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**F.No. 6/3/2020-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5, Parliament Street, New Delhi**

Dated 20th August, 2020

Case No: ADD-(OI) 02/2020

NOTIFICATION

PRELIMINARY FINDINGS

Subject: Preliminary Findings of Anti-dumping Investigation concerning imports of “Phenol” into India originating in or exported from Thailand and United States of America.

A. BACKGROUND OF THE CASE

1. M/s. Deepak Phenolics Ltd., M/s. Hindustan Organics Chemicals Ltd. and M/s. SI Group India Pvt. Ltd. (hereinafter also referred to as the “Applicants”) filed an application before the Designated Authority (hereinafter also referred to as “the Authority”) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred 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 (hereinafter also referred as the “Rules”) for imposition of anti-dumping duty (ADD) on imports of “Phenol” (hereinafter also referred to as the “Product under Consideration” or “PUC” or “subject goods”) from Thailand and United States of America (USA) (hereinafter also referred to as the “subject countries”).
2. The Authority, on the basis of sufficient prima facie evidence submitted by the Applicant, issued a public notice vide notification No. 6/3/2020-DGTR dated 25thFebruary, 2020, published in the Gazette of India, initiating the investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries and to recommend the amount of ADD, which if levied, would be adequate to remove the alleged injury to the Domestic Industry.

B. PROCEDURE

3. The procedure described below has been followed with regard to the investigation:
 - a. The Authority notified the Embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.

- b. The Authority issued a public notice dated 25th February, 2020 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of subject goods from subject countries.
- c. The Authority sent a copy of the initiation notification dated 25th February, 2020, to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers, importer/user Associations, the Domestic Industry, and other interested parties, as per the addresses made available by the Applicants. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit, in accordance with Rules 6(2) and 6(4) of the Rules.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy in India in accordance with Rule 6(3) of the Rules supra.
- e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their respective countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
- f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties to file their response as well as submissions. Vide communication dated 4th April, 2020, the time was extended up to 24th April 2020. Vide communication dated 23rd April, 2020, the time was extended up to 10th May, 2020 and vide communication dated 11th May, 2020, the time was further extended up to 20th May, 2020. Any submission made by interested parties even after the due date has been taken into account to the extent considered relevant and appropriate for the purpose of present preliminary determination. Further, the Authority shall consider all submissions made by interested parties during the course of present investigations at the time of final determination.
- g. The Authority sent questionnaires to the following known producers/ exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 - i. M/s. PTT Phenol Company Limited, Thailand;
 - ii. M/s. Deckota Gasification Company, USA;
 - iii. M/s. Dow Chemical Co., USA;
 - iv. M/s. Georgia Gulf, USA;
 - v. M/s. Shell Chemicals, USA;
 - vi. M/s. AdvanSix, USA;
 - vii. M/s. INEOS Phenol, USA.
- h. In response to the above notification, the following producers/exporters have responded and submitted exporter's questionnaire responses:
 - i. M/s. PTT Phenol Company Limited (PPCL), Thailand;
 - ii. M/s. Mitsui & Co. (Asia Pacific) Pte. Ltd. (MAP), Singapore;
 - iii. M/s. Mitsui & Co. Ltd. (MBK), Japan;
 - iv. M/s. Kempar Energy Pte. Ltd. (Kempar), Singapore.

- i. The Authority sent questionnaires to the following known importers and users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
- i. M/s. C.J.Shah and Company;
 - ii. M/s. Haresh Kumar & Co.;
 - iii. M/s. PCL Oil & Industries;
 - iv. M/s. KantilalManilal& Co. Pvt. Ltd.;
 - v. M/s. Sonkamal Enterprises;
 - vi. M/s. Khetan Brothers;
 - vii. M/s. Shubham Dyes & Chemicals Limited;
 - viii. M/s. Acron Enterprises;
 - ix. M/s. Naiknavare Chemicals Limited;
 - x. M/s. Paras Dyes & Chemicals;
 - xi. M/s. Torrent Pharmaceuticals Limited;
 - xii. M/s. United Phosphorus Ltd.;
 - xiii. M/s. Resins & Plastic Ltd.;
 - xiv. M/s. Kailash Polymers;
 - xv. M/s. Centrum MetalicsPvt. Ltd.;
 - xvi. M/s. Wonder Laminates Pvt. Ltd.;
 - xvii. M/s. Meghdev Enterprises;
 - xviii. M/s. Satguru International;
 - xix. M/s. High Polymer Labs Ltd.;
 - xx. M/s. Rainbow Colours & Chemicals;
 - xxi. M/s. Bleach Marketing Pvt. Ltd.;
 - xxii. M/s. Karmen International (P) Ltd.;
 - xxiii. M/s. Krishna Antioxidants Pvt. Ltd.;
 - xxiv. M/s. NGP Industries Ltd.;
 - xxv. M/s. Farmson Pharmaceutical Gujarat Ltd.;
 - xxvi. M/s. India Glycols Ltd.;
 - xxvii. M/s. Singh Plasticisers and Resins (I) Pvt.;
 - xxviii. M/s. National Plywood Industries Ltd.;
 - xxix. M/s. Kundan Rice Mills Ltd.
- j. In response to the above notification, following importers or users have responded and submitted importer/user questionnaire responses:
- i. M/s. Aica Laminates India Private Limited;
 - ii. M/s. Greenlam Industries Limited;
 - iii. M/s. Clean Science & Tech Pvt. Ltd.;
 - iv. M/s. Meghmani Organics Ltd.;
 - v. M/s. Akin Chemicals Pvt. Ltd.;
 - vi. M/s. Atul Ltd.;
 - vii. M/s. Virgo Laminates Ltd.
- k. The following parties have filed legal submissions in response to the initiation notification:
- i. M/s. Clean Science & Tech Pvt. Ltd.;
 - ii. Meghmani Organics Ltd.;
 - iii. Akin Chemicals Pvt. Ltd.;
 - iv. Haresh Petrochem Pvt. Ltd.;
 - v. Gitanjali Chemicals Pvt. Ltd.;

- vi. Atul Ltd.;
 - vii. Cent Ply.
1. The Authority sent a copy of the initiation notification to the following known Associations of the subject goods in India:
- i. Indian Laminate Manufacturer's Association,
 - ii. The Institute of Indian Foundrymen.

However, none of the user Associations responded to the initiation notification.

- m. The Authority made available the non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- n. The period of investigation (POI) for the purpose of present investigation is 1st July, 2019 to 31st December, 2019 (6 months). The injury examination period has been considered as the period from 1st April, 2016-31st March, 2017; 1st April, 2017-31st March, 2018, 1st April, 2018-30th June, 2019 and the period of investigation.
- o. The Authority obtained transaction-wise import data from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and Directorate General of Systems & Data Management (DGS) for subject goods for the injury period, including the POI, and analysed the data after due examination of the transactions.
- p. The non-injurious price (hereinafter referred to as “NIP”) based on the cost of production and reasonable profits to sell the subject goods in India, having regard to the information furnished by the Domestic Industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules, has been worked out so as to ascertain whether ADD lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- q. The information provided by the Applicant was examined by the Authority by way of a table study, to the extent deemed necessary. Only such information with necessary rectification, wherever applicable, has been relied upon for the purpose of preliminary findings.
- r. 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.
- s. 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 present preliminary findings on the basis of facts available.
- t. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported by evidence and

considered relevant to the present investigation. The Authority will further examine the documents submitted by the interested parties subsequent to preliminary findings, which will form the basis for conclusions at the time of final findings.

- u. ‘***’ in this preliminary finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- v. The exchange rate adopted by the Authority for the subject investigation is US\$1 = ₹71.67.

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

- 4. At the stage of initiation, the product under consideration was defined as:

“The product under consideration in the present investigation is “Phenol”. The product is marketed in two forms i.e. bulk and packed. Bulk sales are normally in loose form, whereas packed sales can be of much smaller container loads and are generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide, etc.

This product is classified under Customs Tariff heading no. 2907.11. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.”

C.1 Submissions of the Domestic Industry

- 5. The submissions made by the Domestic Industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a. Phenol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. The product is marketed in two forms- bulk and packed. Bulk sales are normally in loose form, whereas packed consignments can be of much smaller container loads and generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide, etc.
 - b. This product is classified under Customs Tariff heading no. 2907.11.
 - c. The goods produced by the Applicant are like article to the product under consideration imported from subject countries as they are comparable in terms of chemical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable. There is no known significant difference in the technology employed by the domestic industry and the producers in subject country. The Applicants have produced like article to the imported products.

C.2. Submissions of other interested parties

6. No submissions have been made by the exporter/ producer/ other interested parties regarding product under consideration.

C.3. Examination by the Authority

7. The product under consideration in the present investigation is “Phenol”.
8. Phenol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. The product is marketed in two forms- bulk (in loose) and packed. Bulk sales are normally in loose form, whereas packed consignments can be of much smaller container loads and generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide, etc.
9. The product is classified under Customs Tariff heading no. 2907.11. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.
10. It has been noted from the information available on record that the product produced by the Domestic Industry is like article to product under consideration imported from subject countries. The product produced by the Domestic Industry, and subject goods imported from subject countries is comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The contention of the Applicant has not been disputed by the other interested parties. The Authority provisionally holds that the subject goods produced by the domestic industry are like article to the product imported from subject countries in terms of Rule 2(d) of the AD Rules.

D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

D.1. Submissions of the Domestic Industry

11. The Domestic Industry has made the following submissions with regard to the scope of Domestic Industry and standing:
 - a. The Applicants, namely, Deepak Phenolics Ltd., Hindustan Organics Chemicals Ltd. and SI Group India Pvt. Ltd., constitute 100% of the domestic production for the subject goods in India.
 - b. The Applicants have not imported the subject goods in the POI from the subject countries.
 - c. The Applicants are not related to any exporters in the subject countries or importers of the subject goods in India.

D.2 Submissions of other interested parties

12. No submissions have been made by the exporter/ producer/ other interested parties regarding scope and standing of Domestic Industry.

D.3. Examination by the Authority

13. Rule 2(b) of the Anti-Dumping Rules defines Domestic Industry as under:

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

14. The Application has been jointly filed by Deepak Phenolics Ltd., Hindustan Organics Chemicals Ltd. and SI Group India Pvt. Ltd. The Applicants account for 100% of Indian production, as there is no other producer of the subject goods in India, apart from the Applicants. The Applicants have claimed that neither they have imported the PUC from the subject countries in the POI nor they are related to any exporter or producer of PUC in the subject countries or any importer of the PUC in India.

15. Accordingly, the Authority holds that the Applicants constitute domestic industry within the meaning of Rule 2(b) of the Rules, and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions of the Domestic Industry

16. The Applicants have submitted that information otherwise available in the public domain has been claimed as confidential by PPCL and MBK in the exporters’ questionnaire responses. Further, the exporters have claimed excessive confidentiality in excess of the provisions of the Authority’s Trade Notice No. 10/2018 dated 7th September, 2018. MBK has not submitted Part IV of the exporters’ questionnaire response.

E.2. Submissions of other interested parties

17. The exporters, importers, users and other interested parties have submitted that the Applicants have claimed excessive confidentiality and have not fulfilled the guidelines prescribed in the Trade Notice No. 10/2018 dated 7th September, 2018.

18. If the Applicants have made arguments on retrospective imposition in the confidential version of the application, it is a clear violation of confidentiality provisions, since the same has not been provided in the non-confidential version. The inability of the Applicants to provide the arguments in non-confidential version hinders the ability of the interested parties to provide meaningful comments on the same and defend their interests on this crucial issue.

E.3. Examination by Authority

19. With regard to confidentiality of information, Rule 7 of the Rules provide as follows:

“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule12, 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.”

20. The Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claim on confidentiality. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, should be treated as such by the authority. Such information cannot be disclosed without specific permission of the party submitting it.
21. The Authority has considered the claims of confidentiality made by the Applicants and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).
22. As regards the arguments of retrospective imposition of duties not in the non-confidential version of the application, it is noted that Applicants requested for imposition of retrospective form of duties through letters filed after the filing of application. The non-confidential versions of the letters have been circulated by the Applicants to all interested parties.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the Domestic Industry

23. The following submissions have been made by the Domestic Industry with regard to various issues:
- a. The parameters laid down under the law for retrospective imposition of duty are fully met in the present case. It is vital to consider (a) imposition of ADD on a retrospective basis; and (b) import assessments are made provisional pending outcome of the investigation.
 - b. Since there is significant intensified injury within POI, which intensified further in post POI, the Domestic Industry has requested the Authority to consider imposition of benchmark form of duty in order to address the intensified injury.

F.2. Submissions of other interested parties

24. The following submissions have been made by the exporter/ producer/ other interested parties with regard to various issues:
- a. The Applicants have not made any arguments requesting for the imposition of retrospective ADD in the application. No documents in the public file show such arguments either.
 - b. There is no requirement to levy ADD retrospectively. The basic principle of taxation law is certainty and predictability for the tax-payer and, therefore, taxes and duties are prospective in nature. Retrospective imposition is against the norm in ADD as well. It causes prejudice to the bona-fide importer and the user. Section 9A(3) of the Act merely carves out an exception for rare and extraordinary situations with conditions, (a) history of dumping and (b) massive dumping in short period of time. No evidence has been provided by Applicants to substantiate the claim. The 'history of dumping' should be specific to the countries against whom the investigation is ongoing. Retrospective duty has been requested by the DI in multiple investigations, however, no such duty was imposed by the Authority, showcasing clear that it is a provision which mandates extraordinary conditions to exist and must be used. The DI has not established the extraordinary circumstances. The Authority has to ascertain the fulfilment of the requisite conditions prior to the recommendation of a retrospective levy of duty. The onus to prove that the conditions are met lies upon the Applicants and the non-confidential petition does not provide any averments.
 - c. The Authority has not provided any reasons for adopting such a short POI, and the initiation notice is, therefore, in clear violation of the Rules. The Authority has consistently rejected shorter POI in multiple investigations previously and initiated investigations on POI longer than the POI proposed by the Applicants.
 - d. M/s. Deepak Phenolics Ltd. must be facing start up difficulties and technical problems. The plant was also shut due to internal reasons.
 - e. There is no further requirement to conduct one more anti-dumping investigation to assess dumped imports of Phenol and material injury or threat of material injury to

the Domestic Industry. The Authority has conducted many anti-dumping investigations on Phenol in the last 17 years. In 2019, M/s. Deepak Phenolics Ltd. had approached the Authority for imposing Safeguard duty on Phenol which was later withdrawn by them. M/s. Deepak Phenolics Ltd. had filed an application for inclusion of product phenol in the Restrictive list of Imports. However, the same was dismissed by the Ministry of Chemicals.

- f. The user industry is dependent on imports as there is a demand-supply gap for Phenol in India.
- g. The Applicants have failed to provide any compelling reasons for the Authority to conduct a monthly analysis. The DGTR Manual prescribes scenarios where such an analysis may be undertaken where there are wide variations in cost of production due to raw material price fluctuations. As acknowledged, there is insignificant decline in raw material prices. For a monthly dumping assessment, monthly cost data has to be called, which is an expansive exercise. The Authority may kindly issue an official notification and thereafter provide time for such information. The exercise has to be done prior to provisional findings.

F.2. Examination by the Authority

25. The Authority has considered the views of the interested parties, as follows-
- a. The issue of retrospective imposition of ADD is required to be considered in the final determination. The Authority shall consider submissions of all interested parties while deciding the issue.
 - b. Regarding selection of 6 months as POI, the Authority notes that the adoption of 6 months as POI is not inconsistent with the Rules, provided the Applicants substantiate the need for such a time period, and the same is accepted by the Authority. In this case, the Applicants substantiated the need for considering 6 months as the POI by providing reasons that dumping commenced in this period and the injury to the Domestic Industry intensified during the POI. The Applicants claimed that the six months POI is appropriate in view of the fact that China PR had imposed ADD on subject countries in May 2019, which has led to a significant drop in import prices from subject countries to India. The product was exported at a much higher price in the month of April and May, 2019. Thus, the inclusion of April and May, 2019 would have implied inclusion of a “period of no dumping”. It would not be appropriate to fix a period for which there is no allegation of dumping.
 - c. The arguments submitted by the Applicants were examined by the Authority. It is noted that the purpose of an AD investigation is to examine whether the product has been dumped and whether such dumping has caused material injury to the Domestic Industry. It is further noted that the Rules have been amended vide Notification No. 9/2020-Customs(N.T.) dated 2nd February, 2020, wherein Rule 2(da) and Explanation to Rule 22 have been inserted incorporating the following provisions:
 - “the period of investigation shall,-
 - (i) not be more than six months old as on the date of initiation of investigation.

(ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months.”

- d. After examining the arguments of the Applicants, the Authority has considered appropriate for selection of 6 months as POI given the justification provided by the Applicants as mentioned above as it would not be appropriate to fix a period for which there is no allegation of dumping.
- e. As regards arguments of M/s. Deepak Phenolics Ltd. facing start-up costs and technical problems, it is noted that M/s. Deepak Phenolics Ltd. has fully capitalized its startup cost and the same have not been included in the injury data. Further, the company achieved good capacity utilization even within 2018-19 and hence the cost of production of the company could not have been higher due to possible underutilization of new production facilities.
- f. As regards the argument that the Domestic Industry is approaching various forums and seeking relief, it is noted that it is the prerogative of the industrial enterprise to seek recourse under various statutory or regulatory provisions.
- g. With reference to the argument of demand-supply gap, the Authority considers that possible demand-supply gap may not be a reason for depriving a Domestic Industry from seeking redressal against dumped imports causing injury.
- h. With regard to the submission of the Domestic Industry concerning the form of duty, the Authority notes that as per the Rules, the mandate of the Authority is to determine the existence, degree and effect of the alleged dumping and to recommend the amount of ADD, which, if levied, would be adequate to remove the injury to the Domestic Industry. Accordingly, the suitability of the form of the anti-dumping measure is decided by taking into consideration the facts of a case.
- i. The injury analysis has been done for the injury period by comparing annualised figures, and not on a monthly basis. The injury margin, dumping margin and price undercutting has been determined for the entire ‘period of investigation’ and for the ‘product under consideration’ as a whole.

NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

G.1. Submissions of the Domestic Industry

26. The following submissions have been made by the Domestic Industry with regard to the normal value, export price and dumping margin:
 - a. For the determination of Normal Value, the Applicants have considered ICIS bulletin for monthly prices in South East Asia for Thailand and US Gulf for USA. Relevant adjustments have been made to the CFR prices to determine ex-factory prices.

- b. The Applicants have taken the CIF price and adjusted the same for ocean freight, marine insurance, commission, port expenses and inland freight to determine the export price.
- c. The dumping margin is positive and significant for both the subject countries.
- d. The normal value and export price determined on a weighted average basis will not address the extent of dumping for the reason that there is significant difference in export price within the time-period without a corresponding difference in normal value. Further, since there is no significant difference in normal value and only the export price has changed in the time-period, the dumping margin determined on the basis of weighted average of normal value and export price would be flawed. It would be most appropriate to determine the normal value on a weighted basis and compare the same with prices of individual export transactions.

G.2. Submissions of other interested parties

27. The following submissions have been made by the exporter/ producer/ other interested parties with regard to normal value, export price and dumping margin:
- a. Exports from Thailand to India are only bulk, but the domestic sales are in both bulk and packed. The Authority is requested to make necessary adjustments to enable fair comparison.
 - b. The Applicants have failed to provide any legitimate calculation or rationale with respect to adjustments made when arriving at normal value for Thailand.
 - c. The Applicants have not specified the adjustments undertaken to determine the ex-factory price for Normal Value from the ICIS Reports. The validity of the ICIS Reports relied upon is unclear. It is not evident whether the ICIS Reports calculates prices in the domestic markets of the subject countries. If ICIS Reports specify local prices domestic prices, then Applicants have wrongly adjusted Ocean Freight for calculation. If the ICIS Reports do not specify local prices, then the Authority cannot rely on such a basis.
 - d. The adjustments with respect to ocean freight, marine insurance, inland freight have been sought in order calculate export prices at ex-factory level. However, the Applicants have failed to provide adequate information and rationale with respect to the adjustments made.
 - e. In the original application, the export price of packed Phenol was wrongly shown as less than export price of bulk Phenol, whereas in the updated petition, separate prices have not been mentioned. The accuracy and reliability of the calculations and evidences, therefore, need to be checked by the Authority.
 - f. Separate dumping margins have been calculated for bulk and packed Phenol. However, no separated normal value has been calculated. Moreover, separate export prices have only been calculated in the original application. It is unclear how such separate dumping margins have been created. The Authority may kindly determine the individual margin of dumping for based on the responses filed by the exporters.

G.3. Examination by the Authority

28. Under section 9A (1) (c) of the Act, “normal value” in relation to an article, means:
- i. *the comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
 - ii. *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*
 - (a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);
 - (b) Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*
29. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in this investigation by filing the prescribed questionnaire responses:
- i. PTT Phenol Company Limited (PPCL), Thailand;
 - ii. M/s. Mitsui & Co (Asia Pacific) Pte. Ltd. (MAP), Singapore;
 - iii. M/s. Mitsui & Co. Ltd. (MBK), Japan;
 - iv. M/s. Kempar Energy Pte. Ltd. (Kempar), Singapore.
30. It is noted that PPCL is a producer and exporter, based in Thailand. During the POI, PPCL sold its products directly to customers in India and also to all the other three parties, who are trading companies which have sold the products to customers in India. MAP, MBK and Kempar were not involved in the domestic sales of the PUC in the Thailand market. The Authority notes that the PPCL and the domestic industry have requested for due adjustments to be made due to the differences in the bulk and packed forms of Phenol. The Authority has considered their request on a preliminary basis, and notes that a more detailed assessment of this issue is necessitated after collecting additional data and evidence from the parties involved. With regard to the Normal Value of bulk/loose Phenol for the cooperating producer/exporter, the Authority notes that as per the response of PPCL the descriptions mentioned in the domestic sales transactions in Appendix 4A do not indicate different forms of Phenol i.e. Bulk or packed. For the purpose of Preliminary Findings, the Authority has considered all domestic sales of PPCL as bulk/loose, pending further examination during the course of the investigation.

31. There is no questionnaire response from any producer in USA. Accordingly, the normal value and export price for all the producers/exporters from the subject countries have been determined as below.

G.4 Determination of normal value

Thailand

Normal value for PPCL, Thailand

32. From the data filed by the Cooperating producer and exporter from Thailand i.e., PPCL, it is noted that during the POI, domestic sales have been made to unaffiliated customers. The questionnaire response has been examined and it is noted that the respondent has provided domestic sales price details of the subject goods in respective Appendices with proper costing data for mandatory tests. As regards normal value, the Authority notes that *** MT has been sold in the domestic market at a price of US\$ ***/MT. The Authority notes that the domestic sales are in sufficient volumes when compared with volume of exports to India, therefore, domestic sales have been considered for the purpose of determining normal value. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit-making transactions are more than 80% then the Authority considers all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, profitable domestic sales have been taken into account for determination of normal value, since the profitable sales were less than 80% by volume. Further, PPCL has claimed Inland Freight, Storage Cost, Credit Cost, Surveyor Cost and other related adjustments as post factory expenses. For the purpose of the preliminary findings, the claims made by PPCL have been accepted, subject to the verification of the information filed. The adjustments claimed by PPCL have been provisionally verified and accepted subject to detailed verification. It is also noted from a perusal of import information received from DGCI&S, and cooperating producers/exporters that all imports of subject goods are in bulk/loose form only, and hence no separate Normal Value determination has been made for packed/drum Phenol. The Normal Value of PPCL so determined on a provisional basis is mentioned in the dumping margin table below.

Normal Value for Non-Cooperative exporters in Thailand

33. The Authority notes that no other exporter/producer from Thailand has responded to the Authority in present investigation. It is also noted from a perusal of import information received from DGCI&S that all imports of subject goods are in bulk/loose form only, and hence no separate Normal Value determination has been made for packed/drum Phenol. For all the non-cooperative exporters/producers in Thailand, the Authority provisionally determines the normal value on the basis of facts available and the same is mentioned in the dumping margin table below.

Normal value for all producers and exporters in USA

34. The Authority notes that no exporter/producer from USA has filed questionnaire response in the present investigation. It may be noted that the Applicant had determined the normal value in USA on the basis of ICIS reports. None of the interested parties have provided any other information with regard to normal value in USA, nor have provided any evidence to show that this evidence is not appropriate. It is also noted from a perusal of import information received from DGCI&S that all imports of subject goods are in bulk/loose form only, and hence no separate Normal Value determination has been made for packed/drum Phenol. The normal value in US has, therefore, been determined on the basis of facts available i.e. prices reported in ICIS reports. The Normal Value so determined is mentioned in the dumping margin table below.

G.5. Determination of export price

Export Price for PPCL, Thailand

35. PPCL has filed questionnaire response along with its unrelated trading companies, namely, Mitsui & Co., Ltd (“MBK”), Mitsui & Co (Asia Pacific) Pte Ltd. (“MAP”), Kempar Energy Pte. Ltd. (“Kempar”), Tradechem International FZE (“Tradechem”) and Riveredge International PTE Ltd (Riveredge). In their questionnaire response, PPCL has declared that the company has exported the product to India directly as well as through unrelated foreign traders namely MBK, MAP, Kempar, Tradechem and Riveredge International PTE Ltd, Singapore. The Authority notes that some of the exports were made by MAP through a related importer namely Mitsui & Co. India Private Limited, who has not filed its separate questionnaire response. The export price at which subject goods have been sold by PPCL to MAP, MBK and Kempar; and the price at which MAP, MBK and Kempar have exported to India have been examined, after taking into account the associated expenses incurred by MAP, MBK and Kempar. The Authority notes that PPCL has exported ***MT of the PUC during POI to India, and out of ***MT, ***MT has been exported to India through the cooperating channel of trade.
36. It is noted that MAP, MBK and Kempar have exported the product at a price above costs, after taking into account the expenses incurred by them. There is no evidence of any compensatory arrangement, nor any other reason to justify rejection of producer’s price and adoption of trader’s price. All the trade channels of exports to India are found to be profitable, therefore, the Authority has considered the prices of PPCL, the producer, to determine the ex-factory export price. Further, the producer has claimed Shipping Cost, Surveyor Cost, Handling Charges, Storage Cost, Commission, Credit Cost and Bank Charges as post factory expenses for making exports to India. For the purpose of preliminary findings, the claims made by PPCL has been accepted subject to the verification of the information filed.
37. The Authority notes that two traders, namely, Tradechem International FZE, and Riveredge have not submitted the exporters questionnaire response containing the requisite information for the said ***MT quantity exported to India during the POI. In accordance with provisions of Explanation (b) to sub-section (1) and sub-section (6A) of Section 9A of the Customs Tariff Act, 1975, and Rule 6(8) of the AD Rules, the export price for ***MT for which the complete chain of responses containing the

requisite necessary information has not been submitted to the Authority, has been determined based on the facts available. The Net Export Price for PPCL has been determined on a provisional basis, subject to detailed verification on a weighted average basis after taking into account all exporting channels as mentioned above (cooperating as well as non-cooperating) and weighted average Net Export Price, as shown in the dumping margin table below.

Non-cooperative Exporters from Thailand

38. The export price for the non-responding producers/exporters from Thailand has been determined on the basis of facts available taking into account the export transactions of the responding exporter.

Export Price for USA

39. None of the exporters/producers from USA have filed questionnaire response. Due to this non-cooperation, the Authority has provisionally determined the export price for all the exporters from USA based on the imports reported in the DGCI&S, and adjustments as per facts available under 6(8) of the Rules.

G.6 Determination of dumping margin

40. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from subject countries have been provisionally determined as follows:

Producer	Normal Value/ CNV	Export Price	Dumping Margin		
	(US\$/MT)	(US\$/MT)	((US\$/MT)	(%)	(Range)
PPCL, Thailand	***	***	***	***	0-10
Other exporters from Thailand	***	***	***	***	10-20
All producers/ exporters from USA	***	***	***	***	10-20

H. EXAMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions of the Domestic Industry

41. The following submissions have been made by the Domestic Industry with regard to the injury and causal link:
- Due to the imposition of ADD by China, countries have shifted their exports to India.
 - In view of the fact that prices of Phenol declined very substantially over the proposed POI despite no or insignificant decline in cost on account of raw material, month-wise analysis during the POI is requested.
 - Demand for the PUC has increased over the injury period.
 - The imports from the subject countries, in absolute terms as well as in relation to production and consumption, first declined and thereafter, increased in the POI.
 - Imports are undercutting the prices of the Domestic Industry and are depressing the prices of the Domestic Industry.

- f. Production, capacity, and capacity utilization of the Domestic Industry has increased with commencement of production by M/s. Deepak Phenolics Ltd.
- g. The inventories of the Domestic Industry are piling up.
- h. The profitability declined severely over the injury period and the Domestic Industry was in losses during the POI.
- i. The PBIT and ROCE is negligible during the POI.
- j. Imports are impacting the ability of Domestic Industry to raise capital investment.
- k. Imports from subject countries pose a threat of material injury to the Domestic Industry.
- l. Exporters in the subject countries have excess and freely disposable capacities.
- m. Thailand has imposed restrictions on import of the PUC, thereby closing the market for global exporters, making India a lucrative market.
- n. Factors other than dumping are not causing injury to the Domestic Industry.
- o. Price undercutting being caused by the dumped imports has led to the decline in selling prices of the Domestic Industry.
- p. Despite existence of sufficient demand, the Applicants have to undertake exports at losses.

H.2. Submissions of other interested parties

- 42. The following submissions have been made by the producer/ exporter/ other interested parties with regard to Injury and causal link are as follows:
 - a. No reliable evidence has been provided for claim of 12,009 MT of the goods imported in April-May 2019, which were lying in stock in the POI.
 - b. The method of 'adjustment' adopted by the Domestic Industry for calculation of imports is unclear, non-transparent and has led to double counting. As per the methodology, imports should have decreased for POI, but instead increased substantially. The consistent practice of the Authority is to rely on DGCI&S and DGS data in trade remedy investigations. If the argument of adjustment is accepted, the problem would arise in every investigation.
 - c. Domestic Industry had made obscure and inaccurate submissions regarding the import volume in the Safeguard investigation against imports of Phenol into India as well.
 - d. The consistent practice of the Designated Authority is to take all import transactions from a country into account for determination of price undercutting, not merely the positive transactions only. As per the submission of Domestic Industry, even if there is one single positive undercutting transaction, the determination should be positive based on the transaction. The Domestic Industry has relied on the WTO Panel Report dated 14th November, 2001 in the case of European Communities – ADD on Malleable Cast Iron Tube or Pipe Fittings from Brazil. The claim of the Domestic Industry is incorrect. The European Union (EU) did not rely only on undercutting import transactions for determining price undercutting. They calculated the consequence of disregarding non-undercutting sales as well. The difference between the two calculations was marginal and did not affect the determination materially. The same might not be the case in the current investigation and will lead to highly distorted results.
 - e. The Domestic Industry has also stated that the injury margin should also be determined by taking into account only the injurious transactions, i.e. where the landed value is lower than the NIP. The Domestic Industry has submitted that EU, which also follows the principle of lesser duty rule, determines injury margin after

excluding non-injurious export transactions. Since the practice has not been challenged in the WTO, the Authority should also consider only those transactions that are below NIP. The Domestic Industry has made reference to the Hon'ble Tribunal's order in the matter of Kothari Sugars & Chemicals Ltd. Vs. Designated Authority. Just because the practice has not been challenged in the WTO yet, does not automatically make the practice valid. ADD can be levied based on the injury margin if injury margin is lower than the dumping margin. If the Domestic Industry's argument is accepted, there would not be any cases where injury margin would be negative resulting in nil duty for the exporter. Any unwarranted exclusions of transactions from injury margin will directly have an impact on the quantum of ADD. The EU had clarified that the undercutting margin determined by excluding non-injurious imports was also 'one of the methodologies' to assess the effect of price undercutting. The Domestic Industry has incorrectly relied on the decision of Hon'ble Tribunal in Kothari Sugars & Chemicals Ltd. vs. Designated Authority to substantiate its claim. The Hon'ble Tribunal in this case did not lay down any blanket legal proposition or rule that import transactions that are above NIP should be excluded for the purpose of injury margin calculation.

- f. There is no increase in imports from subject countries in absolute terms or relative to consumption or production in India. In the face of the huge increase in production by the Domestic Industry, the subject imports are insignificant in nature. The Domestic Industry has claimed that the USA, EU, Korea RP, Japan and Thailand diverted their exports from China PR to India after the imposition of a provisional ADD by China PR in May 2019. However, data indicates that imports have reduced after May 2019. The imposition of a provisional ADD by China PR has clearly not affected the imports coming into India.
- g. Price undercutting from the subject imports was negative for April, 2018-June 19(A) and POI(A) in the case of imports from the USA, which negates any claim made on price effect. Further, the import price has moved in consonance with the cost of sales of the Domestic Industry.
- h. The domestic selling price has moved commensurately with the shift in cost of sales. No claim of price suppression or depression can be made by the Domestic Industry on this count.
- i. An analysis of relevant economic parameters shows that the Domestic Industry has shown improvement in the performance in almost all relevant economic parameters including capacity, production and sales as seen from the updated Application and Annual Reports.
- j. The Domestic Industry has rapidly been increasing its market share over the injury period, despite the rise in demand.
- k. M/s. Deepak Phenolics Ltd. alone holds around 55% of the share in a market. It is obvious that the share of subject imports in the market would be insignificant in nature.
- l. The Domestic Industry has faced no injury in terms of employees, wages and productivity per day.
- m. The profitability of the Domestic Industry in the POI is not affected by the domestic sales, but by the high interest and depreciation costs incurred by it.
- n. Injury, if any, caused to M/s. Deepak Phenolics Ltd. is due to start-up difficulties resulting from delay in commencement of commercial production and unfair pricing policy.
- o. There is no mention of 'dumped imports' in the report presented by M/s. Deepak Phenolics Ltd. in its investor communication.

- p. No causal link as in the year 2018-19, the volume of subject imports was the highest at 123,727 MT, but the Domestic Industry made the highest profits in 2018-19. Moreover, import volume is substantially lower in the POI(A) than the volume in 2018-19, however, the PBIT has fallen for the domestic industry in the POI(A).
- q. The absence of co-relation between import volume and profit parameter of the Domestic Industry shows that there is no causal link between imports and injury to the Domestic Industry.
- r. There are strong prima facie reasons to believe that the data furnished by the Applicants is not validated with the actuals on the published final accounts in the terms of the Balance Sheet in order to validate the claim on NIP, injury and alleged dumping.
- s. One of the producers in India is known to have been exporting its Phenol at price below US\$ 750 in recent times and yet claims injury from imports into India on a comparable or similar price added with the protection of Basic Customs Duty.
- t. There must be a transparent determination of NIP based on at least one key raw-material pricing, i.e. Benzene. The present methodology employed by the Applicants skews the NIP in favour of the domestic producers and destructs the consumer industries. International prices of Benzene and Polypropylene are volatile and are falling at all time low levels.
- u. The methodology employed by the Authority by way of a reference price converted in US\$ or fixed ADD are both inappropriate distortions of Rule 17(1)(b).
- v. The Applicant has not provided supporting evidence with regard to the free disposable capacities in exporting countries.
- w. The Annual Report of M/s. Hindustan Organics Chemicals Ltd. indicates high interest, depreciation and employee wages cost as cause of injury. The Report has acknowledged that the company achieved record production for Phenol and that feed stock prices are higher in India compared to other exporting countries and the Indian producers are at competitive disadvantages due to higher overhead costs.
- x. The consistent practice of the Authority is to analyse the Post-POI data for threat of material injury claims. However, latest information of M/s. Deepak Phenolics Ltd. shows no threat of material injury. The results for the last quarter of 2019-20 as per the Audited Financial Report for M/s. Deepak Nitrite Ltd. show 33% rise in PBIT from 40.5 Crores to 63.60 Crores. Year on year comparison shows PBIT and Revenue have become almost double in 2019-20 as compared to 2018-19. For M/s. Deepak Phenolics Ltd., the overall sales revenue of the company increased by 23% from Q2 to Q3 and overall profit has increased significantly from Q2 to Q4 showing no threat of Material injury. Recent import data also shows a declining trend in the import volumes for 2018-19 compared to annualized figures for April, 2019 to January, 2020. It is mandatory for the Authority to consider existence of all the factors enumerated for the purposes of concluding threat of material injury/likelihood.
- y. The method of adjustment with regard to injury considering M/s. Hindustan Organics Chemicals Ltd.'s capacity utilization at 80%, provided by the Applicants is non-transparent and appears to be deliberately obfuscated to prevent the interested parties from commenting meaningfully.
- z. The Authority has also noted the problem faced by M/s. Hindustan Organics Chemicals Ltd. on account of availability of raw material in an anti-dumping investigation on imports of Acetone from Japan and Thailand.

- aa. If the only remaining Domestic Industry member is M/s. Deepak Phenolics Ltd., then it should have made an allegation on material retardation rather than material injury.
- bb. No reason has been provided for adjusting the data for only 2016-17 and 2017-18 as opposed to the entire injury period. To show inflated injury, the Applicants have tried to present combined figures and taken a base year of 2016-17 even though they have readily acknowledged that the injury suffered by other Domestic Industry members is on account of extraneous factors.
- cc. While the volume of imports from Thailand has decreased as the profitability of the domestic industry has also decreased. The volume of imports from Thailand has not adversely affected the profitability of the Applicants.
- dd. Owing to the strong sales and profitability performance, the claims with regards to inventories are unsubstantiated.
- ee. A mandatory BIS certification requirement, as notified by the Government, will act as a deterrence with respect to increased imports in the foreseeable future.
- ff. The Applicants experienced their largest decline in profitability in April–June, 2019, a period in which the price undercutting for Thailand was negative. Thus, no evidence that price undercutting from Thailand can be linked to the Applicants’ significant drop in profits.
- gg. The Authority should scrutinize the poor performance of M/s. Hindustan Organics Chemicals Ltd. and find that any alleged injury suffered by M/s. Hindustan Organics Chemicals Ltd. is a consequence of their own continued inefficiencies and not attributable to the subject imports.
- hh. There is a break in causal link between alleged undercutting and performance of the Domestic Industry. Also, the Applicants have failed to provide any reasoning beyond mere conjecture that the import restrictions from Thailand will lead to more imports being directed to India.
- ii. Continued injury of the Indian industry despite the presence of duties, indicates that any injury suffered by the Domestic Industry must be on account of extraneous factors.

H.3. Examination by the Authority

- 43. The Authority has taken note of the arguments and counter-arguments of all the interested parties with regard to injury to the Domestic Industry. The injury analysis so made by the Authority hereunder addresses the various submissions made by the interested parties.

H.3.1 Cumulative assessment

- 44. Annexure-II para (iii) of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and

- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
45. The Authority notes that:
- a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
 - b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - c. Cumulative assessment of the effects of import is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market. It is noted that the consumers who are buying from the domestic industry are also importing from amongst the subject countries.
46. As regards the issue of cumulative assessment in terms of para (iii) of the Annexure-II of the Rules, it is noted that the imports from subject countries fully satisfy the criteria of para (iii) of the Annexure-II. Therefore, the contention of the other interested parties about cumulative assessment are not correct.
47. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from the subject countries on the domestic industry.
48. Rule 11 of the Rules, read with Annexure II, provides that an injury determination shall involve examination of factors that may indicate injury to the Domestic Industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on price 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. For the examination of the impact of the dumped imports on the Domestic Industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.
49. With regard to import volumes and prices, the Authority has relied upon the import information of DGCI&S and information provided by the cooperating producers and exporters from Thailand.
50. As per the consistent practice of the Authority, all import transactions have been taken into account for determination of price undercutting and for determining injury margin.
51. The Authority notes that M/s. Hindustan Organics Chemicals Ltd. had very low production in 2016-17 and 2017-18. The company admitted that this was due to significant working capital problems faced by the company. The Authority considers that the reasons for low production by the company during this period were not

attributable to dumping in the country and were due to “other factors”. The Authority has, therefore, evaluated the performance of Hindustan Organics Chemicals Ltd. in respect of profits, cash profits and return on investments, considering the capacity utilization achieved in the POI.

52. With respect to the issue raised that the data furnished by the Applicants is not validated with the actuals on the published final accounts in the terms of the Balance Sheet, and the same should not validate the claim on NIP, injury and alleged dumping, it is noted that the Authority has examined the information furnished by the domestic industry on the provisional basis subject to detailed verification, and the information submitted by the producers and exporters for normal values and export price have also been provisionally accepted subject to detailed verification.
53. With respect to the argument that the method of ‘adjustment’ adopted by the Domestic Industry for calculation of imports is unclear, non-transparent and has led to double counting, it is noted that volume of import of subject goods and its prices have been determined from DGCI&S data, and information furnished by the producer and exporters from subject countries.
54. As regards the submission that alleged injury to the Domestic Industry is due to other reasons and there is no injury as per statements in annual reports of the constituents of the Domestic Industry, the Authority notes that the injury analysis carried out hereunder is self explanatory to establish that the dumping from subject countries has caused injury to the Domestic Industry.
55. All other submissions of all interested parties with regard to injury analysis have been addressed in the following paragraphs.

H.3.2 Volume effect of dumped imports on Domestic Industry

a) Assessment of demand

56. The Authority has taken into consideration, for the purpose of the present investigation, demand for the product in India as the sum of domestic sales of Indian Producers and imports from all sources.

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Sales of domestic industry	MT	42,604	53,129	193,675	154,940	121,821	243,642
Trend	Indexed	100	125	364	364	572	572
Subject imports	MT	110,557	108,800	146,446	117,157	43,705	87,410
Trend	Indexed	100	98	106	106	79	79
Imports attracting ADD	MT	98,657	105,275	68,332	54,665	17,283	34,566
Trend	Indexed	100	107	55	55	35	35
Other Countries imports	MT	72,660	74,011	57,028	45,623	2,825	5,650
Trend	Indexed	100	102	63	63	8	8
Total Demand	MT	324,477	341,215	465,481	372,385	185,634	371,268
Trend	Indexed	100	105	115	115	114	114

57. It is seen that the demand for the subject good has consistently increased during the injury period, with a marginal decline in the POI. The overall demand of subject goods have increased during the POI.

b) **Import Volumes from the subject countries**

58. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The factual position is as follows:

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Subject Countries	MT	1,10,557	1,08,800	1,46,446	1,17,157	43,705	87,410
Trend	Indexed	100	98	106	106	79	79
Thailand	MT	57,688	87,568	96,022	76,818	30,749	61,498
Trend	Indexed	100	152	133	133	107	107
U S A	MT	52,869	21,232	50,424	40,339	12,956	25,912
Trend	Indexed	100	40	76	76	49	49
Countries attracting ADD	MT	98,657	1,05,275	68,332	54,665	17,283	34,566
Trend	Indexed	100	107	55	55	35	35
Others	MT	72,660	74,011	57,028	45,623	2,825	5,650
Trend	Indexed	100	102	63	63	8	8
Total Imports	MT	2,81,874	2,88,087	2,71,806	2,17,445	63,813	1,27,626
Trend	Indexed	100	102	77	77	45	45
Subject Imports in relation to							
Total imports	%	39	38	54	54	68	68
Trend	Indexed	100	96	137	137	175	175
Indian Production	%	254	203	72	72	34	34
Trend	Indexed	100	80	28	28	13	13
Indian Demand	MT	34	32	31	31	24	24
Trend	Indexed	100	94	92	92	69	69

59. The following is observed:

- a. Compared to the base year, overall volume of subject imports has declined in absolute terms and in relation to production and consumption in the country in the POI. The Domestic Industry submitted that this decline in imports was a natural consequence of significant addition of capacity to the extent of 54% of Indian demand. The Authority considers that the decline in overall imports was a natural consequence of such a significant increase in capacities in the country in a situation where there was a very significant demand-supply gap in the country. As against the established demand of 3.71 lacs MT during the present POI, the installed capacity for the product in the country before commencement of production by Deepak Phenolics Ltd. was only 76,750 MT.
- b. The volume of subject imports has increased in relation to total imports in India. Whereas the subject imports constituted below 40% of total imports in India in 2016-17 and 2017-18, its share increased to 54% in April, 2018-June, 2019 period and further to 68% in the present POI. Imports from subject countries, thus, constitute the majority of the imports in India.
- c. However, the volume of imports of subject goods from subject countries declined in relation to production and consumption in the country.

H.3.2 Price effect of the dumped imports

60. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports

as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the Domestic Industry on account of the dumped imports from subject countries has been examined with reference to price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the NIP of the Domestic Industry have been compared with landed price of imports of the subject goods from the subject countries.

a) **Price undercutting**

61. For the purpose of price undercutting analysis, the net selling price of the Domestic Industry has been compared with the landed value of imports from the subject countries. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows-

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Subject Countries							
Net Sales Realisation	Rs./MT	***	***	***	***	***	***
Trend	Indexed	100	111	114	114	87	87
Landed Price	Rs./MT	65,223	72,599	99,262	99,262	70,318	70,318
Trend	Indexed	100	111	152	152	108	108
Price undercutting	Rs./MT	***	***	***	***	***	***
Trend	Indexed	***	***	***	***	***	***
Price undercutting	%	***	***	***	***	***	***
Price undercutting	Range	20-30	20-30	(0)-(-10)	(0)-(-10)	0-10	0-10

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Thailand							
Net Sales Realisation	Rs./MT	***	***	***	***	***	***
Trend	Indexed	100	111	114	114	87	87
Landed Price	Rs./MT	69,264	73,139	1,01,345	1,01,345	69,574	69,574
Trend	Indexed	100	106	146	146	100	100
Price undercutting	Rs./MT	***	***	***	***	***	***
Trend	Indexed	***	***	***	***	***	***
Price undercutting	%	***	***	***	***	***	***
Price undercutting	Range	10-20	20-30	(0)-(-10)	(0)-(-10)	0-10	0-10

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
USA							
Net Sales Realisation	Rs./MT	***	***	***	***	***	***
Trend	Indexed	100	111	114	114	87	87
Landed Price	Rs./MT	60,813	70,371	95,295	95,295	72,085	72,085
Trend	Indexed	100	116	157	157	119	119
Price undercutting	Rs./MT	***	***	***	***	***	***
Trend	Indexed	***	***	***	***	***	***
Price undercutting	%	***	***	***	***	***	***
Price undercutting	Range	30-40	20-30	(0)-(-10)	(0)-(-10)	(0)-(-10)	(0)-(-10)

62. It is seen that the imports from subject countries are entering at a price below the domestic selling price of the Domestic Industry, resulting in positive price undercutting.

b) **Price suppression and depression**

63. In order to determine whether the dumped imports are 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 in normal course, the changes in the costs and prices over the injury period. The table below shows factual position:

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Cost of sales	Rs./MT	***	***	***	***	***	***
Trend	Indexed	100	115	113	113	96	96
Selling price	Rs./MT	***	***	***	***	***	***
Trend	Indexed	100	111	114	114	87	87
Landed price	Rs./MT	65,223	72,599	99,262	99,262	70,318	70,318
Trend	Indexed	100	111	152	152	108	108

64. It is seen that whereas the cost of sales & selling price of the Domestic Industry and landed price of imports increased till April, 2018-June, 2019, the same declined thereafter. However, the decline in selling price and landed price of imports was far more than the decline in cost of sales resulting in price suppression. It is also noted while the landed price of the imports were below the cost of production in 2016-17 and 2017-18, the same were much above cost of production in April, 2018-June, 2019. However, the landed price of imports declined below cost of production in the POI. It is thus noted that subject imports are depressing the prices of the Domestic Industry in the market.

c) **Price Underselling**

65. The Authority has also examined price underselling suffered by the Domestic Industry on account of dumped imports from the subject country. For this purpose, the NIP determined based on average NIP for the Domestic Industry has been compared with the landed price of imports as obtained from the DGCI&S import data.

66. It is noted that the landed price of imports was below the non-injurious price of the Domestic Industry. The Authority notes that the Domestic Industry has suffered price underselling during POI due to dumped imports of the subject goods from the subject country.

Particulars	Unit	Thailand	USA	Subject Countries
Import Volume	MT	30,749	12,956	43,705
Landed Value	USD/MT	970.81	1,005.85	981.19
NIP	USD/MT	***	***	***
Price Underselling Margin	USD/MT	***	***	***
Price Underselling	%	***	***	***
Price Underselling	Range in %	0-10	0-10	0-10

H.3.3 Economic parameters of the Domestic Industry

67. Annexure II to the Rules provides that the examination of the impact of the dumped imports on the Domestic Industry should include an objective and unbiased evaluation

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

68. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

i. Production, capacity, capacity utilization and sales

69. The capacity, production, sales and capacity utilization of the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Capacity	MT	76,750	76,750	3,45,938	2,76,750	2,76,750	2,76,750
Trend	Indexed	100	100	361	361	361	361
Production	MT	43,524	53,490	2,02,461	1,61,969	1,29,280	2,58,560
Trend	Indexed	100	123	372	372	594	594
Capacity Utilization	%	57	70	88	88	93	93
Trend	Indexed	100	123	156	156	165	165
Domestic Sales	MT	42,604	53,129	193,675	154,940	121,821	243,642
Trend	Indexed	100	125	364	364	572	572

70. The installed capacity with the Domestic Industry increased significantly over the injury period. This is due to the setting up of a new plant with an installed capacity of 2,00,000 MT for phenol and 1,20,000 MT for Acetone by Deepak Phenolics at a gross investment of Rs. 1,200 crores. The plant commenced commercial production in November, 2018. The installed capacity in the Country were 76,750 MT against demand of more than 3 lacs. The Domestic Industry submitted that this investment was justified considering the significant demand-supply gap for the product in the Country.

71. As a result of setting up of significant fresh capacity, production and sales of the Domestic Industry has increased over the injury period.

ii. Market share in Demand

72. Market share of the Domestic Industry is shown in table below:

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Domestic Industry	%	13.13	15.57	41.61	41.61	65.62	65.62
Trend	Indexed	100	119	317	317	500	500
Subject Countries	%	34.07	31.89	31.46	31.46	23.54	23.54
Trend	Indexed	100	94	92	92	69	69
Countries attracting ADD	%	30.40	30.85	14.68	14.68	9.31	9.31
Trend	Indexed	100	101	48	48	31	31
Other countries	%	22.39	21.69	12.25	12.25	1.52	1.52
Trend	Indexed	100	97	55	55	7	7
Total	%	100.00	100.00	100.00	100.00	100.00	100.00

73. The following is noted:

- a. The Domestic Industry had a meagre market share earlier. The same was due to the absence of production capacities in the country and curtailment of production by Hindustan Organics Chemicals Ltd. due to working capital shortage.
- b. With Hindustan Organics Chemicals Ltd.'s production resuming to reasonable levels and Deepak Phenolics Ltd. commencing production in its new plant, the sales of the Domestic Industry increased significantly. Consequently, the market share of the Domestic Industry increased over the injury period.
- c. Whereas market share of imports from various sources declined over the injury period, as far as subject countries are concerned, the market share declined in April-June, 2019 and increased thereafter in the POI.
- d. The Domestic Industry has contended that the increase in the market share should also be seen along with the fact of addition of new capacities, and the price at which the Domestic Industry is selling the product.

iii. **Inventories**

74. Inventory position with the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Opening	MT	***	***	***	***	***	***
Closing	MT	***	***	***	***	***	***
Average	MT	***	***	***	***	***	***
Trend	Indexed	100	110	340	340	556	556

75. It is seen that the average inventories with the Domestic Industry have increased significantly over the period.

iv. **Profitability, cash profits and return on capital employed**

76. Profitability, cash profits and return on investment of the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
Cost of sales	₹/MT	***	***	***	***	***	***
Trend	Indexed	100	115	113	113	96	96
Selling price	₹/MT	***	***	***	***	***	***
Trend	Indexed	100	111	114	114	87	87
Profit per unit	₹/MT	***	***	***	***	***	***
Trend	Indexed	100	71	120	120	(8)	(8)
Total Profit/(Loss)	Rs. Lacs	***	***	***	***	***	***
Trend	Indexed	100	90	567	567	(61)	(61)
Cash Profit	Rs. Lacs	***	***	***	***	***	***
Trend	Indexed	100	88	621	621	127	127
Profit before Interest	Rs. Lacs	***	***	***	***	***	***
Trend	Indexed	100	97	360	360	159	159
Return on Capital Employed	%	***	***	***	***	***	***
Trend	Indexed	100	80	26	26	13	13

77. It is seen that:

- a. The Domestic Industry was earning profits up to April, 2018-June, 2019. While profit per unit increased in April, 2018-June, 2019, the same declined thereafter to such an extent that the domestic industry suffered financial losses in POI.
- b. Cash profit, Profit before interest and return on capital employed followed the same trend as that of profits. Cash profits, PBIT and return on investment increased in April, 2018-June, 2019 and declined thereafter till the POI.
- c. The Domestic Industry contended that the deterioration in performance of the Domestic Industry was continuous throughout the investigation period. It is noted that profits, cash profits and return on investments have declined significantly during the injury period.

v. **Employment, wages and productivity**

78. Employment, wages and productivity of the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	April, 2018-June, 2019		POI	
				Actual	Annualised	Actual	Annualised
No. of Employees	Nos.	***	***	***	***	***	***
Trend	Indexed	100	97	156	156	212	212
Salaries & Wages	Rs. Lacs	***	***	***	***	***	***
Trend	Indexed	100	115	188	188	223	223
Productivity per day	MT/Day	***	***	***	***	***	***
Trend	Indexed	100	123	372	372	594	594

79. It is seen that performance of the Domestic Industry has improved in respect of employment, wages and productivity. The Domestic Industry submitted that these parameters are not relevant to show the impact of dumping on the Domestic Industry.

vi. **Growth**

80. The growth of the Domestic Industry in terms of production, capacity utilization domestic sales volume, inventories, profits, cash profits and return on investment is as given in the table below:

Particulars	Unit	2017-18	April, 2018-June, 2019 (A)	POI
Production	Y/Y	23	203	60
Domestic Sales	Y/Y	25	192	68
Capacity Utilisation	Y/Y	23	27	6
Average Inventory	Y/Y	10	210	64
Market share of Domestic Industry	Y/Y	19	167	58
Profit/Loss	Y/Y	(10)	526	(111)
Cash Profit	Y/Y	(12)	606	(79)
PBIT	Y/Y	(3)	273	(56)
Return on Capital Employed	Y/Y	(20)	(68)	(51)

81. It is seen that the growth of the Domestic Industry was positive in respect of volume parameters (production and sales) and negative in respect of price parameters (cost of sales, selling price, profits, and return on investment).

vii. **Magnitude of Dumping Margin**

82. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India. The investigation has shown that dumping margin is positive and significant in the investigation period.

viii. **Ability to raise capital investment**

83. Significant investment was recently made in the PUC. The Domestic Industry is suffering financial losses in the POI. With the competition being faced by the Domestic Industry because of dumped imports, the operations of the industry have been impacted which has affected its ability to raise capital investment. The Domestic Industry is a multi-product company and, therefore, the ability to raise capital investment is not governed based on the performance of the product alone.

ix. **Factors affecting domestic prices**

84. Import prices are directly affecting the prices of the Domestic Industry in the market. It is noted that the landed value of the subject goods from subject countries is not only below its net selling price but also below the NIP of the Domestic Industry. Further, the landed prices of subject imports have depressed the prices of the Domestic Industry leading to financial losses. The imports of subject goods from third countries are either attracting ADD or are de-minimis or are at higher prices. Dumped imports are impacting the prices of the product in the market. Thus, it is provisionally concluded that the principal factor affecting the domestic prices is the dumped imports of subject goods from the subject countries.

H.3.4. Injury Margin

85. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.

86. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.

87. Based on the landed price and NIP determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below:

Country	Name of Producers/Exporters	Non-Injurious Price (US\$/MT)	Landed Value (US\$/MT)	Injury Margin US\$/MT	Injury Margin (%)	Injury Margin % (Range)
Thailand	PTT Phenol Company Limited	***	***	***	***	0-10
Thailand	Other Producers and Exporters	***	***	***	***	10-20
USA	All Producers and Exporters	***	***	***	***	0-10

H.3.5 Conclusion on Injury

88. The examination of the imports of the subject product and performance of domestic industry clearly shows that:

- i. The volume of imports from subject countries has increased in relation to total imports.
- ii. The imports from subject countries are undercutting the prices of the Domestic Industry and the price underselling is also positive.
- iii. Though both the selling price and cost of sales have declined during the injury period, the decline in selling price and landed price of imports was far more than the decline in cost of sales resulting in price suppression.
- iv. The imports from subject countries have depressed the prices of the Domestic Industry.
- v. Though the production, sales and capacity utilization has increased over the injury period, the performance of the Domestic Industry has significantly deteriorated in respect of profits, cash profits and return on capital employed. The Domestic Industry has suffered financial losses in the period of investigation.

89. In view of the foregoing, the Authority provisionally concludes that the Domestic Industry has suffered material injury.

I. NON-ATTRIBUTION ANALYSIS

90. The Authority examined any known factors other than the dumped imports which at the same time might have been injuring the Domestic Industry, so that the injury caused by these other factors, if any, is not attributed to the dumped imports. Factors which are relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. The Authority examined whether factors other than dumped imports could have contributed to the injury to the Domestic Industry.

91. The other interested parties have submitted that the injury suffered by the Applicant is due to other reasons and not due to the imports from the subject country. The Authority notes that the interested parties have not presented any verifiable evidence establishing that the Domestic Industry has suffered injury due to factors other than dumped imports. Even though the claims made by the opposing interested parties are mere assertions, the same have been examined based on information available on record.

a. **Volume and value of Imports not sold at dumped prices**

92. The imports from other countries are either attracting ADD or are de-minimus or are at higher prices. While volume of imports from Saudi Arabia are more than negligible, the pattern of imports over the injury period, and POI show that there is a significant decline in imports, and during POI, imports occurred only in one month. Thus, imports from other countries do not appear to have caused injury to the domestic industry.

b. **Contraction in demand**

93. The Authority notes that there is no contraction in demand as the demand of the subject goods in the country has consistently grown throughout the injury period. Thus, the Domestic Industry has not suffered any injury on this account.

c. **Changes in Pattern of consumption**

94. There have been no material changes in the pattern of consumption of the product under consideration. Hence, changes in the pattern of consumption have not caused injury to the Domestic Industry.

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

95. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the Domestic Industry.

e. **Developments in technology**

96. No evidence has been brought by any interested parties about existence of significant changes in the technology that could have caused injury to the Domestic Industry.

f. **Productivity**

97. The Authority notes that the productivity of the Domestic Industry has increased over the injury period. Therefore, the Domestic Industry has not suffered injury on this account.

g. **Export performance of the domestic industry**

98. The Authority has considered data for the domestic operations only for the injury analysis. Therefore, export performance is not the cause for the injury to the Domestic Industry.

h. **Performance of other products**

99. The Domestic Industry has provided the injury data of PUC performance and the same has been adopted by the Authority for the purpose of injury analysis. Therefore, performance of other products produced and sold by the applicant is not a possible cause of the injury to the Domestic Industry.

Conclusion on Causal Link

100. The Authority provisionally concludes that the Domestic Industry has not suffered injury in the POI due to other factors. Further, the following factors show that the injury to the domestic industry is due to subject dumped imports :
- a. The imports are undercutting the prices of Domestic Industry and are priced below the cost of the Domestic Industry.
 - b. The imports have forced the Domestic Industry to sell the product at a price below cost of production. The Domestic Industry has suffered price depression on account of dumped imports of subject goods from subject countries.
 - c. There is a significant decline in the import price which has forced the Domestic Industry to reduce its prices. Consequently, the domestic industry has suffered financial losses.
 - d. The decline in the selling price, and consequent profits has led to decline in the cash profits and return on investment earned by the Domestic Industry.
101. The Authority, thus, provisionally concludes that there exists a causal link between the dumping of the subject goods and injury to the Domestic Industry.

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

102. The Authority recognizes that the imposition of ADD might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of ADD, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of ADD, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

K. CONCLUSION & RECOMMENDATIONS

103. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority provisionally concludes that:
- a. The subject goods have been exported to India from the subject countries at dumped prices.
 - b. The Domestic Industry has suffered material injury.
 - c. The material injury suffered by the Domestic Industry has been caused by the dumped imports.
104. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the Domestic Industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules,

the Authority is of the view that imposition of provisional duty is required to offset dumping and injury, pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional ADD on imports of subject goods from the subject countries.

105. In terms of provision contained in Rule 4(d) of the Rules, the Authority recommends imposition of provisional ADD equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the Domestic Industry. Taking into account the factual matrix of the case, and having regard to information provided, and submissions made by interested parties, it is considered appropriate to recommend benchmark/reference form of anti-dumping duties. The Authority recommends imposition of provisional anti-dumping duties on import of subject goods originating in or exported from subject countries, from the date of notification to be issued in this regard by the Central government as the difference between the landed value of subject goods and the reference price indicated in column 7 of the table below, provided the landed value is less than the value indicated in column 7.

106. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 8B, 9, 9A of the Customs Tariff Act, 1975.

SN	Heading	Description	Country of Origin	Country of Export	Producer	Reference Price	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	290711	Phenol	Thailand	Any country including Thailand	PTT Phenol Company Limited	989.36	MT	US\$
2	290711	Phenol	Thailand	Any country including Thailand	Any producer other than Serial Number 1	992.58	MT	US\$
3	290711	Phenol	Any country other than country attracting anti-dumping duty	Thailand	Any	992.58	MT	US\$
4	290711	Phenol	USA	USA	Any	1,006.96	MT	US\$
5	290711	Phenol	Any country other than country attracting anti-dumping duty	USA	Any	1,006.96	MT	US\$

L. **FURTHER PROCEDURE**

107. The procedure as below would be followed subsequent to notifying the preliminary findings:

- a. The Authority invites comments on these provisional findings from all interested parties and the same, considered relevant by the Authority, would be considered in the final findings.

- b. Domestic industry, exporters, importers and other interested parties known to be concerned are being addressed separately by the Authority, who may make their views known, within thirty days from the date of the publication of these preliminary findings.
- c. Any other interested party may also make known its views within thirty days from the date of publication of these findings.
- d. The Authority would conduct oral hearing in terms of rule 6(6) to give an opportunity to all interested parties to present their views relevant to the investigation. Issues and concerns raised during oral hearing will be examined in the final findings.
- e. The date of the oral hearing would be announced on the DGTR website (dgtr.gov.in).
- f. The Authority would conduct further verification to the extent deemed necessary.
- g. The Authority would disclose the essential facts as per the Rules before announcing the final findings.

(BidyutBehari Swain)
Special Secretary & Designated Authority