prices. In other cases, the costs of production including selling, general and administrative expenses claimed by the respective exporters is accepted after due verification and after adding 5% towards profit to arrive at the normal value.

35. Orthoxylene (OX) is a basic raw material used in the production of product under consideration, costs on account of which constitutes 75-85% of the cost of production of the product under consideration. In view of significant variation in OX prices in a short period, the cost of production and consequently normal value has been determined on monthly basis, by adjusting POI cost of production for the changes in OX prices.
36. General methodology adopted for determination of cost of production – the Authority prescribed detailed requirements for information relevant to determination of cost of production in order to apply ordinary course of trade test. Spot verifications was not conducted by the Authority, which instead carried out a table study into the cost of production information provided by the responding exporters. The producers were also directed to provide cost of production statement duly certified by a practicing accountant in their country.
37. As regards claim of the DI that the purchase price of Orthoxylene is not at arm's length, the Authority considers that the information provided by the company being on the basis of records maintained by the company, the Authority is required to adopt the same. The consumption price reported by Gadiv Petrochemicals Industries Ltd. (Gadiv) was however correlated with the consumption price reported by Gadiv and prevailing prices of OX reported by petitioners. No material difference was found by the Authority in the consumption price reported by Gadiv.
38. As regards claim of the DI regarding evidence of adjustment claimed by the exporters for duty drawback, the Authority has verified that the duty drawback received by the exporters is in respect of input consumed for exports.

E.3.1 Determination of Normal Value and Export Price for Producers and Exporters in Korea RP

I. Aekyung Petrochemical Co. Ltd. (Aekyung) and its Exporters

39. Aekyung Petrochemical Co. Ltd., along with its five exporters who have exported the product under consideration to India, has filed exporter questionnaire response. Exports made by the exporters reported by Aekyung Petrochemical constituted 51% of total exports to India.

40. With regard to the claim of Aekyung that the Authority recommended NIL duty in the original investigations on the imports of the product from Aekyung Petrochemical Co. Ltd. and the present sunset review investigation against them should be terminated, it is noted that NIL duty awarded to an exporter at the time of original investigations was based on facts relevant at that time. While conducting the present sunset review, the Authority will base its determination on examination of the facts in the present review period of investigation. The determinations made in the sunset review investigation are based on the actual dumping margin and actual material injury established in the review period. The Authority has undertaken full investigation in respect of the all aspects of dumping and injury consistent with requirements of Article 2 & 3 of the Agreement. Thus, the present sunset review includes complete *de novo* determination of the dumping margin and injury margin.

a) Normal Value

41. The Authority notes that Aekyung Petrochemical Co. Ltd. Korea RP (Aekyung) is a producer of Phthalic Anhydride from Korea RP and has exported the subject goods to India through traders during the period of investigation. In addition, Aekyung sells the subject goods in the domestic market and also exports to a number of other countries. In Appendix-1, the company has reported 1937 domestic sale transactions during the period of investigation. About 71% in volume terms of these sales were to unrelated parties. The company has sold ***MT of the subject goods in the domestic market. As per Appendix-1, the company has claimed adjustments on account of Inland Freight, Credit Expense, bank charge and Packing Expense. The information provided on domestic sales in the home market by Aekyung was verified by the Authority. Various adjustments claimed were also verified and found to be in order. For determination of the ordinary course of trade test, the costs of production of the product concerned have been accepted. Further, all domestic sales transactions were examined with reference to the costs of production of the subject goods to determine whether the domestic sales were in the ordinary course of trade. The Authority notes that the domestic sales of subject goods by Aekyung in the home market were representative for permitting determination of normal value on the basis of domestic selling prices, and the ordinary course of trade test was satisfied as per the data provided by Aekyung. Further, the Authority had adjusted the normal value for inland freight, packing charges, bank charges, etc. as claimed by the producer/exporters after due verification. The normal value so determined is mentioned in the Dumping Margin table.

b) Export Price

42. The Authority notes that in Appendix-2, M/s Aekyung Petrochemical Co. Ltd. reported 213 transactions showing ***MT exports of subject goods to India during the period of investigation through five exporters - Woori P&C Corporation, Hyundai Corporation, Humade Corporation, Canko Marketing, INC. and Ubesco Corporation. It is noted that all the above exporters have filed questionnaire response. The

Authority has examined the export prices in respect of responding exporters on the basis of questionnaire responses filed by them. The export prices and the adjustments thereof have been allowed after examination. Export Price at the ex-factory level has been calculated by deducting all post factory expenses i.e. ocean freight, marine insurance, inland freight, commission, port handling charges, bank charges, duty drawback, etc., incurred by the producer. The net export price so arrived at has been used for determining dumping margin.

II. LG Chem Ltd. (LG)

a) Normal Value

43. LG Chem has claimed their sales in home market to be considered as normal value. From the response filed by LG Chem, the Authority notes that LG Chem has reported 285 domestic sales transactions during the period of investigation. All these sales were to unrelated parties. The company has sold ***MT of the subject goods in the domestic market. As per Appendix-1, the company has claimed adjustments on account of Inland Freight, Credit Expense and Packing Expense. The information provided on domestic sales in the home market by LG Chem was verified by the Authority. Various adjustments claimed were also verified and found to be in order. For determination of the ordinary course of trade test, the costs of production of the product concerned as claimed by the exporter have been accepted after due scrutiny. Further, all domestic sales transactions were examined with reference to the costs of production of the subject goods to determine whether the domestic sales were in the ordinary course of trade. The Authority notes that the domestic sales of subject goods by LG Chem in the home market were representative for permitting determination of normal value on the basis of domestic selling prices, and the ordinary course of trade test was satisfied as per the data provided by LG Chem. The normal value determined on this basis is mentioned in the Dumping Margin table.

b) Export Price

44. The Authority notes that in Appendix-2, M/s LG Chem Ltd. reported 17 transactions showing *** MT exports of subject goods to India during the period of investigation. The export prices and the adjustments thereof have been allowed after examination. Export Price at the ex-factory level has been calculated by deducting all post manufacturing expenses i.e. ocean freight, marine insurance, inland freight, commission, port handling charges, bank charges, duty drawback, etc., incurred by the producer. The net export price so arrived at has been used for determining dumping margin.

III. Determination of Normal Value and Export Price for All Non-Cooperating Producers and Exporters in Korea

45. For all the other producers/exporters of Korea, normal value and export price have been considered based on the facts available in terms of Rule 6(8) of the AD Rules.

The Authority has considered highest normal value for each month determined for the cooperating exporters and adopted the same for the non-cooperating exporters. The data has been collated as per the information available on record. Based on this, the dumping margin is indicated in the relevant table.

E.3.2 Determination of Normal Value and Export Price for Producers and Exporters in Israel

I. Gadiv Petrochemicals Industries Ltd. (Gadiv)

46. Gadiv has claimed that since their sales in home market are low due to insufficient market demand, sales to Italy should be considered as normal value on the basis of “appropriate third country”. The company has however not given any reason why sales to Italy constitute an “appropriate third country”.

a) Normal Value

47. The company has exported product under consideration to India directly. The company has no domestic sales. For the desk-top examination, the company was asked to furnish transaction-wise sales made to all third countries. The company, however, did not furnish complete information requested for. The company submitted that Italy may be treated as comparable third country for which information of exports has been furnished to determine its normal value and if the Authority does not consider Italy as comparable third country, then the Authority may determine the normal value for them based on their actual production costs of PAN. The Authority examined this request but did not accept Italy as a comparable third country as the company did not provide any justifications why Italy alone should be considered as appropriate third country when the company has exported to other third countries as well. The Authority also did not accept the cost of production of Gadiv as they have allocated the total cost of production of the company to PAN based on the quantity of PAN produced and the total quantity of production of all production including PAN. In view of the above, the Authority has constructed the normal value for Gadiv based on facts available. The international price of Orthoxylene, the consumption norm of the main input, i.e., utilities and credit for by-product steam to the extent verified has been considered. Conversion cost and SGA expenses of the most efficient DI and reasonable profit margin of 5% of cost of sales (excluding interest) have also been considered. The Normal value so determined is mentioned in the Dumping Margin Table.

b) Export Price

48. The Authority notes that in Appendix-2, M/s Gadiv Petrochemicals Industry Ltd. has reported 23 export transactions showing *** MT exports of subject goods to India during the period of 12 months from 01-Oct-2016 to 30-Sep-2017 while the POI is of 18 months from 01-Apr-2016 to 30-Sep-2017. Therefore, export price for M/s Gadiv has been constructed based on the facts available in terms of Rule 6(8) of the AD Rules. The net export price so arrived at has been used for determining dumping

margin.

II. Determination of Normal Value and Export Price for all non-cooperating producers and exporters in Israel

49. For all the other producers/exporters of Israel, normal value and export price have been considered based on the facts available in terms of Rule 6(8) of the AD Rules. The data has been collated as per the information available on record. Based on this, the dumping margin is indicated in the relevant table.

E.3.3 Determination of Normal Value and Export Price for Producers and Exporters in Taiwan

50. As none of the other producers/exporters from Taiwan have responded, normal value and export price have been considered based on the facts available in terms of Rule 6(8) of the AD Rules. Normal value in respect of Taiwan producers has therefore been determined on the basis of best estimates of cost of production and prices of raw materials. Based on this, the dumping margin is indicated in the relevant table.

E.3.4 Calculation of Dumping Margin

51. Comparing the normal values and export prices as determined above, the dumping margin proposed to be determined for the responding and non-responding producers and exporters in the subject countries during POI are as follows:

Dumping Margin

SN	Producer	Exporter	Normal Value US\$ / MT	Net Export Price US\$ / MT	Dumping Margin US\$ / MT	Dumping Margin %	Dumping Margin Range %
Korea							
1	Aekyung Petrochemical Co. Ltd.	<ul style="list-style-type: none"> • Woori P&C Corporation, • Hyundai Corporation, • Humade Corporation, • Canko Marketing, INC., • Ubesco Corporation 	***	***	(***)	(***)	-(10-0)
2	LG Chem Ltd.	LG Chem Ltd.	***	***	***	***	0-10
3	All Others	All Others	***	***	***	***	0-10
Israel							
4	Gadiv Petrochemicals	Gadiv Petrochemicals Industries Ltd.	***	***	***	***	10-20

	Industries Ltd.						
5	All Others	All Others	***	***	***	***	10-20
Taiwan							
6	All Producers	All Exporters	***	***	***	***	0-10

F. DETERMINATION OF INJURY AND CAUSAL LINK

F.1 Submissions made by the domestic industry

52. The DI, in its submissions, has *inter alia* argued as under:
- a) Present investigation is a sunset review investigation.
 - b) The demand for the product under consideration has increased by 32% between the POI of original investigations and the present POI.
 - c) While sales of the DI increased by only 8% and sales of Indian producers as a whole increased by 12% between the POI of original investigations and the present POI; the imports from the subject countries increased by 41% in the same period.
 - d) As a result of this, the DI was unable to sell its entire production in the domestic market, and was forced to export significant volumes of the product under consideration.
 - e) Further, though there is an increase in the domestic sales volume over the present injury period, the rate of increase is only 12% between the base year and the POI as compared to increase in demand by 26%; whereas, the subject imports increased by 86% between the base year and the POI.
 - f) Capacity of the DI increased in 2014-15 and remained stagnant over the injury period. The DI is now expanding its capacities further.
 - g) Volume parameters such as production, sales and capacity utilization of the DI increased up to 2015-16 and then declined in the POI.
 - h) Average inventory levels of the DI have declined up to 2015-16 and then increased in the POI.
 - i) Profitability, return on investment and cash profits have shown improvement as the DI has come out from the situation of financial losses and has started earning profits.
 - j) Market share of the DI has increased in 2014-15 and then declined over the injury period.
 - k) Employment, Wages and Productivity - The level of employment has declined, whereas wages have increased over the injury period. Productivity per employee has increased up to 2015-16 and then declined in the POI.
 - l) Growth - Growth of the DI in terms of volume parameters, such as, sales volume, production and capacity utilization show improvement up to 2015-16 on year to year basis and then a decline in the POI. Growth in terms of price parameters, such as, profits, return on investment and cash profits was positive due to imposition of anti-dumping duties on subject imports and imports from

other dumped sources.

- m) Ability to raise capital investments - The petitioners have planned to enhance capacity. Investments have already been committed for this purpose. Cessation of anti-dumping duty on imports from the subject countries at this stage would jeopardize the investments.
- n) The causal link has already been established in the original investigation. Petitioners have not claimed that the dumped imports are causing continued injury as the antidumping duty in force counter acts the injury that could have been caused by dumped imports. Therefore, causal link may be examined in the present case considering likely importation of dumped product and consequent injury in the event of cessation of antidumping duty.
- o) Imports made into the domestic market were at dumped prices despite imposition of anti-dumping duty. There is huge probability of intensified dumping of the subject goods in the event of cessation of anti-dumping duty.
- p) Price undercutting should be determined only by considering those import transactions whose landed price of imports is below the selling price of the DI.
- q) The exports of the exporters to other destinations fetching lower prices would be diverted to India in case of cessation of anti-dumping duty as such exports would still be able to fetch better prices in India than in third countries. Further, the potential demand in India is significant to attract higher volume of dumped imports to the detriment of DI's performance.

F.2 Submissions by the Producers/ Exporters/ Other Interested Parties

53. The exporters, importers and other interested parties to this investigation have made the following submissions regarding the injury and causal link:
- a) The decision to discontinue production of the product under consideration by Asian Paints Limited was a strategic business decision and not that the Company was forced to shut down as they were running in losses on account of dumping as claimed by the applicants. There is misrepresentation of facts by the DI. Asian Paints had planned to phase out the production of Phthalic Anhydride and its allied products in order to expand the existing paint manufacturing capacity and to augment the manufacturing capacity of synthetic resins and emulsions at this facility.
 - b) If other units producing the product under consideration in India have been closed due to dumping as claimed by the petitioners, the same factors should have also impacted the performance of the DI. However, as admitted by the DI itself, it has not suffered injury on account of imports of the product under consideration into India.
 - c) The multiple duty protection against the imports of product under consideration for 10 years has provided fair level playing field to the DI. The DI's performance has also improved significantly during the injury period, period of investigation ('POI') and the Post-POI as established by the Annual Reports and Quarterly Statements of TCL and IGPL.

- d) The protection for future production plan which is still to come up cannot be addressed in the ongoing sunset review investigation. The imposition of anti-dumping duties is to remedy injury caused by dumping, and in a sunset review investigation, it is to ensure that there is no likelihood of recurrence of injury.
- e) Import volumes from Aekyung should be excluded from the overall import analysis in accordance with Article 3.5 of the ADA and paragraph (v), Annex II of the Indian AD rules. Such imports are presumed to be non-dumped imports.
- f) Imports made under advance license do not compete with the domestic product and should be excluded from the scope of injury analysis.
- g) The DI itself has admitted that there is no continued injury being suffered in terms of price suppression/depression, price underselling, profitability and sales, etc.
- h) The DI has not provided any analysis with respect to post-POI performance.
- i) The petitioners have claimed that subject countries have exported to third countries at prices lower than the Indian prices. If the landed price in India is higher than the NIP of the DI, then such high import prices will not cause injury on cessation of duty even if import volumes increase.
- j) The alleged claim of injury, if any, should not be attributed to the imports from the subject countries, but to other countries not attracting anti-dumping duty.
- k) While some producers have closed production, others have inadequate capacity leading to demand supply gap. Further, the DI has shifted focus to exports and captive sales. Imports are unavoidable and continuation of anti-dumping duty will hamper the growth of user industry.
- l) The DI's claim that they are being forced to export significant volumes is baseless.
- m) Determination of price undercutting must be based on all imports of the subject goods in question, rather than the individual transactions in which the export price was below normal value. Reference has been made to WTO Panel Report in EC – Tube or Pipe Fittings.
- n) The DI has claimed that the causal link has already been established in the original investigation. There exists no nexus between the causal link determined in the original investigation and the causal link to be determined in the present investigation as there is no injury in the present review case and the injury period and the POI in the original case is different from the present case.
- o) The basic custom duty on import of Orthoxylene has become ZERO in 2018 and all other taxes levied on its import are creditable. There is no advantage from tax perspective to the DI for exporting the subject goods, yet it is exporting the subject goods at a price lower than domestic selling price to create shortage in India and charge high price in domestic market.
- p) The number of producers has come down from 5 at the time of initial imposition of duties to effectively 2 now, leading to monopolistic position of

the two petitioners. The DI realized very high prices and has been unaffected by the landed prices of the product under consideration. Continuation of anti-dumping duty will only encourage the cartelization practices and excessive profiteering by further misuse of AD duties by the DI.

- q) The prices of raw material, OX, have decreased internationally by 50% in September 2017 as compared to October 2013; whereas Phthalic Anhydride prices, has decreased only by 25%. The delta for Phthalic Anhydride has gone up and thus, this industry does not require continuance of anti-dumping duty.
- r) The petitioners have exaggerated the increased import of the subject product, and deliberately invented injury to the DI.
- s) The Authority has not recommended imposition of anti-dumping duty in various cases wherein the DI is earning huge profits or selling its products at price above non-injurious price. The same is applicable to the present investigation as well.
- t) Continued imposition of anti-dumping measures will adversely affect the long-term and overall interests of the Indian DI and its downstream industries.

F.3 Examination by the Authority

- 54. The Authority notes the arguments of the DI and other interested parties and the issues raised therein, and, has addressed them in the relevant paragraphs hereunder.
- 55. With regard to the contention of the interested parties that continued imposition of anti-dumping duty is against the interest of the downstream industry, it is consistent position of the Authority that the purpose of ADD is only to address the unfair practice of dumping which is causing or likely to cause injury to the DI. Imports of subject goods at fair prices are not restricted by the imposition of anti-dumping duty. The purpose of anti-dumping duties is to eliminate injury caused to the DI by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the subject goods to the consumers.
- 56. With regard to the contention of interested parties that continuation of duties would lead to monopolistic position of the petitioners, it is noted that there is no restriction on imports of the product under consideration at un-dumped prices. Further, concerns relating to monopoly or cartelization, if any, should be taken up before appropriate authority for such matters.
- 57. Some interested parties have contended that the DI has shifted focus to exports and captive sales. It is noted in this regard that about 80 % of sales by the petitioners were meant for domestic market. Further, the profitability of the DI in the export market is much adverse as compared to profitability in the domestic market. There is nothing

on record to show that the DI was exporting as a matter of choice or preference. Given significantly lower profits in the export orientation, a natural choice of DI should be to sell in the domestic market.

58. With regard to the contention that the petitioners have claimed protection for investments made for expansion of capacity, the Authority notes that in a sunset review, the Authority examines the likelihood of continued dumping and injury therefrom to the DI in the event of the cessation of the anti-dumping duties. The examination of likelihood of dumping and injury to the DI based on the prescribed parameters is discussed in the subsequent paragraphs. Regarding the DI's contention for protecting profitability of the fresh investments, in case the ADD is withdrawn, the Authority agrees that this is not an issue under consideration, consequently its analysis is based on data and information available for the POI only.
59. With regard to the contention of the interested parties that Asian Paints has discontinued production of Phthalic Anhydride as the plant will be used in expanding the manufacturing capacity of other products which are important to Asian Paints business, it is seen from the information on record that it was business decision of Asian Paints to use the Phthalic Anhydride plant to manufacture other products. It is noted from the importer questionnaire response of Asian Paints that the company has started importing Phthalic Anhydride. The Authority also notes that the DI has claimed that the reason for Asian Paints to discontinue production of phthalic anhydride was to use the facilities for more profitable operations which in a way show that the company found production of PAN less profitable than other operations.
60. It has been contended that import volumes from Aekyung should be excluded from the overall import analysis in accordance with Article 3.5 of the ADA and paragraph (v), Annex II of the Indian AD rules and referred the Appellate Body Report in Mexico - Definitive Anti-dumping Measures on Beef and Rice. The Authority however notes that un-dumped imports are required to be excluded only if the Authority is examining material injury. In the instant case, however, even the petitioners have not claimed continued injury.
61. With regard to the contention that imports made under advance license do not compete with the domestic product and therefore should be excluded from the scope of injury analysis; the Authority notes that it has been the consistent practice of the Authority to consider all imports (whether duty free or duty paid) for injury analysis. Further the DI has opportunity to supply even against an advance license after invalidation of the same as per the provisions of the FTP and therefore imports under advance license affect the domestic sales of the DI. Therefore, inclusion of duty free imports for analysis of injury is appropriate in this case.
62. With regard to the claim of the opposing interested parties that the basic customs duty on import of Orthoxylene has become zero in 2018 and all other taxes levied on its

import are creditable; it is noted that the claim is for a period beyond the injury period and POI determined for this investigation and therefore not relevant.

63. As regards the submission by opposing interested parties that the investigation should be terminated when net sales realization exceeds non-injurious price, the Authority notes that the purpose of calculating non-injurious price is primarily to compute injury margin so as to determine the amount of duty to be imposed and not to use it as a major parameter for determination of material injury or likely recurrence of injury to the DI. In the present case, the petitioners themselves have not claimed continued injury and therefore comparison of NIP with NSR is not relevant. The comparison could have been relevant in a situation where the Authority is determining continued injury to the DI.
64. As regards the submissions of absence of injury, the Authority notes the petitioners themselves have not claimed continued injury in the present case. Further, injury analysis carried out hereunder would show that the domestic injury has not suffered continued injury due to continued dumping because of the antidumping duty in force.
65. The analysis herein after *ipso facto* addresses various other issues raised by the interested parties.

F.4 Examination of Injury and Causal Link

66. Rule 11 of Antidumping Rules read with Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the DI, “... 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.
67. Article 3.1 of the WTO Agreement and Annexure-II of the AD 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 terms 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.

68. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
69. For the examination of the impact of dumped imports on the DI in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.
70. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the DI before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.

F.4.1 Assessment of Demand/ Apparent Consumption

71. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed is given in the table below:

Particulars	Unit	2013-14	2014-15	2015-16	POI-A
Sales of DI	MT	192,261	222,206	218,824	215,847
<i>Indexed</i>		<i>100</i>	<i>116</i>	<i>114</i>	<i>112</i>
Sales Of Other Indian Producers Including Supporter Company	MT	33,687	34,864	34,470	33,479
<i>Indexed</i>		<i>100</i>	<i>103</i>	<i>102</i>	<i>99</i>
Imports of Subject Countries	MT	30,917	26,886	36,009	57,450
<i>Indexed</i>		<i>100</i>	<i>87</i>	<i>116</i>	<i>186</i>
Imports from Other Countries Attracting Anti-Dumping Duty	MT	21,822	20,437	17,891	8,550
<i>Indexed</i>		<i>100</i>	<i>94</i>	<i>82</i>	<i>39</i>
Import from Other Countries	MT	2,056	4,763	25,219	39,056
<i>Indexed</i>		<i>100</i>	<i>232</i>	<i>1227</i>	<i>1900</i>
Total Demand	MT	280,744	309,157	332,412	354,382

Particulars	Unit	2013-14	2014-15	2015-16	POI-A
<i>Indexed</i>		<i>100</i>	<i>110</i>	<i>118</i>	<i>126</i>

POI: April 2016 – September 2017 (POI-A=Annualized)

72. It is seen that the demand for the product under consideration has increased over the injury period.
73. As regards the argument of the interested parties that the petitioners are unable to meet the demand in India and there is wide demand supply gap and therefore the imports are necessary, the Authority notes that as against present demand of 354,382 MT, the capacities in India at present are 316,110 MT (including SI Group) (and the same shall be 433,110 MT after expansions being undertaken by the DI). Further, the petitioners contended that some of the imports are being made under advance license and shall therefore continue to be made post imposition of ADD. The DI also contended that it has been forced to export the product in view of its inability to sell the product and despite these exports, its inventories are significant. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the DI by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers. The Authority refers to its past consistent position in this regard and also relies upon the decision of the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority. If the exporters want to supply the goods to meet the requirement in Indian market that could be done by exporting the requirement at a price equivalent to normal value but not at dumped prices.

F.4.2 Volume Effects of Dumped Imports and Impact on the Domestic industry

Import volume and market share:

74. With regard to 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.
75. The table below summarizes the import volumes and market share:

Particulars	Unit	2013-14	2014-15	2015-16	POI-A
Subject countries	MT	30,917	26,886	36,009	57,450
Korea	MT	18,599	15,124	25,252	34,725
Israel	MT	6,958	6,878	7,048	4,521
Taiwan	MT	5,361	4,883	3,708	18,204
Other Countries Attracting ADD	MT	21,822	20,437	17,891	8,550
Other Countries	MT	2,056	4,763	25,219	39,056

Particulars	Unit	2013-14	2014-15	2015-16	POI-A
Total Imports	MT	54,796	52,086	79,118	105,056
Subject Imports in relation to					
Total Imports	%	56.42%	51.62%	45.51%	54.68%
Indian Production	%	12.10%	9.14%	11.73%	19.14%
Demand	%	11.01%	8.70%	10.83%	16.21%

76. It is seen that:
- (i) The imports from the subject countries have increased since the base year.
 - (ii) The subject imports have also increased in relation to production and consumption in the country.
 - (iii) However, the main increase, by almost 2000%, has taken place in imports from countries not subject to any anti-dumping duty during the POI.
 - (iv) About 85% of the imports from Korea RP (a subject country) and about 65% of India's total imports took place without any anti-dumping duty during the POI. This is by taking into consideration that there is no anti-dumping duty imposed on imports from Aekyung, Korea.

F.4.3 Price Effect of the Dumped imports and Impact on the Domestic Industry

(a) Price undercutting

77. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.
78. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The price of the domestic industry was determined at the ex-factory level. The Authority has compared landed price of imports with the selling price of the domestic industry for the subject goods.

Particulars	Unit	POI - A
Net Sales Realization	Rs/MT	***
Korea		
Landed Price	Rs/MT	***
Price undercutting	Rs/MT	***
Price undercutting %	%	***
Range		0-5%
Israel		
Landed Price	Rs/MT	***
Price undercutting	Rs/MT	***
Price undercutting %	%	***

Particulars	Unit	POI - A
Range		0-5%
Taiwan		
Landed Price	Rs/MT	***
Price undercutting	Rs/MT	***
Price undercutting %	%	***
Range		0-5%

79. It is seen that the landed price of imports of subject goods from the subject countries is below the net selling price of the domestic industry. The imports from subject countries are undercutting the selling price of domestic industry in the POI. The price undercutting is positive.

(b) Price Suppression/ Depression effects of dumped imports

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

Particulars	Unit	2013-14	2014-15	2015-16	POI - A
Cost of Sales	Rs./MT	***	***	***	***
<i>Trend</i>		100	75	56	58
Selling Price	Rs./MT	***	***	***	***
<i>Trend</i>		100	76	60	69
Landed Price	Rs./MT	96,007	81,193	58,333	63,529
<i>Trend</i>		100	85	61	66
Change Over Previous Year					
Cost of sales	Rs./MT		(***)	(***)	***
Selling price	Rs./MT		(***)	(***)	***
Landed price of imports	Rs./MT		-14,814	-22,860	5,196

81. It is seen that even when the cost of production declined by Rs. ***, the foreign producers reduced their prices only by Rs. 14,814, thus showing that the exporters took advantage of the fall in costs. Further, the domestic industry reduced its prices almost to the extent of cost reductions. Thereafter, the foreign producers reduced their prices far more than the decline in the cost of production. During the POI, both the domestic industry and exporters increased their prices more than the increase in cost of production. It is also seen that whereas both the cost of production and selling price declined, the decline in cost of production was more than the decline in selling prices. The imports have not caused price depression or suppression on the prices in the domestic market. The Authority notes that the import price during POI was higher than cost of production of the domestic industry, thus permitting the domestic industry

to earn profits in the POI. Otherwise, even though the antidumping duty was imposed from 24th December 2012, the domestic industry was incurring losses till 2014-15 and it started earning profits only since 2015-16.

(c) Price Underselling Effect of the Dumped Imports

82. For examining the price underselling effects of the dumped imports, the landed value of imports has been compared with the non-injurious price determined. The analysis shows that during the POI, the landed values of subject imports were above the non-injurious price and have not caused any price underselling.

Particulars	UOM	Korea	Israel	Taiwan
Non -Injurious price	Rs./MT	***	***	***
Landed Value	Rs./MT	***	***	***
Injury Margin	Rs./MT	(***)	(***)	(***)
Injury Margin	%	(***)	(***)	(***)
Injury Margin	(Range)	-(10-0)	-(10-0)	-(10-0)

F.4.4 Examination of Economic Parameters Relating to the Domestic Industry

83. Annexure II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the AD 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 ability to raise capital investments.

84. Accordingly, various economic parameters of the domestic industry are analyzed herein below:

(a) Capacity, Production, Capacity Utilization and Sales

85. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below:

Particulars	Unit	2013-14	2014-15	2015-16	POI - A
Capacity	MT	281,110	306,110	306,110	306,110
<i>Trend</i>		<i>100</i>	<i>109</i>	<i>109</i>	<i>109</i>
Production	MT	221,819	259,281	272,614	266,626

Particulars	Unit	2013-14	2014-15	2015-16	POI - A
<i>Trend</i>		100	117	123	120
Capacity Utilization	MT	78.91%	84.70%	89.06%	87.10%
<i>Trend</i>		100	107	113	110
Domestic Sales (excluding captive)	MT	192,261	222,206	218,824	215,847
<i>Trend</i>		100	116	114	112
Demand (excluding captive)	MT	280,744	309,157	332,412	354,382
<i>Trend</i>		100	110	118	126

86. It is seen that

- a) The domestic industry has enhanced capacity by about 9%.
- b) Production, capacity utilization and sales of the domestic industry improved till 2015-16 and declined marginally in POI.
- c) On overall basis, whereas production increased by 20%, domestic sales increased by 12% and capacity utilization increased by 10%.

(b) Market Share of Domestic industry in Demand

87. The market shares of the domestic industry moved as shown below:

Particulars	Unit	2013-14	2014-15	2015-16	POI - A
Domestic Industry	%	68.48%	71.88%	65.83%	60.91%
Other companies including supporter company	%	12.00%	11.28%	10.37%	9.45%
Subject Countries	%	11.01%	8.70%	10.83%	16.21%
Countries attracting ADD	%	7.77%	6.61%	5.38%	2.41%
Other Countries	%	0.73%	1.54%	7.59%	11.02%
Total	%	100.00%	100.00%	100.00%	100.00%

88. It is seen that the market shares of the domestic industry declined over the injury period; whereas market share of the subject imports increased mainly due to the phenomenal increase in imports from other countries, not attracting any ADD. Further, exports made by the domestic industry are quite significant. It is thus seen that the domestic industry has lost market share in view of continued imports from subject and non-subject countries in the market.

(c) Profit/Loss, Cash Flow, Return on Capital Employed

89. Performance of the domestic industry with respect to the profits, return on investment and cash profits is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI - A
Cost of Sales	Rs./MT	***	***	***	***
<i>Trend</i>		100	75	56	58
Selling Price	Rs./MT	***	***	***	***
<i>Trend</i>		100	76	60	69
Profit / Loss	Rs./MT	(***)	(***)	***	***
<i>Trend</i>		(100)	(48)	62	299
Cash Profit	Rs./MT	(***)	(***)	***	***
<i>Trend</i>		(100)	(36)	155	578
Profit before Interest	Rs./MT	(***)	***	***	***
<i>Trend</i>		(100)	883	3,067	9,211
Return on Capital Employed	%	(***)	***	***	***
Return on Capital Employed	%	(0-5)%	0-10%	15-25%	35-45%
<i>Trend</i>		(100)	1,242	3,928	8,011

90. It is seen that

- The domestic industry was earlier suffering financial losses. The domestic industry started earning profits w.e.f. 2015-16.
- Profitability of the domestic industry improved significantly over the injury period. The domestic industry was making good profits in the POI.
- Cash profits and return on investments have also shown improvement. The domestic industry has started earning fair/ reasonable profits in the POI.
- The domestic industry contended that if its history is seen over last one decade, the domestic industry has not earned reasonable return on investment, as evidenced by weighted average ROI over last one decade. The domestic industry also submitted that the present situation of good profits is a temporary business situation (due to reduction in prices of petroleum-based raw material OX which constitute 83% of total cost of PUC, is a temporary reduction).

91. The Authority concludes that the domestic industry has not suffered any price injury in the current POI.

(d) Employment, Wages and Productivity

92. Factual position with regard to employment, wages and productivity are as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI - A
No of Employees	Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	89	89	98
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	100	119	154
Productivity per day	MT/Day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	117	123	120
Productivity per Employee	MT/Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	131	138	123

93. It is seen that employment levels showed decline in 2014-15 and increase thereafter. However, on overall basis, employment with the domestic industry showed minor decline. Wages and productivity have shown improvement over the injury period.

(e) **Inventories**

94. Performance regarding inventory can be seen from the table below:

Particulars	Unit	2013-14	2014-15	2015-16	POI-A
Average Inventory	MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>71</i>	<i>50</i>	<i>56</i>

95. The average inventory with the domestic industry declined upto 2015-16 and then increased in the POI.

(f) **Ability to Raise Fresh Investment**

96. The DI has informed of its planned capacity enhance, which includes committed fresh investments. They have contended that cessation of anti-dumping duties is likely to affect the expansion being undertaken by the domestic industry.

97. The Authority notes the DI's contentions in this regard.

(g) **Growth**

98. The overall analysis of the performance of the domestic industry shows positive growth in the POI in terms of volume as well as price parameters, such as, sales, production, capacity utilization, profits and return on investment. The growth in market share of the domestic industry is however negative.

Particulars	UOM	2013-14	2014-15	2015-16	POI -A
Production	%	-	16.89	5.14	1.07
Domestic Sales Volume	%	-	15.58	(1.52)	0.57
Profit/ Loss per unit	%	-	(51.94)	229.29	37.51
Return on investment	%	-	6.88	13.78	20.95
Market Share	%	-	3.39	(6.05)	(4.92)

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

99. The dumping margin determined in respect of the subject imports is above *de minimis* level except in case of M/s Aekung, Korea.

(i) **Factors Affecting Prices**

100. Examination of trends in the volume and prices of the dumped imports from the subject countries and other countries, and the domestic prices indicate that there is presence of significant volume of dumped imports from the subject countries and other countries, and the domestic industry prices are impacted by the import prices.

G. MAGNITUDE OF INJURY AND INJURY MARGIN

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

Injury Margin

Country	Producer	Exporter	NIP US\$/ MT	Landed Price US\$ / MT	Injury Margin US\$ / MT	Injury Margin %	Injury Margin Range%
Korea	Aekyung Petrochemical Co. Ltd.	<ul style="list-style-type: none"> • Woori P&C Corporation, • Hyundai Corporation, • Humade Corporation, • Canko Marketing, INC., • Ubesco Corporation 	***	***	(***)	(***)	- (0-10)
Korea	LG Chem Ltd.	LG Chem Ltd.	***	***	(***)	(***)	- (10-0)
Korea	All Others	All Others	***	***	(***)	(***)	- (10-0)
Israel	Gadiv Petrochemicals Industries Ltd.	Gadiv Petrochemicals Industries Ltd.	***	***	(***)	(***)	- (10-0)
Israel	All Others	All Others	***	***	(***)	(***)	- (10-0)
Taiwan	All Producers	All Exporters	***	***	(***)	(***)	- (10-0)

H. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

102. This present investigation is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continuation or recurrence of

dumping and consequent injury if the anti-dumping duties were to be allowed to expire even if there is no current injury.

H.1 Submissions made by the Domestic industry

103. Following are the submissions made by the domestic industry with regard to likelihood of continuation of dumping and consequent recurrence of injury:

- a) The performance of the domestic industry in terms of various economic parameters such as production, sales, capacity utilization, profits, cash profits and return on investments have shown improvement under the protective umbrella of antidumping duty.
- b) However, there is a clear likelihood of recurring of dumping and consequent injury to the domestic industry as is evident from the existence of surplus capacities and export orientation of the producers in the subject countries.
- c) Presence of significant volume of dumped imports in India from the subject countries at dumped prices, in spite of anti-dumping duty being in force, itself is indicative of likelihood of continued and intensified dumping and consequent injury to the domestic industry.
- d) Absence of injury is entirely insufficient to conclude that the anti-dumping duties need not be extended.
- e) The Authority need to examine, parameters such as whether there are 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
- f) Absence of current dumping does not mean that, there is no likelihood of dumping in the event of cessation of anti-dumping duty. The absence of injury is entirely insufficient to conclude that the ADD need not be extended.
- g) There is positive dumping margin on transaction by transaction basis analysis of the imports from the subject countries over the entire injury period.
- h) The objective of the producers and exporters in the subject countries is largely to produce the subject product for export as established by the presence of significant freely disposable capacities, far in excess of the domestic demand, with the producers in the subject countries. In the event of cessation of anti-dumping duties, exports to India will intensify.
- i) India is a lucrative market for the exporters in the subject countries. This is established by the fact that dumping has continued even when anti-dumping duties have been imposed.
- j) Various other countries have imposed AD measures on Korea and Taiwan, which proves that the exporters are not only export-oriented, they are rather dumping-oriented as is evidenced by the anti-dumping duties imposed in the past by Pakistan, China and Turkey.
- k) Imposition of anti-dumping duty by China, Turkey, and Pakistan on Phthalic

Anhydride imports from Korea/Taiwan and changing volumes impacted by such imposition of duties clearly shows a likelihood of dumping and injury in case the present anti-dumping duties are withdrawn.

- l) Pakistan had earlier imposed anti-dumping duty on imports from Korea and Taiwan. Exports from Korea to Pakistan and China and from Taiwan to Pakistan increased as soon as these anti-dumping duties were withdrawn.
- m) Turkey has recently imposed anti-dumping duty on imports of the subject goods from Korea in April, 2016 @ 8.44% of CIF. Export volume from Korea to Turkey has declined after imposition of anti-dumping duty by Turkey.
- n) Further, Argentina has initiated investigations against imports of the subject goods from Korea in April, 2017. Exports from Korea to Argentina declined as a result of this initiation of investigations.
- o) The subject countries are faced with loss of market for the product in various countries as a result of imposition of anti-dumping duties. This gets established by the declining trend in exports from Korea/Taiwan to the countries imposing anti-dumping duty.
- p) The petitioners have done the calculations of potential increase of exports from Korea and Taiwan considering the rate of capacity utilization achieved by domestic industry in the POI which shows that the potential % increase in volume from Korea and Taiwan is 22% and 9% respectively as against existing market share of 10% and 4%.
- q) Significant volumes of exports from Korea/ Taiwan to third countries are at prices below the Indian prices. These exports would shift to India and dumping is likely to intensify in case the existing anti-dumping duties cease, and cause injury to the domestic industry.
- r) Price undercutting on transaction-wise basis in the present injury period is positive. Price undercutting should be determined only by considering those import transactions whose landed price of imports is below selling price of the domestic industry.
- s) Considering the imports that have been made at a price below domestic industry prices, it is evident that the domestic industry would be forced to reduce the prices to a level where the domestic industry would start suffering significant decline in profits once again. Cessation of ADD would therefore lead to significant depressing effect on the domestic industry prices of the product in the market.
- t) In case of cessation of anti-dumping duty, dumping would intensify forcing the domestic industry to reduce their selling price to compete with dumped imports, driving it even below the cost of sales; leading to severe price injury.
- u) Significant dumped and injurious volumes over the injury period clearly show that low priced imports below normal value and the non-injurious price are likely in the event of cessation of existing anti-dumping duties.
- v) The product has a past history of imposition of safeguard duty and anti-dumping duties. As and when the duty has been revoked, imports from the subject countries have increased.

- w) There is no requirement for the Authority to examine or establish a causal link between dumping and injury. The only factor to be considered is the recurrence of the injury in case of cessation of anti-dumping duty.
- x) The exporters should establish on the basis of their information that dumping is unlikely to continue, intensify or recur in the event of cessation of anti-dumping duties. This information not only forms part of prescribed proforma (Exporter's Questionnaire Part II), but also is highly pertinent in the facts and circumstances of the present case.

H.2 Submissions made by the other Interested Parties

104. Submissions made by the opposing interested parties with regard to likelihood of continuation or recurrence of dumping and injury during the course of investigations and considered relevant by the Authority are as follows:

- a) Recurrence of material injury cannot be established on the basis of the dumping margins determined in the original investigation. The domestic industry is required to address whether revocation of the existing anti-dumping duty would lead to recurrence of injury to the domestic industry.
- b) The figures pertaining to surplus capacity and production in Korea and Taiwan do not suggest that these surplus capacities will be directed to India or are likely to cause injury to the domestic industry.
- c) Existence of anti-dumping duties on account of investigations being carried out in other countries is not at all related to the fact that exports to other countries will be diverted to India as such duties are in force for quite some time now and the imports to India from subject countries were at a price which was non injurious to the domestic industry.

H.3 Examination of the Authority

105. The Authority examined the likelihood of continuation or recurrence of injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules. Clause (vii) of Annexure II to the rules provides for the following:

(a) A Significant Rate of Increase of Dumped Imports into India Indicating the Likelihood of Substantially Increased Importation

106. The volume of imports during the present injury period was as follows:

	Unit	2013-14	2014-15	2015-16	POI - A
Korea RP	MT	18,599	15,124	25,252	34,725
Taiwan	MT	5,361	4,883	3,708	18,204
Israel	MT	6,958	6,878	7,048	4,521

	Unit	2013-14	2014-15	2015-16	POI - A
Subject countries	MT	30,917	26,886	36,009	57,450
<i>Indexed</i>		<i>100</i>	<i>87</i>	<i>116</i>	<i>186</i>

*POI: April 2016 to September 2017

107. It is seen that the imports from the subject countries increased significantly in the POI as compared to the base year, even when anti-dumping duty was in force. However, it is also noted that a significant proportion of this import from the subject countries, exported by Aekyung Korea, is coming in free of any anti-dumping duty.

(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

108. The Authority examined the level of capacities with the foreign producers, its utilization at present, and the potential increases in the capacities in order to ascertain the present and potential freely disposable production capacities with the exporters.

109. The Authority undertook evaluation of existing surplus capacities and capacity addition, if any, to explore the possibility of diversion of disposable capacities to Indian market. The domestic industry has claimed that the producers in the subject countries have huge capacities, far in excess of the domestic demand. The domestic industry has furnished evidence showing capacities available with the exporters in the subject countries and presence of freely disposable capacities available for exports after meeting the domestic demand. Information given by the domestic industry showed as under:

SN	Description	UOM	S. Korea	Taiwan	Israel	Subject Countries
1	Capacity	MT	4,20,000	2,80,000	33,000	7,33,000
2	Production	MT	3,22,300	2,26,250	30,300	5,78,850
3	Capacity Utilization	%	76.74%	80.80%	91.82%	78.97%
4	Surplus Capacity	MT	97,700	53,750	2,700	1,54,150
5	Consumption	MT	1,80,650	1,21,300	2,450	3,04,400
6	Surplus Production	MT	1,41,650	1,04,950	27,850	2,74,450
7	Available for Exports	MT	2,39,350	1,58,700	30,550	4,28,600

110. It is noted from the information on record that the producers in Korea and Taiwan have surplus capacity in excess of the consumption in their home market and current exports.

111. Information sought from the responding exporters shows that these producers have ample production capacities with them. They are also exporting Phthalic Anhydride

to several other countries.

(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

112. The information on record shows as follows with regard to import price, selling price & cost of production of the domestic industry.

Country	Unit	Korea	Taiwan	Israel
Net Sales Realisation	Rs/MT	***	***	***
Landed Price				
To India	Rs/MT	***	***	***
To Other Countries				
• High priced	Rs/MT	***	***	NA
• Low priced	Rs/MT	***	***	NA
Cost of production	Rs/MT	***	***	***
NIP	Rs/MT	***	***	***
Volume of Exports				
India	MT	***	***	***
To Other Countries				
• High priced	MT	***	***	***
• Low priced	MT	***	***	***

113. At the current landed price in India, there is positive price undercutting during POI. The Authority also notes that some of the exports from Korea/ Taiwan to third countries are at prices below the Indian prices.

(d) Inventories of the Article Being Investigated

114. The inventories of the responding exporters are low. As per the details given in the exporter questionnaires submitted, the inventories have declined in the POI as compared to base year as well as the previous year. It is noted that the product is demand driven. Therefore, low inventories will, not necessarily correlate with low exportability.

(e) Impact of AD Measures Imposed by Various Other Jurisdictions

115. Information brought on record by the domestic industry and unrefuted by the other interested parties shows that anti-dumping duties have been imposed in the past on imports of subject goods from Korea/ Taiwan by other countries. The table below shows the status of the anti-dumping duties imposed by other countries against the imports of subject goods from Korea and Taiwan: -

SN	Country Attracting ADD	Country Imposing	Effective From	Effective Up To	Rate (ADV/DM)	Status
1	Korea	Pakistan	30.09.2010	28.03.2017	7.36%	Revoked
2	Taiwan	Pakistan	30.09.2010	28.03.2017	27.38%	Revoked
3	Korea	China	07.01.2003	31.08.2014	1.4-13%	Revoked
4	Korea	Turkey	31.03.2017		8.44%	In force
5	Korea	Argentina	Initiated in March 2017		28.57%	Duty not yet imposed

116. In view of a number of measures by other countries on imports of the PUC, the Authority examined the trade pattern of the exporting countries when trade defense measures were invoked by the importing country. Information placed on record of the Authority shows that the exports from Korea and Taiwan to these countries declined after imposition of anti-dumping duties in those countries and increased after revocation of anti-dumping duty in those countries. The same trend can be seen in the case of India, where trade remedial measures have been invoked on imports of the PUC since 2008-09. This is chronologically described below:

- a) In 2008-09, the volume of imports from the subject countries was 22,722 MT.
- b) Safeguard duty was imposed on 29th Jan., 2009 and imports declined to 18,986 MT in 2009-10.
- c) Safeguard duty expired on 28th Jan., 2010. Imports once again increased.
- d) In January – December 2010 (POI of original investigations on imports from the subject countries), the imports increased to 40,912 MT.
- e) Imports from the subject countries further increased to 43,014 MT in 2010-11, while the original investigations were on-going.
- f) In 2011-12, the imports declined to 31,167 MT. Safeguard duty was once again imposed on 17th Jan., 2012.
- g) In 2012-13, the imports were 32,994 MT. In this period, anti-dumping duties on the subject countries were imposed on 24th Dec., 2012; however, the safeguard duty expired on 16th Jan., 2013.
- h) In Jan-Dec. 2013 (POI of anti-dumping investigations against another set of subject countries – Japan and Russia), the imports from the subject countries were 34,241 MT.
- i) The imports from the subject countries declined to 30,917 MT in 2013-14, and further declined to 26,886 MT in 2014-15.
- j) The imports from subject countries increased once again to 36,009 MT in 2015-16 and further to 57,450 MT in the POI of the present sunset review investigation on annualized basis.

(f) Price Attractiveness in India

117. It is noted from the table below that significant volumes of exports from Korea/ Taiwan to third countries are at prices below the Indian prices.

Country	Volume of Exports to Third Countries	Price Attractive Volumes	Price Difference with Indian Prices	Share of Price Attractive Volumes
UOM	MT	MT	USD/MT	%
Korea RP	210,096	105,094	32.46	50.02%
Taiwan	112,277	32,333	31.53	28.80%

**Exports from Korea & Taiwan to World (excluding India)*

I. CAUSAL LINK AND OTHER FACTORS

118. Under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of anti-dumping duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

(i) Volume and Prices of Imports from Other Sources

119. Examination of import data shows that there are imports of product under consideration from other countries as well. However, the imports from the subject countries as well as other sources have not caused injury to the domestic industry.

(ii) Contraction in Demand and/ or Change in Pattern of Consumption

120. Demand for the product in the domestic market has shown increase over the injury period. Therefore, the demand for the subject goods has not caused any injury to the domestic industry.

(iii) Trade Restrictive Practices of and Competition Between the Foreign and Domestic Producers

121. The investigation has shown that conditions of competition or trade restrictive practices have not caused injury to the domestic industry.

(iv) Development in Technology

122. The investigation carried out does not show any significant change in technology that could have affected the performance of the domestic industry.

(v) Export Performance of the Domestic Industry

123. Petitioners have exported the PUC during the injury period.

(vi) **Productivity of the Domestic Industry**

124. The productivity of the domestic industry has improved.

J. POST-DISCLOSURE COMMENTS

125. Comments have been received from various interested parties on the disclosure statement issued by the Authority. The submissions are largely repetition of the submissions earlier made by the interested parties during the course of the investigations and therefore have not been repeated herein. New submissions made by the interested parties have been examined below.

J.2 Submissions by the Domestic Industry

126. Post-disclosure submissions made by the domestic industry are as follows:

- a) Petitioners have not been disclosed break-up of non-injurious price calculations and calculation of normal value of producers/ exporters from Taiwan and Israel, including Gadiv Petrochemicals Industries Ltd., Israel.
- b) Even if the most efficient domestic industry is adopted for construction of normal value, the same must be actual costs of such most efficient domestic industry and not normatted costs (non-injurious price) of such most efficient domestic industry.
- c) The dumping margin in respect of Aekyung Petrochemicals Ltd., Korea is negative. The Authority may kindly relook at the calculations as bulk of the imports from Korea is from Aekyung and the Petitioners strongly believe that the exporter is dumping the subject goods.
- d) In a situation where the Designated Authority finds absence of current injury, the Designated Authority shall not determine injury margin and instead merely recommend the same quantum of anti-dumping duty based on likelihood of injury.
- e) Import transactions with only positive price undercutting and positive dumping margin should be considered. There is no justification in the disclosure statement for not applying the analysis and methodology adopted by the petitioners.
- f) There is sufficient evidence to establish that likelihood of continuation of dumping and injury in the event of cessation of anti-dumping duties as examined by the Authority.
- g) Some of the submissions of domestic industry made earlier have not been considered by the Authority in the disclosure statement and nor there is anything in the disclosure statement why these submissions were not worth considering.
- h) Information on exports from Korea and Taiwan to other countries where measures are in force submitted earlier, shows that while exports from Korea and Taiwan to other countries where measures are in force have declined, the same have increased in respect of India.

- i) The product has a past history of imposition of safeguard duty and anti-dumping duties. Information submitted earlier shows that as and when the duty has been revoked, imports from the subject countries have increased.
- j) Huge capacities have been created by the foreign producers, keeping in view export markets. The evidence proving the same is on record of the Authority. Significant volumes of exports from these countries to third countries are at prices below the Indian prices. These exports would shift to India and dumping is likely to intensify in case the existing anti-dumping duties cease, and cause injury to the domestic industry.

J.2 Submissions by Other Interested Parties

127. Post-disclosure submissions made by the other interested parties are as follows:

- a) Imports made by IGPL were not disclosed to the Authority at the time of the petition/initiation. Hence Domestic Industry didn't approach the Designated Authority with clean hands.
- b) IGPL wants to restrict other users from importing the material and are themselves engaged in import of material through indirect sources to serve their customers.
- c) Huge demand-supply gap exists in India, compelling the users to resort to imports. The Authority has noted that the Domestic Industry would be able to meet the demand after capacity expansions but failed to address that the Domestic Industry couldn't meet the demand supply gap in the POI and therefore the Authority should base its finding on current facts and not based on a futuristic approach.
- d) Disclosure statement fails to mention any evidence on the capacity expansions so being relied upon.
- e) The increase in imports to India in relation to production and demand should be seen in the light of demand supply gap situation, which will show that any increase in imports was the result of necessity in the country, which should not be taken as a ground to provide further undue protection to the Domestic Industry.
- f) Taking claim of capacity expansion at the time of SSR is only a strategy to get the duties continued, which the Authority shouldn't entertain.
- g) Positive price undercutting in the present case is immaterial and the same is only the result of an extremely high selling price realized by the Domestic Industry.
- h) Significant level of negative underselling shows that the DI will continue to achieve a price higher than its NIP even in case of expiry of duties.
- i) View provided by the Authority in para 100 is not in tandem with the factual discussions in the Disclosure statement. Authority to mainly reconsider the view that "*domestic industry charged sub-optimal prices as the exporters charged abnormally low prices and vice-versa.*"
- j) Absence of price suppression and price underselling means the DI was getting a price of its choice.

- k) Current level of negative injury margin signifies lack of likelihood of injury. Practice of DGTR that in case of injury margin being negative, duty has not been continued, should be followed in this case.
- l) Increase in imports doesn't establish likelihood as the same was driven by the demand-supply gap, which included un-dumped imports.
- m) Figures in respect of capacity expansions are not corroborated numbers and are very sketchy.
- n) The table shows available capacity for exports, which means export market, would cover many countries and there is nothing on record which shows there is an idle capacity concerning PAN waiting for India to remove the duties.
- o) Relevant to highlight that the product is demand driven which the Authority in para 114 also highlights.
- p) The current level of prices does not show any likelihood of dumping and injury in the event of expiry of present duties.
- q) Revocation of duties by China PR and Pakistan shows that claims of likelihood are baseless.
- r) Exports enjoy a fruitful market elsewhere.
- s) Efficiency of the Domestic Industry is well placed to face the competition from imports and hence no need for duty.
- t) The exporter didn't involve in unfair trade practice and was hence granted negative dumping/ injury margin in the original investigation.
- u) No intention to likely dumps and hence shouldn't be penalized for unfair trade practices of other producers/ exporters.
- v) Aekyung should be differentiated from non-participant/ cooperating exporters/ producers granting NIL dumping margin/ injury margin in the final finding.
- w) The Designated Authority should exclude the imports of Product under consideration by M/s Aekyung Petrochemical Co. Ltd. from the scope of present investigation as the same has been found to not be dumping in original investigation.
- x) Imports made under AAS should be excluded from the scope of injury analysis as the same didn't compete with the domestic products and hence the stand taken by Designated Authority is incorrect.
- y) However, even with 87% capacity utilization during the POI, the DI's market share vis-à-vis the total demand is 61% (i.e. 2,16,173 MT); which is 71% of the market share of the PUC vis-à-vis its capability to produce the PUC. Therefore, the DI holds a dominant position in the domestic market during the POI.
- z) Share of imports from non-subject countries increased by 190 times.
- aa) The respondents submit that the price undercutting range for the subject countries is insignificant and therefore, the does not warrant continued imposition of anti-dumping duties.
- bb) Normal value and dumping have been determined on monthly basis in the original investigation. The Authority should do the same exercise here as well.
- cc) No post POI data has been provided by the domestic industry. Annual reports of the companies available in public domain shows the profitability of the DI has

further improved and there is no likelihood of recurrence of injury to the domestic industry on cessation of the existing duties.

- dd) All the economic parameters show improvement except market share, which has declined.
- ee) DGTR is giving undue protection to the DI by applying 22% return on CE which was designed in 1987.

J.3 Examination by the Authority

128. The Authority has examined submissions made by various interested parties in response to the Disclosure Statement, while several of the issues have already been dealt with above, comments on the rest are as under:
- a) As regards imports by IGPL, the investigation has shown that IGPL has merely arranged 378 MT import of the product for one of its customer (there is only one transaction). The volume of imports of 378 MT was not so high as to conclude that the intention of IGPL was to restrict other users from importing the material and instead itself import the material.
 - b) Regarding the demand supply gap, the investigation has shown that the capacities for the PUC in India were 3,16,110 MT in POI, as against the established demand of 3,54,382 MT, including imports under duty free schemes. However, it is noted that the purpose of present investigation is to examine and address the issue of possible dumping of the product; the demand supply gap in the country cannot justify dumping of the product.
 - c) Indian Paint Association, Indian Paint & Coating Association and Indian Small-Scale Paint Association a consumer industry association contended that there are significant imports under duty free schemes, imports of which shall in any way continue even with anti-dumping duty being imposed. The Authority agrees.
 - d) As regards the argument that increase in imports should be seen in the light of demand supply gap, while the Authority agrees that domestic demand-supply gap will result in imports, it also notes that the sales of domestic industry were below the production levels and the production was below the existing installed capacities.
 - e) As regards the current selling price of the DI the Authority notes that none of the exporters or consumers have shown that the prices charged by DI are higher than the prevailing prices in the international market. Nor is there evidence to show that DI was charging abnormally high prices as compared to the international market.
 - f) Existence or otherwise of an injury margin is but one factor taken into consideration by the Authority in reaching its conclusions about continuation or otherwise of an existing anti-dumping duty. There is no automaticity in reaching a conclusion for termination in the absence of an injury margin.
 - g) The Authority notes that the DI data has shown that 26% of imports in POI and 33% volume of imports during the injury period were at prices below what has been determined to be the non-injurious price for the DI.

- h) The investigation shows unutilised capacities with the subject exporters. Further, it is seen that some of the exports to third countries are at a price lower than that to India. This coupled with the low inventories of the PUC with the exporters shows a dynamic global trading environment.
- i) As regards revocation of duty by China and Pakistan, the Authority notes the argument of DI that exports to Pakistan have once again started increasing after cessation of ADD.
- j) Regarding the comments and counter-comments on expansion of production capacity by the DI, the Authority holds that this is an important issue during a Sunset Review investigation as it is likely to impact both - the terms of trade for foreign exporters and the domestic market conditions, if the existing anti-dumping duty is to be extended. However, it is also true that till the expansion is actually effected, there is little factual information to take into consideration for calculating its impact. Thus, beyond noting this claim the Authority is limiting its impact evaluation to the facts available.
- k) As regards 22% ROCE allowed for calculation of NIP, it is clarified that it is the consistent practice of the Authority to consider 22% return on capital employed.

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

129. Regarding the claims of anti-dumping duty imposing an additional cost on the user industry, the Authority recognizes that imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures removes the unfair advantage gained by dumping practices, and arrests the decline of the DI and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the DI by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures does not restrict imports from the subject country in any way, and, therefore, does not affect the availability of the products to the consumers.
130. However, the Authority remains mindful of the fact that the PUC is an intermediate product with a wide industrial user base. The Indian user industry has actively participated in this investigation, submitting both information/ data and expressing their opinion. The examination herein includes their submissions appropriately and the Authority has taken the same into consideration, to the extent necessary in reaching the conclusions below.

L. CONCLUSIONS

131. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in these

Final Findings and on the basis of the analysis herein of the likelihood of recurrence of dumping and consequent injury, the Authority concludes that the DI is not suffering continued injury, indeed DI has not claimed to do so, either. The issue is - likelihood of dumping of the PUC and consequent injury in case the anti-dumping duty expires. In this regard the Authority notes that one of the largest exporters of the PUC to India, which has fully cooperated with this investigation, is exporting without facing any anti-dumping duty and is also not seen to be causing any injury to the DI. This and the other exporters have sufficient export opportunities; the export prices indicate a dynamic market globally; with price realisation not dissimilar to that obtained in India. There is no evidence of any significant capacity enhancement elsewhere which might evidence an impending influx of imports into India.

M. RECOMMENDATIONS

132. Having, examined all the relevant facts and issues presented, the Authority is of the opinion that continuation of dumping and recurrence of injury is unlikely, if the existing anti-dumping duties are allowed to cease in respect of imports of the PUC from the subject countries of this investigation. Therefore, the Authority does not recommend continued imposition of Antidumping Duty as recommended by the Authority vide Final Findings Notification No 14/1/2011-DGAD dated, 28th September 2012 published in the Gazette of India, Extraordinary, Part-I, Section-I and notified by the Central Government vide Notification No. 58/2012-Customs (ADD) dated the 24th December 2012.
133. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Sunil Kumar)
Additional Secretary & Designated Authority