

F. No. 6/33/2023-DGTR
Government of India
Ministry of Commerce & Industry, Department of Commerce, DGTR
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001

Dated: 17.03.2025

DISCLOSURE STATEMENT

Case No AD(OI) – 30/2023

Subject: Disclosure statement of Anti-dumping investigation into imports of “Polyvinyl Chloride Suspension Resins” originating in or exported from China PR, Indonesia, Japan, Korea RP, Taiwan, Thailand and United States of America.

2. In accordance with Rule 16 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended, the Designated Authority hereby discloses the essential facts under consideration in the matter relating to the above investigation. The disclosure statement comprises of the following four sections:

Section I: General disclosure

Section II: Determination of normal value, export price and dumping margin

Section III: Methodology for injury determination and examination of injury, causal link.

Section IV: Methodology for arriving at non-injurious price (Confidential copy for the domestic industry only)

3. The sections cited above contain essential facts under consideration by the Designated Authority, which would form the basis for the Final Findings. The reproduction of facts does not tantamount to either acceptance or rejection of any fact / argument / submission. Arguments / submissions made by the domestic industry and other interested parties during the course of the present investigation are reflected in this disclosure statement to the extent they are considered relevant to this investigation by the Designated Authority.
4. Notwithstanding the facts given in this Disclosure Statement (including facts given on confidential basis), the Designated Authority would consider all replies given on merits, in order to arrive at a final determination.
5. In this disclosure statement *** represents information furnished by an interested party on confidential basis and so considered by the Designated Authority under the Rules.
6. Interested parties may submit their comments, if any, in soft copy, latest by **6 PM on 21.03.2025** by email to jd12-dgtr@gov.in, dir15-dgtr@gov.in, dd19-dgtr@gov.in and

consultant-dgtr@nic.in. As would be noted below, the Authority has carried out issue wise analysis of the evidence presented before it. All interested parties are therefore requested to follow the same pattern in filing their comments. Since anti-dumping investigations are time bound, the Designated Authority will not entertain any request for extension of time.

7. Further, preliminary findings issued by the Authority dated 30th October 2024 and addendum notification dated 16th December 2024 forms an essential part of this disclosure statement. The arguments raised by all the interested parties and examined in the preliminary findings explicitly or implicitly have not been repeated in the present disclosure statement. The disclosure should be read along the preliminary findings issued by the Authority.
8. This is issued with the approval of the Designated Authority.

Sd/-
(Rajiv Kumar Soni, ITS)
Director (Foreign Trade)
DGTR, New Delhi
Email ID: Jd12-dgtr@gov.in

To,
All interested parties

General Disclosure

Subject: Anti-dumping investigation concerning imports of “Polyvinyl Chloride Suspension Resins” originating in or exported from China PR, Indonesia, Japan, Korea RP, Taiwan, Thailand and United States of America.

Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the Anti-Dumping Rules or the Rules) thereof, the Authority issued a preliminary findings dated 30th October 2024 in the present investigation. The present disclosure statement is being issued in continuance of the preliminary findings.

A. PROCEDURE

1. The procedure described below has been followed post issuance of preliminary findings and addendum notification with regard to the investigation:
 - a. Pursuant to initiation of investigations, and after providing due opportunity to the all interested parties to provide relevant information and defend their interests, and on the basis of information and evidence on record, having regard to the Anti-Dumping Act and the Rules, the Authority issued a preliminary finding dated 30th October 2024, provisionally concluding that product under consideration has been exported from the subject countries at a price below associated normal value, thus, resulting in dumping of the subject goods, the domestic industry has suffered material injury due to such dumping and the injury to the domestic industry is caused by such dumping. The Authority recommended imposition of provisional anti-dumping duty on imports of the subject goods from the subject countries.
 - b. Post issuance of preliminary findings and in compliance with the direction of the Hon’ble Gujarat High Court, the Authority conducted an oral hearing dated 11th December 2024 with regard to the product scope issues raised by Epigral Limited. Post receiving submissions from all interested parties and conducting the said oral hearing, an addendum to the preliminary findings was issued by the Authority dated 16th December 2024.
 - c. The Authority notified the interested parties about the following procedure that was to be followed subsequent to issuance of preliminary findings.
 - i. Comments were invited by all interested parties on the preliminary findings within 30 days of issuance of such findings.
 - ii. It was notified that an oral hearing will be conducted in terms of Rule 6(6) of the Anti-Dumping Rules.
 - iii. Further verification deemed necessary will be conducted.
 - iv. Essential facts would be disclosed prior to issuance of the final findings.

- d. A copy of the preliminary findings was sent to Central Government for their consideration of the same for imposition of interim anti-dumping duty.
- e. A number of interested parties filed response/comments to the preliminary findings, which have been adequately considered in the present disclosure and for the purpose of proposed final determination.
- f. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 15th January 2025. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- g. The submissions made by the interested parties, arguments raised, and information provided post issuance of the preliminary findings by various interested parties, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in this disclosure statement.
- h. It is expressly clarified that the preliminary findings and addendum notification dated 16th December 2024 form an integral part of this disclosure statement. This disclosure statement should be read along with the preliminary findings issued earlier. The procedure followed, arguments raised by the interested parties, examined explicitly or implicitly dealt in the preliminary findings and determination earlier made in the preliminary findings which have not been disputed by interested parties are not being repeated in this disclosure statement. The preliminary findings should be deemed to be incorporated in the present disclosure to the extent the same is not inconsistent with the present disclosure statement.
- i. The Authority satisfied itself of the accuracy of the information supplied by the interested parties which form the basis of this disclosure statement to the extent possible and verified the data / documents submitted by the interested parties to the extent considered relevant and necessary.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 2. The Authority considered the following as the scope of product under consideration in the preliminary findings and addendum notification dated 16th December 2024.

“Homopolymer of Vinyl Chloride Monomer (suspension grade) also known as PVC Suspension Resin manufactured through suspension polymerisation process with K-value above 55 and upto 77.

The product under consideration in the present investigation excludes the following

- i. Ultra-Low K-Value PVC Suspension Resins (K-value upto 55)*
- ii. Ultra-High K-Value PVC Suspension Resins (K-value above 77)*
- iii. Cross-linked PVC*

- iv. Chlorinated PVC (CPVC),
- v. Vinyl chloride – vinyl acetate copolymer (VC-VAC),
- vi. PVC paste resin/emulsion resins
- vii. Mass Polymerisation PVC
- viii. Polyvinyl Chloride Blending Resins.

Further, PVC resins manufactured through emulsion polymerisation, PVC resins manufactured through bulk mass polymerization, and PVC resins manufactured through micro suspension polymerization process are also excluded from the scope of the product under consideration.”

B.1. Views of other interested parties

3. The submissions of the other interested parties with regard to the product under consideration and like article post the issuance of preliminary findings and addendum notification are as follows:
 - i. Since DCW Limited itself imports specialty grades for manufacturing of C-PVC, it is evident that such grades are not produced by the domestic industry and should be excluded.
 - ii. DCW has claimed that grades PR 065 and PR 057 are produced for captive use only. Therefore, such grades are not available in merchant market.
 - iii. In the addendum preliminary findings, it has been noted that there is no commercial manufacturing in the period of investigation. It is evident from the findings that DCW has not consumed S-PVC by any other manufacturer in the period of investigation and that consumed captively is only for trial. Further, DCW did not have any captive transfer as per the petition.
 - iv. DCW Limited has continued importing from Formosa Plastics Taiwan till November 2024. Further, while the said exporter exports a number of grades, DCW Limited has only imported S65C, which is a specialty product.
 - v. While DCW Limited has claimed that it already has a merchant market for specialty grade S-PVC, it has consistently purchased imported S-PVC and not used its own S-PVC for manufacturing C-PVC. While DCW’s S-PVC capacity is 1,00,000 MT, their requirement is only 8,000 MT for C-PVC.
 - vi. While the domestic industry has claimed that it manufactures like article, none of the domestic producers have offered this grade to Epigral. The Authority has not given a finding on the fact whether the grades offered by DCW Limited are like article to specialty grades imported into India.
 - vii. Epigral has tried one of the domestic manufacturer’s grades and has informed them that such grade is not running well for C-PVC.
 - viii. It is evident from the addendum preliminary findings that since DCW’s product was under R&D due to technical reasons, they were primarily dependent upon imports.

- ix. The new plant alleged by the applicant is not presently in existence and will not be in existence in near future. Till then DCW's grade cannot be used for manufacturing C-PVC.
- x. IS 17988 states that S-PVC and M-PVC are interchangeably used to manufacture C-PVC. The specialty grade of S-PVC has characteristics similar to that of M-PVC. Thus, since M-PVC is excluded, specialty grades of S-PVC should also be excluded. Alternatively, both should be included within the scope of the product under consideration.
- xi. PVC resin produced using emulsion polymerization, mass polymerization, and micro-suspension polymerization should be included in product scope, as they are closely related to the product under consideration and may be used interchangeably in some applications.
- xii. The Authority has already excluded ultra-low and ultra-high K-value of the subject goods from the scope as the same were not manufactured by the domestic industry. The same rationale needs to be followed and specialty grades need to be excluded as the same are not manufactured by the domestic industry.
- xiii. According to Section 9A(1), any article which has not been specifically included in the scope of the product under consideration cannot be considered for investigation and imposition of anti-dumping duty even if it has closely resembling characteristics.
- xiv. The test report provided by SICART (NABL accredited), shows that there is difference between the particle size distribution of Formosa S65C grade and DCW PR 065 grade which establishes these are not like articles and cannot be used interchangeably.
- xv. Special PVC for C-PVC is specially adjusted in polymerization formula and product indicators, dedicated to the production of C-PVC and not ordinary suspension PVC. Since domestic industry is not supplying the same, it should be excluded from product scope.
- xvi. The domestic industry does not supply K 57 and K60, which are used for blister films and rigid films, as well as K70 – K77, which is used by compounders, rigid film manufacturers, and flexible film manufacturers. Further, the K67 Soft supplied by the domestic industry does not meet the quality standard of international producers. Such grades should be exempted from the anti-dumping duty.
- xvii. ACG Pharmapack Pvt. Ltd. has sought for exclusion of specific grades of imports of PVC used for pharmaceutical industry. PVC in pharma is used for packaging tablets, capsules and other solid medications, which helps protecting the life of the product and controls moisture and chemical properties of the product.
- xviii. The domestically supplied PVC resin struggles with quality control issues like dark particles in the PVC resin, which cause black spots and pinholes in the films compromising their barrier properties. This leads to potential contamination and spoilage of pharmaceutical products.
- xix. ACG Pharmapack Pvt. Ltd. tested the product with Reliance, and despite several trials, Reliance admitted it was not able to supply the product.

- xx. Contrary to submissions of domestic industry, the request for exclusion of K-57 and K-60 was made before the hearing as well, in user questionnaire response and the same has been considered by the Authority in the preliminary findings.

B.2. Views of the domestic industry

- 4. The submissions of the domestic industry with regard to the product under consideration and like articles are as follows:
 - i. The Authority has dealt with the issues regarding product under consideration at the stage of PUC PCN notification and preliminary findings. The scope of product under consideration finalised at the time of issuance of preliminary findings may be confirmed.
 - ii. Submissions made by Epigral are devoid of merit which is evident from the fact that the said producer filed submissions along with specifications, 155 days post issuance of PUC PCN notification.
 - iii. There is nothing called a specialty grade of S-PVC. A number of C-PVC producers globally use the same grades of S-PVC for production of C-PVC and do not qualify such S-PVC as specialty grades. This is also evident from the submissions made by Hanwha Corporation.
 - iv. The domestic industry manufactures like article to the grades being imported for production of C-PVC.
 - v. Since S-PVC is produced in batch process, it is not possible to have the same specifications for each batch. Even the technical data sheets provided by the Indian industry and foreign producers have specification in range.
 - vi. DCW Limited produces only 2 grades of S-PVC which have been sold in the merchant market as well as used captively for production of C-PVC.
 - vii. The domestic industry has provided evidence of commercial substitutability of its product with imported grades for manufacturing C-PVC. This itself establishes technical substitutability.
 - viii. As noted in the preliminary findings, DCW Limited has used several grades including its own and Chemplast's grade to manufacture C-PVC. DCW has recently used Reliance's grade as well and successfully manufactured C-PVC.
 - ix. The imports by DCW Limited are due to commercial consideration and not technical considerations. Imports made by DCW Limited post period of investigation does not cause any prejudice to interest of any interested parties as it will also have to pay anti-dumping duty on such imports.
 - x. There is no requirement for high porosity or bulk density to produce C-PVC as per the applicable BIS standard. DCW Limited uses its own grade to produce C-PVC.
 - xi. As opposed to the submissions by Epigral Limited, the Authority has already concluded in the addendum findings that the domestic industry has offered like article and there is no need for exclusion of any grade from the scope of the product under consideration.

- xii. While the domestic industry has established that it has interchangeably manufactured C-PVC using its own S-PVC and imported S-PVC, Epigral has failed to establish that the grade manufactured by the domestic industry cannot be used to manufacture C-PVC.
- xiii. Contrary to the submissions by Epigral, it has not demonstrated that it has provided feedback to the domestic manufacturer of S-PVC regarding usage of its grade. The ill intent of Epigral is evident from the fact that it purchased the domestically manufactured S-PVC from traders and not the manufacturer.
- xiv. While Epigral has contended that it was unable to use DCW's grade, DCW has contended that it used the same grade to produce C-PVC. Thus, the issue faced by Epigral is due to lack of technical capability due to its decision to not buy production technology and rely on internal expertise.
- xv. Contrary to the submissions by Epigral, the Authority has not concluded that DCW's grade is under R&D.
- xvi. DCW has already started production in its new plant since June 2023 and has used its own grades to manufacture C-PVC.
- xvii. M-PVC and S-PVC are different products and hence, M-PVC cannot be included in the scope of the product under consideration.
- xviii. As opposed to the submissions by the other interested parties, Emulsion polymerization, mass polymerization, and micro-suspension polymerization are different production processes resulting in different products. There have been multiple investigations on S-PVC wherein PVC manufactured through such processes have been excluded by the Authority. Even BIS treats these as different products.
- xix. Ultra-high and ultra-low K value product has been excluded from the scope of the product under consideration as the like article for the same was not being produced by the domestic industry.
- xx. Epigral has filed belated submissions with regard to the opinion from SICART. SICART does not have testing facility and thus, the opinion given cannot be classified as a technical report. Epigral has provided fabricated evidence in this regard.
- xxi. As opposed to the contentions of Wanhua Group, the producers of C-PVC in India have themselves not claimed that the grade produced by such producer is a so-called specialty grade. No specification sheet has been provided by the producer to demonstrate that such grade has different specifications.
- xxii. The domestic industry has regularly supplied K57 as well as K70-75 in the domestic market. The other interested parties have not highlighted the specification requirements of these grades. All producers in India produce as per the BIS standard and hence, no exclusion is warranted in this regard.
- xxiii. While AGC Pharmapack has stated that it has raised product exclusion request in the user questionnaire response, the domestic industry has not received a non-confidential copy of the same. The Authority may treat such user as non-cooperative.

B.3. Examination by the Authority

5. The Authority notes that a number of interested parties have made submissions with regard to the scope of the product under consideration and like article post the issuance of the preliminary findings. The Authority is examining only the fresh submissions raised post issuance of the preliminary findings.
6. A number of interested parties have submitted that S-PVC used for manufacturing of C-PVC are not produced by the domestic industry and should be excluded from the scope of the product under consideration. The Authority notes that there are only two producers of C-PVC in India, namely, DCW Limited and Epigral Limited. DCW Limited is also the applicant in the present investigation. As per the information submitted on record and as per the plant verification conducted by the Authority, DCW Limited has used S-PVC manufactured by it, other domestic producers in India as well as foreign producers in order to produce C-PVC.
7. The Authority notes that DCW Limited produces only two grades of S-PVC which are sold in the merchant market as well as used captively to produce C-PVC. Further, the Authority notes that DCW Limited has two plants for production of C-PVC. In the old plant, DCW Limited produces the subject goods using dry process wherein it uses M-PVC as the raw material. The new plant commissioned by DCW Limited is based on wet process, wherein the applicant produces C-PVC using both S-PVC and M-PVC.
8. The other interested parties have submitted that there are specialty grades for manufacturing of C-PVC. The Authority notes that there are no specialty grades of S-PVC used for manufacturing of C-PVC. This is evident from the fact that the grades identified by the other interested parties are majorly imported by importers which are not involved in production of C-PVC. With regard to Grades SG66J and SF85S, 92% imports are by importers not involved in C-PVC production and only 8% has been imported for C-PVC production during the period of investigation.

SN	Importer	Quantity in MT for SG66J and SF85S	Share
1	Epigral Limited	***	***
2	MK Industries	***	***
3	Others	***	***
4	Total	***	100%

9. During the plant verification, it was witnessed that DCW Limited was using its *** for manufacturing of C-PVC. A thorough investigation and complete production process was witnessed. Further, the Authority also collected and verified relevant information with regard to use of S-PVC manufactured by different producers including DCW Limited

which has been used for manufacturing C-PVC. The Authority notes that DCW Limited has used substantial quantities of captive produced S-PVC for production of C-PVC.

SN	Grade Name	Producer Name	Quantities Consumed (MT)		
			POI	2023-24	Apr'24-Jan'25
1	PVC resin (suspension grade)-065	DCW Limited	***	***	***
2	PVC resin (bottle grade)-057	DCW Limited	***	***	***
3	PVC resin suspension grade-LS 100 H	LG Chem Limited	***	***	***
4	Suspension polyvinyl chloride, grade FS-6701	Finolex Industries Limited	***	***	***
5	PVC suspension resin, grade SG-660	Thai Plastics and Chemicals Limited	***	***	***
6	Suspension PVC Resin K6701	Chemplast Sanmar Limited	***	***	***
7	Formosa B57	Formosa Plastics	***	***	***
8	PVC Westlake 1091	Westlake Chemical Corporation	***	***	***
9	PVC Westlake 1230P	Westlake Chemical Corporation	***	***	***
10	PVC Resin P225	Oxyvinyl	***	***	***
11	PVC Resin P1000 SB	Hanwha Solutions	***	***	***
12	PVC Resin SG66J	Thai Plastics And Chemicals	***	***	***
13	PVC Resin SF58S	Thai Plastics And Chemicals	***	***	***
14	PVC Suspension Resin Grade FJ-65R	Asahimas Chemicals	***	***	***
15	PVC Resin Fitting Grade 8010	Kemone	***	***	***
16	Suspension PVC Resin S65C	Formosa Plastics	***	***	***
17	PVC Resin Fitting Grade P 700	Hanwha Solutions	***	***	***
18	REON PVC Suspension Resin K 67	Reliance Industries Limited	***	***	***
	Total	-	***	***	***
	Share of captive consumption	-	15-25%	10-20%	50-60%

- Since DCW has used domestically produced grades of S-PVC as well as imported grades of S-PVC for production of C-PVC, the Authority notes that DCW Limited has used the domestic grade and imported grade interchangeably. Thus, the Authority notes that the product under consideration imported from the subject countries is commercially and technically substitutable with the product produced by the domestic industry. Thus, the Authority proposes to confirm the preliminary findings and addendum findings that there

is no need for exclusion of any such grade from the scope of the product under consideration.

11. With regard to the quality of C-PVC produced using domestically produced S-PVC, the Authority notes that quality as a generic allegation cannot be accepted as the basis for disputing the likeness or interchangeability of the product. Nevertheless, to obviate any material differences, the Authority has seen that all domestic producers in India produce S-PVC in accordance with BIS standards and all domestic producers hold BIS licenses for production of S-PVC. Further, only DCW Limited holds BIS license for production of C-PVC. Since DCW Limited is producing S-PVC and C-PVC as per the BIS standards, there is no doubt on the quality of the S-PVC produced by the domestic industry.
12. With regard to the submissions made for inclusion of PVC manufactured using Mass Polymerisation process, emulsion polymerization process and micro-suspension polymerization process, the Authority notes that in an anti-dumping investigation, the starting point is defining the product under consideration, which is the product being dumped in the country. In the present investigation, the defined product under consideration is Homopolymer of Vinyl Chloride Monomer produced using suspension process. Based on the product under consideration, like article as per Rule 2(d) of the Anti-Dumping Rules is determined.

“(d) “like article” means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such an article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.”

As is clear from the definition, the scope of the product under consideration is defined to include products which are being dumped into the country, causing injury to the domestic industry engaged in production of like article thereof. The domestic industry strongly submits that PVC manufactured using Mass Polymerisation process, emulsion polymerization process and micro-suspension polymerization process in the scope are not like products. There is no application by the domestic industry before the Authority that these are being dumped in India and causing injury. Therefore, the Authority is unable to accept the contention of the other interested parties to include PVC manufactured using Mass Polymerisation process, emulsion polymerization process and micro-suspension polymerization process in the scope.

13. With regard to the submissions made regarding exclusion of ultra-low and ultra-high K-Value PVC, the Authority notes that the same was excluded as the domestic industry did not offer a like article to the said grades. However, in case of S-PVC used for manufacturing of C-PVC, the Authority notes that the domestically produced product can be used interchangeably for production of C-PVC. Thus, the Authority proposes to

conclude that the domestic industry has offered a like article to such grades and that there is no need for exclusion of such grades from the scope of the product under consideration.

14. The other interested parties have submitted that as per Section 9A(1), any article not included in the scope of product under consideration cannot be considered for imposition of anti-dumping duty. The Authority notes that products which have not been covered within the definition of the product under consideration in the present investigation are not being considered for the present investigation. However, the Authority notes S-PVC used for manufacturing of C-PVC is covered within the definition of the product under consideration in the present investigation.
15. With regard to the report provided by Epigral Limited to substantiate that S-PVC produced by domestic industry is not appropriate for C-PVC requirement, the Authority is unable to appreciate the same in light of the fact of actual use for that purpose demonstrated by the domestic industry. The Authority notes that since the domestic industry is actually manufacturing C-PVC using domestically produced S-PVC, it is evident that the domestic industry is producing like article to the grades imported from the subject countries.
16. After examination of submissions made by all the interested parties and perusing the material placed on record, the Authority proposes to conclude that there is a no exclusive, clearly identifiable category of PVC suspension resin which is unique for manufacturing of C-PVC resin. PVC suspension resins claimed as special by Epigral Limited for manufacture of C-PVC resin can be used for other applications and there are other PVC resins which have been used for manufacture of the C-PVC resin. In view of this, the two are technically and commercially substitutable. The subject goods produced by the domestic industry are like article to the product under consideration imported from subject country within the scope and meaning of Rule 2(d) of anti-dumping Rules. Hence the Authority proposes to hold that the grades claimed by Epigral Limited do not warrant exclusion from the scope of PUC.
17. With regard to the submissions that the domestic industry does not produce K-57, K-60 and K-70 – K-77, the Authority notes that as per the evidence on record, the domestic industry has produced and sold the said product in the merchant market. Hence, there is no need for exclusion of the same.

C. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

C.1. Views of other interested parties

18. The submissions of the other interested parties with regard to the scope of domestic industry and standing post issuance of preliminary findings are as follows:

- i. DCW has purchased imported product from traders, implying it has indirectly imported the subject goods. Eligibility of DCW should be re-examined.
- ii. The share in production of participating domestic industry is 34%, while non-participating producers account for 66% of total production. Since the industry is not fragmented and there has already been a duty for almost 14 years, only a share of more than 50% should be considered as major proportion.
- iii. Reliance and Finolex must be considered eligible to constitute domestic industry since their imports are insignificant in relation to the subject imports, demand and production and such producers are not related to an exporter or importer of the subject goods.
- iv. While Reliance was an applicant in the earlier investigations, Finolex is a supporter in the ongoing PVC Paste investigation. Their ineligibility in the present investigation cannot be presumed.
- v. The Authority has previously, in a number of cases considered those producers which imported subject goods as eligible to constitute domestic industry.
- vi. The Authority should examine (i) Volume of imports by domestic producers in absolute terms and as % of total imports, (ii) essential business nature of company whether it is producer or importer, (iii) reason for imports and (iii) impact of imports on injury to domestic industry before deciding ineligibility of Reliance and Finolex.
- vii. Reliance and Finolex are the two largest manufacturers of the subject goods and thus, they must submit their information for the present injury analysis, as done in the cases of Plain MDF Board and PVC Suspension Grade.
- viii. Reliance and Finolex have a well-established history of pursuing trade remedial measures whenever they perceive injury and thus, their absence in the present cases raises concerns regarding the alleged injury.
- ix. In the anti-dumping investigation into imports of seamless pipes and tubes, the Authority terminated the investigation due to failure of major producer to furnish information.
- x. Since this is the fourth application by the same set of producers, it is incumbent upon the Authority to fully analyze the situation of Reliance and Finolex before recommending anti-dumping duty.
- xi. It should be examined whether related parties of the applicants, which are involved in production of downstream goods, have imported the product under consideration from subject countries.
- xii. The Authority must direct all domestic producers to clarify as to whether they are supporting the petition or not and to submit information regarding injury parameters.

C.2. Views of the domestic industry

19. The submissions of the domestic industry with regard to the scope of domestic industry and standing are as follows:

- i. Since Finolex and RIL are importers of the product under consideration from the subject countries, they should be considered ineligible to constitute domestic industry in the present investigation.
- ii. The applicants do not have information with regard to imports by other producers. The Authority may check the imports made by Finolex and RIL.
- iii. Even if Finolex and RIL are considered eligible, the applicants still account for major proportion of Indian production.
- iv. The Authority in a number of previous investigations have considered 30% share in production as major proportion. Even in the previous sunset review, the current applicants were considered to constitute domestic industry.
- v. DCW has not imported the dumped article during the period of investigation, and has only purchased S-PVC from traders in the domestic market. DCW did not file the bills of entry for such goods, and they were not imported under instructions of the applicant. Therefore, it is not an “importer” within the provisions of Rule 2(b).
- vi. The allegation that the fact of procurement of S-PVC was suppressed by DCW is not appropriate, as such information was not sought by the Authority under any prescribed format or otherwise.
- vii. The allegation that MK Industries is an exclusive trader for DCW Limited is not correct, as DCW has purchased only *** of the volume imported by the former, while the rest has been sold to other customers.
- viii. Since DCW has consumed the S-PVC imported captively for production of CPVC, it has not contributed to or shielded itself from the dumping. The same was also acknowledged by Epigral in its submissions.
- ix. The volume procured by DCW from traders was negligible in relation to production, consumption and imports into India.
- x. As opposed to the submissions of the other interested parties, it is essential to note the purpose of imports made by the domestic producers. RIL and Finolex have imported the product to benefit from dumping in the present case.
- xi. The fact that other domestic producers were applicants or supporters in previous investigation or investigation for some other product is irrelevant for the present investigation.
- xii. Contrary to the submissions of the other interested parties, the period for which the duties have been in force does not have any relevant to constitution of domestic industry.
- xiii. As opposed to the submissions by other interested parties, the Authority terminated the investigation into imports of seamless pipes and tubes as the data filed in the support letter by MSL Limited did not show any injury. However, there is no information on record which shows that Reliance and Finolex are not suffering injury.
- xiv. As opposed to the submissions of the other interested parties, the applicants do not have related parties which may have importer.

C.3. Examination by the Authority

20. 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”.

21. The Authority, in the preliminary findings, has provisionally concluded that the applicants constitute domestic industry in terms of Rule 2(b). The Authority also considered that no submissions have been made by Finolex Industries Limited and Reliance Industries Limited in the present investigation. Based on the DG Systems data, the Authority, provisionally, noted that the said producers are also importers of the product under consideration and hence, considered ineligible to constitute domestic industry in the present investigation.
22. The Authority notes that no new fact has been presented by any interested party with regard to the eligibility of Finolex Industries Limited and Reliance Industries Limited. Accordingly, the Authority proposes to conclude that the said producers are ineligible to constitute domestic industry in the present investigation. In any case, consideration of the said producers as ineligible does not cause prejudice to the interest of any interested parties, as the applicants constitute major proportion of total Indian production even if they are considered eligible. Thus, the constitution of domestic industry does not change with consideration or non-consideration of Finolex Industries Limited and Reliance Industries Limited.
23. With regard to submissions that the 50% should be considered as major proportion, the Authority notes that major proportion as per Rule 2(b) means important, serious or significant. Thus, major proportion cannot be considered a mathematical calculation. The Customs, Excise and Service Tax Appellate Tribunal in the case of Lubrizol (India) Pvt. Ltd. vs. Designated Authority [2005 (187) E.L.T. 402 (Tri. - Del.)], held that, in order to constitute major proportion, it is not necessary to exceed 50%.

“15.1 We may note here that the words “major proportion of the total production” in Rule 2(b) defining the ‘domestic industry’ are also capable of being construed so as to mean significant proportion or important part of the total production which may not necessarily exceed 50%. The word “major”, as per the Oxford Dictionary, means “important, serious or significant”. The word “proportion”, in the context, would mean share. Therefore, the expression “major proportion” would, in the

context, of total production of domestic industry, mean significant or important share. Such an interpretation is clearly permissible and going by it, the share of the petitioner in the total domestic production, being more than 31%, was undoubtedly a significant or important share i.e. a major proportion thereof. The words “major proportion of total domestic production” cannot be viewed from the angle of solving a mathematical sum involving comparative measurements or size of different parts of a whole. The phrase is used in the context of the production output of domestic producers and admits of a broad interpretation so as to take in its sweep collective output that constitutes a significant or important share of the total domestic production of the article by the producers engaged in the manufacture or engaged in any activity connected with the manufacture of such article, as contemplated by Rule 2(b)...”

24. Further, it is a consistent practice of the Authority to consider major proportion as a significant proportion and not just producers accounting for more than 50% or more of total domestic production. The Authority in several investigations have considered share of around 30% as major proportion. Further, the Authority in the previous investigations on imports of the subject goods has considered the current applicants as domestic industry even when RIL and Finolex have not participated.
25. With regard to the submissions that DCW Limited has indirectly imported the product under consideration in India and thus, cannot be considered eligible to constitute domestic industry, the Authority notes that the applicant has submitted that it has purchased S-PVC from traders in the domestic market. The applicant has also submitted that such product has been used for testing purposes in C-PVC plant and there are no direct imports during the period of investigation. The Authority notes that the applicant has purchased the product under consideration from the domestic market and has not imported the same. Even if such purchases are considered as imports, the information on record shows that such purchases are negligible when compared with the total demand in India, total production in India as well as total imports into India.

Particulars	Unit	Quantity
Total purchase of S-PVC from traders	MT	***
Total demand in India	MT	***
Purchase in relation to demand	%	<0.1%
Total production in India	MT	***
Purchase in relation to production	%	<0.1%
Total imports into India	MT	***
Purchase in relation to imports	%	<0.1%

26. Some of the parties have submitted that DCW Limited has imported via MK Industries under exclusive agreement. However, as per the information on record, the Authority notes that DCW Limited has purchased only ***% of the total imports made by MK

Industries. The total S-PVC purchased domestically by DCW is to the tune of *** MT during the period of investigation, of which *** MT was purchased from MK Industries. Thus, there can be no exclusive agreement between DCW Limited and MK Industries.

Particulars	Unit	Total	Sold to DCW	Sold to others
Imports by MK Industries in POI	MT	***	***	***
	%	100%	0-10%	90-100%

27. With regard to the submissions regarding imports made by the related entities of applicants, the Authority notes that upon examination it has not found any evidence that related entities of the applicants have imported the product.
28. In view of the foregoing and determination made by the Authority in the preliminary findings, the Authority proposes to conclude that the applicant constitutes domestic industry as defined under Rule 2(b) of the Anti-Dumping Rules and the application satisfies the requirement of standing in terms of Rule 5(3) of the Anti-Dumping Rules.

D. CONFIDENTIALITY

D.1. Views of other interested parties

29. The other interested parties have made the following submissions post preliminary determination with regard to the confidentiality claimed by the domestic industry:
 - i. The preliminary findings issued by Authority does not disclose actual figures of production, capacity, capacity utilisation, sales and market share of the domestic industry, even though the same was disclosed by the domestic industry. The Supreme Court has held that the Designated Authority cannot itself claim any information as confidential.
 - ii. The domestic industry has claimed excessive confidentiality by not providing: (i) import data, (ii) Technical Specifications, (iii) Sales Capacity and Production of the Applicant, (iv) Actual demand in India, (v) Actual imports of the product under consideration and (vi) projected growth and evidence for establishing material retardation. Some of such information is readily available in annual report.
 - iii. While the entire submission of the applicant is based on a claim of material retardation, the blanket confidentiality claimed with regard to project report preclude the interested parties from making comments regarding the correctness and validity of projections.
 - iv. Information with regard to shutdowns cannot be claimed confidential in entirety, as the same is available publicly.
 - v. The Authority should disclose the detailed and confidential calculations for determination of dumping margin, injury margin and cost of production, as confidentiality cannot be claimed from the party that has submitted the information.

Further, the exporters are not clear as to which information is used for such calculation.

- vi. Details of imports made by Reliance and Finolex have not been provided in any submission.
- vii. Transaction-wise import data in the manner in which it was taken on record must be provided to all interested parties, as held by the CESTAT in *Exotic Décor Pvt. Ltd and Ors. v. Designated Authority*.
- viii. The year in which shutdown was experienced should be provided since it is possible that the domestic industry is recovering from the losses incurred due to a shutdown. In accordance with Panel decision in *EU (Footwear) China*, the Authority is required to ensure that producers submit an appropriate non-confidential summary of the data.

D.2. Views of the domestic industry

- 30. The domestic industry has made the following submissions with regard to the confidentiality claimed by the other interested parties.
 - i. The other interested parties have filed belated submissions on confidentiality.
 - ii. Actual figures of production, capacity, capacity utilization, sales and market share of domestic industry as a whole may be shared by the Authority.
 - iii. The domestic industry does not have access to DGCI&S data and hence, the same cannot be provided to other interested parties. Market intelligence data is third party information and thus, cannot be shared. A non-confidential import summary has been shared.
 - iv. The domestic industry has already shared technical specifications, actual capacity and production, actual demand and actual growth.
 - v. Since the present investigation is not of material retardation, there is no project report which may be shared by the domestic industry.
 - vi. Details of plant shutdown contains business proprietary information and hence, cannot be shared with the other interested parties.
 - vii. CGPC, CGPC Polymer and Formosa have not disclosed information regarding adjustment for differences in quantities, with an intent to preclude the domestic industry from making submissions in this regard.
 - viii. Parties such as Taiyo have claimed even arguments made as confidential, which severely impedes the ability of the domestic industry to provide an effective reply.
 - ix. While the domestic industry does not object to sharing of confidential calculations for cost of production and dumping margin with the exporters, calculations for injury margin are based on data of domestic industry and should not be disclosed.
 - x. As opposed to the submissions made by the other interested parties, the transaction wise DGCI&S data is not available with the domestic industry. The domestic industry has relied upon market intelligence data and the non-confidential summary of the same has been provided to all the interested parties.

- xi. Contrary to the submissions by the other interested parties, the domestic industry did not face abnormal shutdowns during the injury period.

D.3. Examination by Authority

31. The information provided by all the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The arguments of the parties with regard to confidentiality have also been examined hereinbelow.
32. With regard to the submissions that actual figures of production, capacity, capacity utilization, sales and market share of domestic industry as a whole should have been shared, the Authority notes that the same has been shared in the present disclosure statement. No prejudice has been caused to the interest of any interested parties by not sharing of such information in the preliminary findings as the same was already shared by the domestic industry. In any case, an opportunity is available with all the interested parties to comment on the same as the same is being disclosed in the present disclosure statement.
33. The Authority notes that the other interested parties have filed belated comments on confidentiality in the present investigation. As per the notification of initiation, any interested parties which wanted to file comments on confidentiality, the same was to be done in 7 days from date of receipt of the non-confidential submissions. However, the other interested parties have filed comments only in their written submissions. Therefore, such submissions are time barred.
34. The Authority notes that interested parties have sought disclosure of certain information, which is business proprietary in nature, or was procured from third parties and cannot be disclosed. The Authority finds good cause exists for claiming information, such as plant shutdown period, as confidential. In the same vein, injury margin, which is based on the non-injurious price, cannot be disclosed. The Authority also finds that the domestic industry has provided an appropriate non-confidential version of import data to all interested parties. In any case, the Authority has not relied upon the import data submitted by the Authority and hence, no prejudice has been caused to the interest of any interested parties in the present investigation.
35. With regard to the submission that the domestic industry has claimed confidentiality on project report and the same should be shared, the Authority notes that the present investigation is that of material injury to the domestic industry and not material

retardation. The domestic industry has neither provided nor relied upon the project report. Thus, there is no confidentiality claim on the same.

36. With regard to the submissions that the details of imports by RIL and Finolex must be shared, the Authority notes that such information has not been provided by the domestic industry. Such information has been analysed by the Authority using the DGCI&S data. Since such information consists of confidential information of the other domestic producers, the same cannot be shared with the interested parties including the domestic industry.

E. MISCELLANEOUS SUBMISSIONS

E.1. Views of other interested parties

37. The other interested parties have made the following miscellaneous submissions post issuance of the preliminary findings
- i. Should the Authority find it appropriate to recommend imposition of duty, a duty on the basis of weighted average rate of sampled producers should be prescribed for CNSIG Jilantai Chlor-Alkali Chemical Co. Ltd. and Yibin Haifeng Herui Co., Ltd. Qingdao Haiwan Chemical Co., Ltd and Tianjin Bohua Chemical Development Co. Ltd. should be treated as cooperative producer in the final findings as well.
 - ii. The responding producers shall separately furnish an undertaking to ensure that the landed price is not below the non-injurious price.
 - iii. The exporter has been listed as “CNSIG Jiltani Chlor–Alkali Chemical Co., Ltd.” in the preliminary findings whereas it should be “CNSIG Jilantai Chlor-Alkali Chemical Co. Ltd.” The exporter has already requested for such correction.
 - iv. There was a duty on the product for nearly 14 years, and the domestic industry has requested for duty within 2 years of expiry of the duty. The present investigation is effectively a third sunset review and hence imposition of duty would be elongated protection. The duty if recommended by the Authority should be for less than 30 months, as done in the second sunset review.
 - v. The Appellate Body in US – OCTG has held that continuation of duty beyond a period of five years should be an exception. It is not appropriate to impose duty on subject imports again after only a short period of time has passed.
 - vi. The Quality Control Order made applicable with effect from 24th June 2025 will restrict imports of product under consideration. While a number of producers from China are in process of or have filed applications for issuance of BIS license, the government is not processing the certification for them.
 - vii. Despite exports to multiple countries, there are hardly any instances of anti-dumping investigations by other countries on exports of the subject goods.
 - viii. Ashirvad Pipes is not aware or involved or connected to any malpractice or unlawful practices with respect to import of the subject goods.

- ix. In its preliminary findings, the Authority has only concluded dumping, injury and causal link. The Authority has not examined whether imposition of provisional duties is indispensable to preclude injury during investigation process, as required in Article 7.1 of the Anti-Dumping Agreement.
- x. Preliminary Findings cannot be issued in “any” or “all” cases, but can only be issued in “appropriate cases”, as required in Rule 12 of the Anti-Dumping Rules. In accordance with the observations of Supreme Court in G. M. Exports, the Anti-Dumping Agreement should be referred for understanding the cases, which are “appropriate” for imposition of duty.
- xi. The names of the exporters must be corrected as they are incorrectly mentioned in the preliminary findings.
- xii. The fixed duty should not be imposed as the users will be forced to pay this duty even if imports are at a higher price. As imports are inevitable, reference price duty should be levied, if any. Submissions on misuse of reference price mechanism is without any merit since there are effective monitoring mechanism for the same.
- xiii. Fixed quotas or duty to the extent of injury margin should be imposed, to ensure that the market is not flooded with low-priced sub-standard goods. Trigger price form of duty can be imposed, to ensure that there is no unfair gain to the domestic industry from the imposition of duty.
- xiv. In the dumping margin table, the name “Shin Dai-Ichi Vinyl Corporation” should be replaced with “Tokuyama Corporation”, since the two companies have merged and Tokuyama is now the producer.
- xv. The Authority held a pre-mature hearing as the matter is sub-judice. Epigral reserves the right to raise submissions before the Authority based on the High Court's final orders.
- xvi. The petitioners have not brought forward any substantive evidence to prove the condition for initiation of the anti-dumping investigation.

E.2. Views of the domestic industry

- 38. The domestic industry has made the following miscellaneous submissions post issuance of the preliminary findings.
 - i. The anti-dumping duty was imposed on imports of the product under consideration for a long period as the producers in the foreign countries have consistently dumped the product in India.
 - ii. There is no basis of the submission that the present investigation is a third sunset review. In any case, standard for imposition of anti-dumping duty in an original investigation is higher than that in the sunset review.
 - iii. As opposed to the contention of the other interested parties, the Authority recommended continuation of anti-dumping duty in the previous sunset review as the domestic industry was not suffering injury. However, in the present investigation, the domestic industry has suffered material injury post expiry of the anti-dumping duty.

- iv. As opposed to the submissions of the other interested parties, there has been long history of anti-dumping duty in India due to the dumping practices of the foreign producers. Since the present investigation is an original investigation, there is actual evidence of dumping, injury and causal link.
- v. Contrary to the submissions of the other interested parties, QCO is meant to ensure quality of the product and not to address situation of dumping and injury to the domestic industry. Further, a number of foreign producers have already received licenses under the QCO.
- vi. As opposed to the submissions of the other interested parties, instances of imposition of anti-dumping duty by other countries does not have a bearing on present investigation.
- vii. The domestic industry has not claimed involvement of any malpractices by users in the present investigation.
- viii. As opposed to the submissions by the other interested parties, the Authority has given a detailed preliminary finding on intensity of injury being suffered by the domestic industry which itself shows the need for imposition of interim anti-dumping duty.
- ix. Contrary to the submissions of the other interested parties, the law does not require any special circumstances to be fulfilled prior to issuance of preliminary findings. The practice in a number of countries including the USA, Canada and European Union is to record preliminary findings as a Rule.
- x. As opposed to the submissions made by the other interested parties, the Authority has issued a preliminary finding in the present investigation.
- xi. Reference price duty is not appropriate in the present case as the raw material for the product under consideration is a derivative of crude which is subject to fluctuations. In case, the raw material increases, the duty will not be effective and in case, the raw material declines, the users will be penalised as they would have to pay a higher price. The manual of SOP also states that reference price duty is not appropriate for cases where raw material prices tend to fluctuate.
- xii. AIPMA and OPPI have participated in the investigation, with the former claiming to represent 22,000 users. However, both the associations have not established their credentials in the investigation, to show that their members are users of the product, and that they represent the interests of majority of their members.
- xiii. The Tribunal has also taken the view that parties must be required to demonstrate their credentials before the Authority.
- xiv. The associations have made submissions without providing any verifiable data, making a mockery of the investigation process. At least a few members of the associations should have furnished data in the investigation.
- xv. Chemplast Cuddalore is a member of Plexconcil and requested it to recall the submissions made by it, and take an action only after seeking inputs from members. In response, Plexconcil stated that it had permission to participate in the safeguard investigation, but has not confirmed it has permission to participate in the anti-dumping investigation. It is evident that some of the members are misusing the association platform for furthering self-serving purposes.

- xvi. Plexconcil updates the representations made by it to various government authorities on its website, but the submissions made in the anti-dumping investigation are not listed on the website as a representation by Plexconcil. This shows that the representations made were not authorized, but has been made by a few members misusing the platform.
- xvii. As opposed to the submissions of the other interested parties, the hearing cannot be said to be premature as the Hon'ble High Court has not stayed the investigation. Epigral Limited is engaged in Forum Shopping as it is making the same submissions in the High Court as well as to the Authority.
- xviii. Contrary to the submissions of the other interested parties, the investigation has been initiated only after duly satisfying the Authority on accuracy and adequacy of the evidence provided.

E.3. Examination by the Authority

- 39. With regard to the submissions that there was no evidence for initiation of the investigation, the Authority notes that the applicants had provided prima facie evidence of dumping, injury and causal link. Only after undertaking prima facie examination of the evidence provided and duly satisfying itself on the accuracy and adequacy of the evidence provided, the Authority initiated the present investigation. No information has been provided by other interested parties which would lead the Authority to conclude that the prima facie opinion drawn by it was erroneous.
- 40. The Authority notes that all producers which have filed a complete response in the present investigation have been considered as cooperative. Further, the margins determined for non-sampled producers is based on weighted average of sampled producers.
- 41. With regard to the submissions that the present investigation is a third sunset review, the Authority notes that the present investigation is an original investigation. The anti-dumping duty on imports of product under consideration expired in February 2022 and a sunset review was not conducted at that time. Further, the Authority analyses likelihood of dumping and injury in case of expiry of anti-dumping duty in a sunset review investigation even if there is no actual dumping or injury during the period of investigation. However, in the present investigation, the Authority has analysed dumping, injury and causal link.
- 42. With regard to the submissions that the product has been subject to anti-dumping duty for a long period of time, the Authority notes that each investigation stands on its own feet and the Authority gives recommendations in each case pursuant to an investigation as per the procedure envisaged in the law. The Authority is unable to appreciate this generic submission which is bereft of any legal basis.

43. The other interested parties have submitted that in case, anti-dumping duty is levied, the same should be for less than 30 months as done in the sunset review, and the duty should be in the form of a reference price. The Authority notes that it shall consider the tenure for which duty should be recommended and form thereof, if and when it concludes that there is a need for imposition of duty in the present case.
44. With regard to the submissions that Quality Control Order will be applicable and restrict imports into India, the Authority notes that the purpose of QCO and imposition of anti-dumping duty is different. While QCO is meant to ensure that the quality of product being sold in the domestic market is as per the standards issued, the purpose of anti-dumping duty is to remedy the situation of dumping and injury to the domestic industry.
45. With regard to the submissions that even though the product under consideration is being exported to multiple countries, no other country has conducted an anti-dumping investigation, the Authority notes that while investigations in other countries may indicate price discriminatory behaviour adopted by foreign producers; absence of such investigations does not mean absence of dumping in India.
46. With regards to the submissions concerning malpractices by importers or users, the Authority notes that such allegation has not been raised by any interested party including the domestic industry in the present investigation.
47. While issuing the preliminary findings, the Authority has preliminarily examined dumping, injury and causal link. The preliminary findings contained a detailed examination on these accounts. The Authority noted that the domestic industry suffered significant injury during the period of investigation due to dumping of the subject goods from the subject countries. The dumping margin and injury margin was positive and significant. The contents of the preliminary findings in itself establish sufficient justification for invoking interim measures.
48. With regard to the submissions that preliminary findings cannot be issued in “all” cases, the Authority notes that the issuance of preliminary findings is governed by Article 7 of the Anti-Dumping Agreement. The only conditions laid down in Article 7 are (a) the investigation was initiated in accordance with the Agreement, with due notice and an opportunity to defend their interests given to all interested parties, (b) there is a preliminary affirmative determination made with regard to dumping and consequent injury, (c) the imposition of measures is necessary to prevent injury being suffered during the investigation. Since all the said conditions are fulfilled in the present investigation, issuance of preliminary findings was appropriate.
49. With regard to the submissions that the names of the exporters must be corrected, the Authority has corrected the same in the present disclosure statement.

50. With regard to participation of user associations, the Authority notes that the members of the association have failed to furnish information in form of user questionnaire responses or importer questionnaire responses. Further, the associations have made a number of submissions without providing any verifiable evidence. The Authority has noted the submissions made by all user associations and have taken on record the submissions, which are backed by evidence. However, where the parties have made sweeping statements, without any supporting information to substantiate the same; the Authority has not found it appropriate to rely on such statements.
51. With regard to the submissions that a premature hearing was held in the investigation, the Authority notes that the anti-dumping investigations are time bound and as the Hon'ble High Court has not issued a stay order in the present investigation, the Authority is bound by the Anti-Dumping Rules to conclude the investigation within a period of one year from the date of initiation.

F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

F.1. Views of other interested parties

52. The other interested parties have made the following submissions with regards normal value, export price and dumping margin post issuance of the preliminary findings.
- i. Individual margin should be determined for Wanhua Chemical (FuJian) Co., Ltd and Wanhua Petrochemical (Yantai) Co., Ltd., since the sampling procedure has been undertaken post expiry of 80 days from date of initiation. Therefore, the sampling is belated, in view of the deadline prescribed in the Manual.
 - ii. Even if sampling is done, Wanhua should be sampled since its high-quality ethylene-based PVC resin is exported to India at higher prices. The weighted average of presently sampled producers being applied to Wanhua would harm the stability and quality of supply channels for Indian customers. Further, the volume exported by Wanhua are comparable to the sampled producers.
 - iii. As per Article 6.10.2 of the Anti-Dumping Agreement, the Authority should encourage voluntary responses.
 - iv. The sampling methodology relies only on export volumes and does not take into account the different types of companies or their operational conditions.
 - v. The Authority has selected only three producers from 69 participating companies, which has resulted in a skewed and unrepresentative outcome. In the investigation into imports of Jute products, the Authority selected samples from responding exporters across the highest, middle and lower bands of export volumes to India, selecting a total of 19 exporters. By contrast, in the present case, the Authority has considered the 3 largest exporters only.
 - vi. Tokuyama Corporation requested extension of time for filing comments on sampling notification, but the same was denied, which has caused undue prejudice. In any case, Tokuyama filed comments requesting determination of individual margin, which were neither considered nor addresses by the Authority.
 - vii. The Authority has not conducted sampling for producers/exporters from USA, despite the similarity in the number of participating groups from USA and Japan.
 - viii. Since the Authority has treated Taiyo Vinyl as non-cooperative, determination of individual dumping margin for Tokuyama Corporation would not be unduly burdensome on the Authority.
 - ix. Xinfu has exported the subject goods through 49 exporters to India, of which 13 have cooperated in the present investigation. It is not feasible to compel the remaining exporters to participate as they have exported only small quantities, and a requirement of participation of all is unreasonable. The landed price and export price for exports through non-cooperative exporters should not be based on facts available, but should be revised in light of available information.
 - x. Different approaches have been taken for different producers, in terms of whether the export price would be based on the price charged by producer to related exporter, or related exporter to unrelated customer.

- xi. Formosa Plastics Corporation has exported a small quantity through Reliance International Limited. The exporter has intentionally not participated, despite confirming that it would cooperate, in an attempt to sabotage FPC Taiwan's third-country price. Facts available may kindly not be considered for such exports.
- xii. The data furnished by Itochu should be considered for calculation of landed value for the producers that it has sourced the product under consideration from.
- xiii. The Authority should allow Taiyo Vinyl to rectify its questionnaire responses and determine individual margin for the producer as in done in the cases of Gypsum board or Tiles, Telescopic Channel Drawer Slider and Grinding Media Balls.
- xiv. The Authority is requested to determine individual margin for Tokuyama Corporation, Taiyo Vinyl, Shin-Etsu, Kaneka, PT Asahimas, ACG Vinythai, PT TPC Indo Plastics, TPC TPE, Westlake, Shintech and Oxy Vinyl.
- xv. The current market price of the product under consideration are in line with existing market dynamics and do not constitute dumping.
- xvi. It is important to assess the pricing based on current market realities and not historical prices.
- xvii. Hanwha is not involved in the dumping of the subject goods exported during the period of investigation and the injury period.
- xviii. Hanwha is prepared for onsite verification of their data.

F.2. Views of the domestic industry

- 53. The submissions of the domestic industry with regard to the normal value, export price and dumping margin are as follows:
 - i. As opposed to the submissions made by the other interested parties, there is no timeline prescribed in law for undertaking sampling.
 - ii. Contrary to the submissions of the other interested parties, export of niche grade is not a ground for inclusion in sampling. Further, the cost of such product does not vary which is evident from the fact that there is no PCN in the subject matter.
 - iii. Voluntary responses should not be accepted as the number of responses in the present investigation are very high.
 - iv. There is no obligation on the Authority to consider types of companies and their operational conditions to undertake sampling.
 - v. The other interested parties have compared the sampled producers with total number of registered interested parties and have ignored the number of exporters involved for exports from the sampled producers.
 - vi. As opposed to the submissions made by the other interested parties, since the related party of Taiyo Vinyl has not participated in the present investigation, no individual duties should be granted to the said producer.
 - vii. Contrary to the submissions by the other interested parties, none of the interested parties was provided an extension to file comments on sampling. The Authority has already provided detailed reason for selection of the sample.

- viii. As opposed to the submissions of the other interested parties, only three producers from the USA have participated while five producers have participated from Japan.
- ix. Contrary to the submissions of the other interested parties, new response should not be analysed at this stage.
- x. Since the Authority has undertaken sampling, request for individual determination should not be accepted.
- xi. Contrary to claim of the interested parties, the response filed by a producer can be accepted only where the exporters and traders forming part of the channel of distribution cooperate with the Authority. The same is also evident from the Manual of Operating Practices. The Anti-Dumping Agreement also defines dumping as a product being introduced into the commerce of another country at less than its normal value, thereby requiring consideration of the price charged by the exporters and traders in the channel of distribution. This is also the price causing injury to the domestic industry.
- xii. The export price should be determined based on the price charged by the producer to unrelated or related producer. The price of related producer may be considered only when it shows that such exporter is merely a trading arm of the exporter.

F.3. Examination by the Authority

54. Under section 9A(1)(c), the normal value in relation to an article means:

“i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or

ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

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

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely 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.”

55. With regard to the submissions that sampling is belated, the Authority notes that Rule 17(3) of the Anti-Dumping Rules allows sampling of producers / exporters. There is no deadline in the Rules for undertaking sampling of producers / exporters in an anti-dumping investigation.
56. As regards submissions that Wanhua should be sampled since it has exported higher quality and higher priced product, the Authority notes that the sample has been selected based on the volume of exports. Based on the sampling methodology, the three largest exporters to India have been selected. Further, Wanhua did not make any submissions with regard to a higher quality product being exported to India at the time of finalizing PCN. The Authority notes that it is evident that such product is comparable to S-PVC being exported by the sampled producers. In case, Wanhua is exporting a niche product, the same cannot be considered for sampling as it will not be representative of total imports from China.
57. The Authority notes that Article 6.10.2 of the Anti-Dumping Agreement states that voluntary responses should not be discouraged, however, individual examination may not be done when the number of exporters or producers is so large that individual examination would be burdensome to the Authority and prevent timely completion of the investigation. Since, the number of responses in the present investigation are high, the Authority is not undertaking individual determination.
58. With regard to the submissions that the sampling methodology does not take into account different types of companies or their operational conditions, the Authority notes that there is no provision in law which mandates the Authority to examine type of company or operational condition at the time of sampling.
59. With regard to submissions that extension was not provided for furnishing comments on sampling, the Authority notes that anti-dumping investigation are time bound and thus, no extension could be provided to the interested parties for offering comments on sampling. Further, no new fact has been presented subsequently, which indicates that a different sample should have been selected for examination.
60. With regard to the submissions that only 3 producers have been selected as a sample, the Authority notes that the law does not specify the number of producers that may be selected as a sample. Sampling is done as per the facts of the investigation. Since the number of producers in the present investigation are quite high, the Authority has chosen a sample of 3 producers. Even then, there are a number of related and unrelated exporters which export the product under consideration manufactured by the sample producers.
61. With regard to the submissions that sampling has not been conducted for producers from the USA, the Authority notes that since only three producers from USA have participated in the present investigation, there is no need to undertake sampling for US producers.

62. During the course of desk verification, the response filed by Taiyo Vinyl Corporation (Taiyo Vinyl) was examined in detail, and the exporter has demonstrated that the response filed was complete and accurate in all material respect. Accordingly, the Authority proposes to accept the response filed by Taiyo Vinyl Corporation (Taiyo Vinyl). The normal value and export price have been computed as under.

Normal value for Taiyo Vinyl Corporation

63. Taiyo Vinyl has sold *** MT of the subject goods in the domestic market during the period of investigation, whereas it has exported *** MT of the subject goods to India. However, Taiyo Vinyl has sold the subject goods to affiliates in the domestic market, as well as under swap agreement with Tokuyama Sekisui Co. Ltd. The Authority examined whether such transactions were made on arm's length basis, and excluded transactions which were not found to be at arm's length prices, as being outside the ordinary course of trade. Having excluded such transactions, the Authority notes that the domestic sales in ordinary course of trade are in sufficient volumes when compared with exports to India.
64. To determine the normal value, the Authority has conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. Since more than 80% sales were made at profits, the normal value has been determined based on average selling price. Taiyo Vinyl has claimed price adjustments on account of credit notes, debit notes, freight cost, storage cost, packing cost, credit cost and other expenses. The adjustments claimed have been allowed. Accordingly, the normal value at ex-factory level for Taiyo Vinyl has been determined as shown in the dumping margin table.

Export price for Taiyo Vinyl Corporation

65. Taiyo Vinyl has exported *** MT of the subject goods to India directly and *** MT, through the following six unrelated exporters.

Taiyo Vinyl → Itochu Corporation → Unrelated customers in India

Taiyo Vinyl → Kanematsu Corporation → Unrelated customers in India

Taiyo Vinyl → Marubeni Corporation → Unrelated customers in India

Taiyo Vinyl → Mitsubishi Corporation → Unrelated customers in India

Taiyo Vinyl → Mitsui & Co. Ltd. → Unrelated customers in India

Taiyo Vinyl → Sojitz Corporation → Unrelated customers in India

The Authority also examined and confirmed that the unrelated exporters have resold the product under consideration at profits.

66. Accordingly, the export price has been determined based on the price of sale charged by Taiyo Vinyl for sales to unrelated customers in India and through unrelated exporters. Adjustments have been made for shipping cost, surveyor cost, ocean insurance, handling charges, demurrage and detention charges, inland freight, storage cost, packing cost,

credit cost and other expenses to arrive at the ex-factory price. The landed price has been determined based on the price charged by the ultimate exporter to the customer in India. The export price so determined is mentioned in the table below.

67. As regard the submissions that since Taiyo Vinyl has been considered non-cooperative, individual margin may be determined for Tokuyama Corporation, the Authority notes that it has already examined two responses from Japanese exporters. Further, the response filed by Taiyo Vinyl is proposed to be accepted. Therefore, an individual margin cannot be determined for Tokuyama Corporation. The margin for Tokuyama Corporation would be determined based on the weighted average margin for the cooperative exporters.
68. Further, pursuant to desk verification, the Authority also proposes to quantify an individual margin for Oxy Vinyls, L.P. (Oxy Vinyls). The normal value and export price has been computed as under.

Normal value for Oxy Vinyls, L.P.

69. Oxy Vinyls, LP (Oxy Vinyls) sold *** MT of the subject goods in the domestic market during the period of investigation, whereas it has exported *** MT of the subject goods to India. To determine the normal value, the Authority has conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of the subject goods. Since less than 80% sales were made at profits, the normal value has been determined based on the price of profitable sales. Oxy Vinyls has claimed price adjustments on account of inland freight, storage cost, credit cost and other expenses. The adjustments claimed have been allowed. Accordingly, the normal value at ex-factory level for Oxy Vinyls has been determined as shown in the dumping margin table.

Export price for Oxy Vinyls, L.P.

70. Oxy Vinyls has exported *** MT of the subject goods to India through its affiliate exporter, Oxy Vinyls Export Sales, Inc. (OVES), during the period of investigation. OVES has, in turn, exported the subject goods through the following 13 channels.

Oxy Vinyls → OVES → Continental Ind Group Inc → Unrelated customers in India

Oxy Vinyls → OVES → Chemex Inc

Oxy Vinyls → OVES → COPAP USA → COPAP Inc → Unrelated customers in India

Oxy Vinyls → OVES → COPAP USA → COPAP Europe → Unrelated customers in India

Oxy Vinyls → OVES → COPAP USA → COPAP Trading Inc → Unrelated customers in India

Oxy Vinyls → OVES → COPAP USA → Sigma Trade Finance Inc. → Unrelated customers in India

Oxy Vinyls → OVES → COPAP Trading Inc

Oxy Vinyls → OVES → ICC Chemical Corporation

Oxy Vinyls → OVES → Marubeni America Corporation → Marubeni Corporation → Unrelated customers in India

Oxy Vinyls → OVES → Mitsubishi International Corporation → Unrelated customers in India

Oxy Vinyls → OVES → Oxyde Chemicals, Inc → Unrelated customers in India

Oxy Vinyls → OVES → Tricon Dry Chemicals, LLC → Tricon International Limited → Unrelated customers in India

Oxy Vinyls → OVES → Vinmar International LLC

71. Of the above, Chemex Inc and ICC Chemical Corporation have not cooperated before the Authority. While Vinmar International LLC and COPAP Trading Inc have cooperated before the Authority, they have not reported any exports of goods purchased from Oxy Vinyls. It is further noted that COPAP USA, COPAP Inc, COPAP Trading Inc, COPAP Europe and Sigma Trade Finance Inc. are related to each other. Further, Marubeni America Corporation and Marubeni Corporation are related to each other, as also Tricon Dry Chemicals, LLC to Tricon International Limited.
72. To determine the export price and landed price, the Authority considered the price at which the ultimate exporter has sold to the customer in India. The export price was adjusted appropriately to arrive at the ex-factory price. Adjustments have been made, as claimed for each channel, for debit / credit notes, ocean freight, inland freight, insurance, storage cost, purchase discount, handling charges, commission, liability cost, courier fee, packing cost, bank charges, LC discounting charges, LC fee, discounting charges, seller risk insurance, interest expense, credit cost and other expenses to arrive at the ex-factory price. Further, the selling, general and administrative expenses and profits of the exporters / traders forming part of the channel of sales, barring OVES, have been adjusted. However, for the volume exported through non-cooperative exporters, the Authority has determined the export price and landed price based on facts available. The export price determined is mentioned in the table below.
73. The cost of production and pricing information of the responding producers were verified during the course of the investigation. Such verified information has been considered for the purpose of the present Disclosure Statement. The verified cost of production was compared with the ex-factory selling price in the home market. Where less than 20% of the sales were found to be below cost, the normal value has been determined based on average selling price in the home market. Where more than 20% of the sales were below cost, the Authority has considered the price of profitable sales in the home market. However, where the volume of profitable sales was very low, the Authority has not found it appropriate to determine normal value based on domestic selling price. In such situations, the normal value has been determined based on the cost of production of the producer, with a reasonable addition for profits and selling, general and administrative expenses.

74. The other interested parties have made submissions with regard to different approaches followed for export price determination. The Authority notes that it has consistently taken the price charged by the producer from the unaffiliated customer, for all exporters. Therefore, there is no inconsistency in the manner of export price determination.
75. With regard to the submissions that facts available should not be used due to non-cooperation of unrelated exporters, the Authority notes that in a situation where full information with regard to exports to India is not on record and when the exporter concerned has not filed questionnaire response, the Authority is not in a position to precisely determine export price and landed price for the producer concerned. It is established practice of the Authority that the Authority determines export price and landed price only when the producer and the exporters concerned have filed questionnaire responses. Since the export price from non-cooperative producers is not available, the Authority has determined net export price based on facts available.
76. With regard to the submissions that the pricing is based on current market dynamics and does not constitute dumping, the Authority notes that the dumping margin has been determined based on the responses filed by the participating producers and exporters. The Authority notes that the producers from the subject countries have exported the product under consideration to India at prices below their normal value. Thus, such exports to India have been made at dumped prices. Further, the dumping has been assessed for the period of investigation.
77. The normal value, export price and dumping margin determined in the present investigation are as follows:

Dumping Margin Table

SN	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		USD/MT	USD/MT	USD/MT	%	Range (%)
A. China						
1	Chiping Xinfu Polyvinyl Chloride and Chiping Xinfu Huaxing Chemical Co., Ltd.	***	***	***	***	55-65%
2	Tianjin Bohua Chemical Development Co., Ltd.	***	***	***	***	20-30%
3	Qingdao Haiwan Chemical Co., Ltd.	***	***	***	***	20-30%
4	Non – Sampled Producers	***	***	***	***	30-40%
5	Others	***	***	***	***	50-60%
B. Indonesia						
6	PT Asahimas Chemical	***	***	***	***	10-20%
7	PT. TPC Indo Plastic and Chemicals	***	***	***	***	10-20%
8	Others	***	***	***	***	30-40%

C. Japan						
9	Kaneka Corporation	***	***	***	***	80-90%
10	Shin-Etsu Chemical Co., Ltd.	***	***	***	***	40-50%
11	Taiyo Vinyl Corporation	***	***	***	***	40-50%
12	Non-Sampled Producers	***	***	***	***	50-60%
13	Others	***	***	***	***	80-90%
D. Korea						
14	LG Chem, Ltd.	***	***	***	***	45-55%
15	Hanwha Solutions Corporation	***	***	***	***	(0-10%)
16	Others	***	***	***	***	75-85%
E. Taiwan						
17	China General Plastics Corporation and CGPC Polymer Corporation	***	***	***	***	25-35%
18	Ocean Plastic Co., Ltd.	***	***	***	***	25-35%
19	Formosa Plastic Corporation	***	***	***	***	20-30%
20	Others	***	***	***	***	65-75%
F. Thailand						
21	Thai Plastics and Chemicals Plc.	***	***	***	***	5-15%
22	AGC Vinythai Public Company limited	***	***	***	***	10-20%
23	Others	***	***	***	***	20-30%
G. USA						
24	Westlake Chemicals & Vinyls LLC, Westlake Vinyls Inc. Westlake Vinyls Company LP	***	***	***	***	145-155%
25	Shintech Incorporated Shintech Louisiana L.L.C	***	***	***	***	65-75%
26	Oxy Vinyls, L.P.	***	***	***	***	95-105%
27	Others	***	***	***	***	145-155%

G. ASSESSMENT OF INJURY AND CAUSAL LINK

G.1. Views of other interested parties

78. The following submissions have been made by the other interested parties with regard to injury and causal link post issuance of the preliminary findings:
- i. There is no injury to the domestic industry, warranting imposition of duty. There must be existence of 'real injury', with substantiated evidence, for imposition of duty and not a mere 'probability'.
 - ii. The claims for material injury within the domestic markets are unsubstantiated, and do not reflect the effects of global market conditions on pricing and demand. The domestic industry has relied upon excess capacities in subject countries but not provided any evidence that such excess capacities would lead to continuation of injury.
 - iii. The subject imports cannot be cumulatively analysed since as the conditions of competition between imports as well as imports and the like article are not same. Imports from Japan are priced higher than all other imports.
 - iv. The import prices from China were the highest amongst all importing countries, except for Japan. The injurious effects being caused by other subject countries should be segregated.
 - v. The primary cause of injury to the domestic industry is the imports from China and not those from Japan, Thailand, Indonesia and USA, as admitted by Chemplast Sanmar in their Annual Report 2022-23 and noted by CRISIL in their report on Chemplast Cuddalore Vinyls Limited.
 - vi. The increase in demand has outweighed the increase in capacity and production of the domestic industry. The imports are being made to meet the increase in demand in the country, which cannot be catered to by the domestic producers.
 - vii. As noted by the Appellate Body in China – GOES, a mere increase in imports, even if significant, is not sufficient to establish evidence of volume effect. The impact of imports on domestic sales, market share or capacity utilization must be seen.
 - viii. While the Authority has noted that the imports have increased at a higher rate than increase in demand, it has been overlooked that the domestic industry is already operating at 90% utilization.
 - ix. The domestic industry might have suffered price suppression or depression because of increase in demand.
 - x. The price undercutting is negligible, showing that the domestic industry aligns its prices as per the price prevailing in the market.
 - xi. The Authority must examine price undercutting for the entire injury period and its effect on the profitability of the domestic industry.
 - xii. The decline in the landed price of imports from China is due to the decline in price of main raw material used for production of subject goods, and optimization of production technology to leading to energy saving.

- xiii. Prices of VCM should be compared to prices of PVC to examine whether they have experienced similar price increases.
- xiv. The information available publicly from chemorbis.com, a reputed foreign agency, shows that the prices of PVC in India are highest amongst other Asian countries. Information from chemorbis.com also shows that the prices of the domestic industry are much higher compared to the prices in other Asian countries.
- xv. The imports and supplies of other producers (non-petitioning) are shaping the price structure of the subject goods of the domestic industry in India.
- xvi. The capacity, production, capacity utilization and sales of the domestic industry have increased during the injury period. However, no positive weightage was given to these developments in the preliminary findings, while undue weightage has been given to losses during 2022-23 and the period of investigation.
- xvii. The market share of the domestic industry has reduced due to absence of capacity with the domestic industry to cater to demand in India.
- xviii. There has been no injury to the domestic industry in terms of number of employees, wages and productivity.
- xix. Since there is demand-supply gap in India, the prices in India are determined by the exporters and such exporters charge high prices. Thus, the price of domestic industry has not been impacted by price of imports and any decline in profitability is on account of increase in cost.
- xx. The significant losses faced by the domestic industry cannot be due to the imports of the product under consideration, since the domestic industry was more profitable in 2020-21, when it was impacted by Covid-19. The decline in losses does not correlate with the decline in selling price.
- xxi. While applicants have sought duty on 7 out of 35 countries from which product under consideration is imported; it must be examined if domestic industry is even able to withstand fair competitions from other producers in India as well as imports.
- xxii. The product under consideration has been exported from many countries at comparable prices. It is not possible that all countries have been dumping. If despite receiving protection for 14 years the domestic industry is still faced with injury, the reason for injury is something inherent to the industry.
- xxiii. Since all the economic parameters are showing improvement other than the profitability of the petitioners, it must be examined whether other factors are causing injury to the domestic industry.
- xxiv. If the domestic industry is facing injury, it is unclear as to how it may be making significant investments.
- xxv. Imports from China are priced consistently higher than import prices from non-subject countries like Mexico, Norway, Brazil, Germany, Colombia, UAE, Egypt, etc. and are thus, not dumped / injurious. Imposition of duty in such a situation would result in shift of imports from subject countries to other countries.

- xxvi. There is no clear evidence that indicates that imports are the sole cause for injury to the domestic industry.
- xxvii. The performance of the domestic producers is affected by internal inefficiencies, operational costs associated with capacity expansions, and other market dynamics.
- xxviii. There is no incentive for producers/exporters from China to export subject goods at lower price to capture other markets, as 90% of their production is consumed in their domestic market.
- xxix. It is not possible that producers in the subject countries are exporting to India at prices below their cost of production, implying that cost of production in India is higher than the cost of production in other countries.
- xxx. The selling price and cost of the domestic industry increased due to COVID situations and thereafter, has stabilized in two years till period of investigation. The same cannot be considered as price effect of imports.
- xxxi. Finolex commands a higher price for the subject goods when compared to DCM, which indicates injury to DCM is self-inflicted and not due to subject imports.
- xxxii. The Authority must examine if injury to the domestic industry is on account of the captive consumption of the subject goods. In this regard, the value of costs as reported in Proforma IV-A must be seen since lower allocation of costs towards captive production may lead to inflated per unit cost of sales.
- xxxiii. It is possible that the domestic industry is recovering from the losses incurred due to a shutdown.
- xxxiv. The non-injurious price of 950-1000 USD per MT claimed by the domestic industry is exaggerated, as such non-injurious price is also higher than imports from non-subject countries.
- xxxv. A return of 22% should not be allowed on capital employed because such return is being allowed even on the debt portion of capital employed and is very high in an era of global recession. A return of 22% on capital employed implies an effective profit on net worth of 27.15% to 41.41% depending upon the debt equity ratio.
- xxxvi. The practice in European Union, as also affirmed by the European Courts in the case of European Fertiliser Manufacturers Association V. Council, is that the profit margin considered should be based on the profit margin earned by domestic industry in the period in which the dumped or subsidized imports did not have an adverse effect on the domestic industry.
- xxxvii. As per Annual Reports, DCM Shriram Ltd is earning a return of 18.69%, while DCW Ltd is earning 18.09%, which should be considered for determination of non-injurious price.
- xxxviii. Participation of Reliance and Finolex would show better injury parameters and a reduced NIP due to their more cost-efficient structure.

G.2. Views of the domestic industry

79. The following submissions have been made by the domestic industry with regard to the injury and causal link post issuance of preliminary findings:

- i. Cumulative assessment of injury is appropriate in view of the margin of dumping, volume of imports, and conditions of competition.
- ii. In response to the contention that the import price from subject countries is not dumped and injurious as the price of imports from third countries is also similar, it was submitted that comparison of price of subject imports with price of non-subject imports is not appropriate to assess whether such price is dumped and injurious. The dumping margin for imports from China is positive and significant.
- iii. Contrary to the submissions of the other interested parties, the Authority is not required to conduct country-to-country analysis of volume and price as pre-condition for cumulation.
- iv. The fact that the import price from one country is higher than other subject countries is not a reason for de-cumulation.
- v. As opposed to the submissions by the other interested parties, the price of imports from all subject countries is in similar range and causing injury to the domestic industry.
- vi. The domestic industry has suffered injury as a result of increase in imports, at prices below the prices of the domestic industry, and the imports suppressing and depressing the prices of the domestic industry.
- vii. Imports have increased more than increase in demand in India.
- viii. Contrary to the submissions of the other interested parties, the imports in India are much more than the demand-supply gap. Imports in excess of demand-supply gap have increased in India.
- ix. The price undercutting is positive even when the domestic industry has sold at losses.
- x. The claim that there is no price effect is illogical as the landed price is below the cost of sales of the domestic industry due to which the domestic industry has been forced to sell at losses. While the cost of sales has increased, the selling price of the domestic industry has declined.
- xi. As opposed to the submissions of the other interested parties, price suppression and depression are not related to demand of the product.
- xii. The imports have adversely affected inventories, profits, cash profits and return on investment of the domestic industry, as well as its ability to raise capital investment.
- xiii. The Authority has already examined the volume effect of subject imports. The nature of the industry is such that it has to undertake continuous production even if it has to sell at losses. Domestic producers have long-term contracts for supplies of VCM with suppliers and shipping companies, due to the unique containers required for transportation. If a domestic producer suspends

production, they default on their contractual obligations, or face build-up of inventories of raw materials. Therefore, slowing down production is not an option for domestic producers.

- xiv. The domestic industry is able to utilize its capacities only as it has been selling at losses.
- xv. Contrary to the submissions of the other interested parties that the cost in subject countries is lower than that in India, there is no provision which allows comparison cost of production in subject countries and India. Further, even if the cost is lower in the subject countries, the Authority has already concluded dumping by the producers in the subject countries.
- xvi. While the domestic industry does not have objection to collection of data from other domestic producers, the Authority is only required to conduct injury analysis with regard to domestic producers constituting domestic industry as per Appellate Body report in US – Anti-dumping measures on Certain Hot-Rolled Steel Products from Japan and Panel Report in European Communities — Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India.
- xvii. The losses to the domestic industry have increased in the period of investigation. The domestic industry was profitable when the landed price was above the cost of sales of the domestic industry.
- xviii. The other interested parties have failed to provide evidence with regard to capacity utilization in China. The capacities in China are to the tune of 25 million MT and a 10% capacity utilization is enough to cater to 73% demand in India.
- xix. As opposed to the submissions by the other interested parties, the domestic industry is capable of competing in fair market situation which is evident that the performance of domestic industry was much better when there was no dumping in the Indian market.
- xx. As opposed to the submissions by the other interested parties, investments made in the product are not short term decisions. The domestic industry was not suffering injury in 2020-21 and 2021-22 and the injury to the domestic industry is recent.
- xxi. Contrary to the submissions of the other interested parties, dumping has been quantified by the Authority based on the data submitted by the exporters. Thus, contention that there is no dumping is incorrect. There are no other factors which may have caused injury to the domestic industry.
- xxii. Volume of imports from other countries is much less than imports from China. Since S-PVC is a commodity product, the prices from other countries are also likely to increase once dumping in India is checked.
- xxiii. The other interested parties have failed to point out other potential factors which may have caused injury to the domestic industry.
- xxiv. As opposed to the submissions by the other interested parties that actual injury should be seen and not probable injury to the domestic industry, the present case is not a sunset review, and the domestic industry has provided information with regard to actual injury to the domestic industry.

- xxv. As opposed to the submissions of the other interested parties, the injury cannot be due to capacity expansion as only one of the applicants has expanded capacities but the other applicants have suffered losses.
- xxvi. There is no provision which allows for comparison of performance of domestic producers inter-se. There is a need to consider the operations of the company to assess injury. While DCM produces for merchant market, Finolex majorly produces for captive consumption.
- xxvii. As opposed to the submissions by the other interested parties, DCW does not have fixed price contracts with the buyers.
- xxviii. The injury is not on account of fluctuations in raw material costs, since such fluctuations are inherent to the nature of the industry. In the absence of dumping, increase in raw material cost would have a corresponding increase in selling price and landed price of the product.
- xxix. Injury is not due to captive consumption, as alleged by other parties, since only one applicant captively consumed the subject goods and such captive consumption was quite low as compared to total production of subject goods.
- xxx. As regards the contention that the claim of injury is unsubstantiated and does not reflect effects of global market conditions on pricing or demand, it was submitted that no evidence has been provided by the other interested parties with regard to global prices or demand. The Authority has already provided a preliminary finding with detailed analysis of injury to the domestic industry.
- xxxi. In alleging that a return of 22% allows inordinately high return on net worth, the interested parties have assumed an unrealistic debt equity ratio. In case, the actual ratio is considered, a return of 22% allows a much lower return on net worth. The other interested parties have also ignored the fact that the applicants are required to pay a tax on the profits earned and that there are some expenses on which the return must be allowed which are considered by the Authority as non-cost expenses. The profits earned must be sufficient to cover such expenses.
- xxxii. In case, the Authority considers the highest profits during the injury period, the same were much higher than that considered consistently by the Authority for determination of non-injurious price.
- xxxiii. Reliance on practice of European Union is inappropriate as the European Union determines non-injurious price based on total cost of production of the domestic industry, without adjusting for optimization of raw material, utilities and production capacities. If the practice has to be adopted in determining return, it should also be adopted in considering full cost.
- xxxiv. As opposed to the submissions of the other interested parties, the return on investment of both DCM and DCW are higher than 22% in the previous years.

G.3. Examination by the Authority

- 80. The Authority has examined the arguments and counterarguments of the interested parties with regard to injury to the domestic industry, made post issuance of the

preliminary findings. The analysis made by the Authority hereunder addresses the various submissions made by the interested parties. Further, the Authority had earlier examined injury to the domestic industry in the preliminary findings. The same has not been examined in the present disclosure to the extent it has already been examined in the preliminary findings.

81. With regard to the submissions made by Ashirvad Pipes that there should be real injury and not probable injury, the Authority notes that it has assessed actual dumping, injury and causal link due to imports of subject goods from the subject countries.
82. The other interested parties have submitted that injury is unsubstantiated and does not reflect effects of global market conditions. The Authority notes that the other interested parties have failed to provide any credible evidence in this regard.
83. As regard the submission that there is no injury as the domestic industry is making investments, the Authority notes that investments are not short-term decisions. The applicant has submitted that the performance of the domestic industry was better prior to dumping when such decisions were taken. The dumping and injury to the domestic industry is recent in the present investigation.
84. The other interested parties have submitted that there is no incentive for the Chinese producers to sell at low prices as 90% of their production is consumed in the domestic market. However, the facts on record demonstrate that the Chinese producers have sold significant quantities in the domestic market. Further, the prices of such imports are low, and show dumping. The imports from other subject countries were also found to be at dumped prices. Therefore, irrespective of the volumes sold in the domestic market, it is a fact that the producers in subject countries have engaged in dumping in the Indian market.
85. With regard to the submissions that the prices from non-petitioning producers are shaping the price structure of the subject goods in India, the Authority notes that subject imports command significant market share in India. Further, the landed price of subject imports is below not only the selling price but also the cost of sales of the domestic industry. Thus, it is evident that the subject imports are influencing the prices in India. No evidence or information has been put on record, which would lead the Authority to conclude that the prices of the domestic industry are being affected by non-petitioning producers.
86. With regard to the submissions that the price of subject goods is highest in India, the Authority notes that as per the data filed by the foreign producers and exporters, the dumping margin is positive and significant. Further, the landed price of the subject imports is below the selling price and cost of sales of the domestic industry. Since the producers in the subject countries are selling the product under consideration to India at prices below their normal value, it cannot be considered that the prices in India are highest.

87. With regard to the submissions that the cost of production in India is higher than other subject countries, the Authority notes the situation of the domestic industry must be seen as it exists. The Anti-Dumping Rules do not call for comparison between the cost in subject countries and that in India.

G.3.1. Cumulative assessment of injury

88. Article 3.3 of WTO agreement and para (iii) of Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:
- a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
 - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
89. In the instant case, volume of imports and dumping margin from each of the subject countries is more than the de-minimis. Further, the imports from the subject countries and the product manufactured by the domestic industry have inter-se comparable properties and is being used for the same applications and by the same segment of customers. Thus, the subject imports are competing in the Indian market inter-se as well as with the subject goods manufactured by the domestic industry.
90. With regard to the submissions that the import price from one of the subject countries was higher than other subject countries, the Authority notes that there is no requirement to assess the same for cumulation of imports. The Authority notes that in all investigations where imports from more than one country are simultaneously being assessed, the import price from one of the country will always be higher than the other. If such a comparison were to be necessary for cumulative assessment, there will be no possibility to cumulatively assess the imports in any investigation.
91. With regard to the fact that the import price from China is higher than that from the non-subject countries, the Authority notes that there is no provision which mandates comparison of import price from subject countries to that of non-subject countries. The imports from non-subject countries are de-minimis and hence, such imports cannot be considered as subject imports in the present investigation.

92. The Authority thus, proposes to conclude that it would be inappropriate to de-cumulate imports in the present investigation for the following reasons:-
- The subject goods are being dumped into India from the subject countries.
 - The margin of dumping from each of the subject countries is more than the *de minimis* limits prescribed under the Rules.
 - The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - Cumulative assessment of the effects of import is appropriate as the imports from the subject countries not only directly compete with the imports from each of the subject countries but also the like articles offered by the domestic industry in the Indian market.

G.3.2. Volume effect of the dumped imports

a) Assessment of demand / apparent consumption

93. As noted at para 147-148 of the preliminary findings, demand or apparent consumption for the subject goods increased over the injury period. The Authority notes that the demand for the subject imports was highest in the period of investigation.

b) Import Volumes from the subject countries

94. The Authority found in the preliminary findings that volume of imports cumulatively from subject countries has increased over the injury period in absolute terms as well as in relation to production and consumption in India. It was also found that the while subject imports commanded 79% of imports into India during the base year, the subject imports commanded almost entirety of imports in the period of investigation.
95. The Authority noted in the preliminary findings that the imports have increased more than increase in demand in India. The other interested parties have submitted that while subject imports have increased more than increase in demand in India, the same is only due to lack of capacity of the domestic industry to fulfill the demand-supply gap. The Authority notes that the subject imports are in excess of the demand-supply gap in India. Further, the excess imports have increased over the injury period. Thus, such increase in imports cannot be considered to be only due to the demand-supply gap in India.

Particulars	Unit	2020-21	2021-22	2022-23	POI
Capacity in India	MT	14,63,500	14,77,000	15,18,667	15,27,000
Demand	MT	24,92,103	25,93,601	34,10,483	37,14,880
Demand-supply gap	MT	10,28,603	11,16,601	18,91,816	21,87,880
Imports from subject countries	MT	10,29,546	12,51,861	19,97,000	23,23,183
Imports from other countries	MT	2,76,383	1,16,123	1,48,155	1,69,420
Excess Imports	MT	2,77,326	2,51,383	2,53,339	3,04,723

96. With regard to the submissions that mere increase in imports is not enough and there is a need to examine the impact of the same, the Authority notes that the capacity utilization and production of the domestic industry has increased over the injury period. The same is due to the nature of the production process of the domestic industry. The Authority notes that the domestic producers have long-term contracts with the suppliers of CVM and shipping companies. The applicants are bound to lift the VCM quantities on a regular basis and store the same in specialized storage spaces. Since the storage is limited, the domestic industry cannot suspend or reduce production even if it has to sell at losses. Due to this, the production and capacity utilization of the domestic industry has increased over the injury period.
97. With regard to increase in domestic sales of the domestic industry, the Authority notes that the domestic industry has been able to increase its sales only due to the fact that it has been selling at losses. Since S-PVC is a commodity product, the domestic industry will not be able to continue selling the product in case, it prices its product above its cost of sales as the landed price is much below the cost of sales of the domestic industry.

G.3.3. Price effect of the dumped imports

a) Price undercutting

98. The Authority in para 152-153 of the preliminary findings has noted that the price undercutting is positive and significant. The Authority further notes that the domestic industry has compromised on profitability and has sold the subject goods at losses during the period of investigation.
99. With regard to the submissions that the price undercutting should be assessed for four years, the Authority notes that such an examination is not warranted in law or as per past practice. The Authority has examined price suppression and depression for the injury period.
100. With regard to the submissions that the negligible price undercutting shows that domestic industry aligns the price of the product as per the market, the Authority notes that the subject goods are a commodity product, and all the producers of S-PVC price their products according to the market. Since subject imports account for majority of market share in India and the landed price of subject imports is below the cost of sales of the domestic industry, the domestic industry has been forced to sell at prices below its cost of sales. Due to this, the domestic industry has incurred losses in the period of investigation.

b) Price suppression/depression

101. The Authority in para 154-155 of the preliminary findings has noted that the subject imports have depressed the prices of the domestic industry and have prevented price increases, which otherwise would have occurred. Further, the landed price of the subject imports was below the selling price and cost of sales of the domestic industry.
102. The other interested parties have submitted that the price suppression/depression may be due to increase in demand. The Authority notes that price suppression/depression is an analysis of cost of sales and selling price of the domestic industry, and is not a factor of demand. However, even otherwise, it is an undisputed fact that the demand for the subject goods has increased and exceeds the capacity in the country. In such a situation, the demand-supply economics should have resulted in an increase in the prices in the market. On the contrary, the prices have declined, despite an increase in cost. Such a trend cannot be attributed to the movement in demand, which has increased at a healthy pace.
103. With regard to the submissions that the decline in landed price from China is due to decline in price of raw material and optimization of production technology, the Authority notes that the other interested parties have not provided any evidence with regard to decline in prices of raw material for the subject goods or changes made to technology. The Authority notes that as per the evidence on record, while the raw material prices of the domestic industry have increased over the injury period, the landed price has declined.

Particulars	Unit	2020-21	2021-22	2022-23	POI
Landed price	₹/MT	82,169	1,24,033	95,518	76,156
Landed price	Indexed	100	151	116	93
Raw material cost	₹/MT	***	***	***	***
Raw material cost	Indexed	100	155	125	106

104. The other interested parties have submitted that the selling price and cost was impacted due to COVID and has stabilized only in the period of investigation and thus, there is no price effect. The Authority notes that there is no evidence on record which shows possible adverse impact of COVID on the cost and price of the domestic industry. The Authority notes that the domestic industry was profitable in the base year and 2021-22 when the landed price of the subject goods was above the cost of sales and selling price of the domestic industry.

G.3.4. Economic parameters of the domestic industry

a) Production, capacity, capacity utilization and sales volumes

105. The Authority, in Para 158 – 159 of the preliminary findings has noted that the capacity, capacity utilization, production and domestic sales of the domestic industry has increased and the domestic industry has not suffered any injury on this account.

106. The Authority further notes that the nature of the production process is such that the domestic industry is required to continue production even if it has to sell at losses. The domestic industry is bound by contractual obligation from the raw material supplier and shipping companies for purchase of VCM. Since VCM is stored in specialized storage tanks at cryogenic temperatures, there is limited storage for VCM available with the applicants. Accordingly, the domestic industry has sold at losses but has continued to increase its production and capacity utilization.

b) Market share

107. The Authority, in Para 160 – 161 of the preliminary findings has noted that the market share of the domestic industry, Indian industry as a whole and imports from non-subject countries has declined over the injury period. The share of imports from the subject countries has increased and subject imports command the majority of Indian market.

c) Inventories

108. The Authority, in Para 162 – 163 of the preliminary findings has noted that the average inventories have remained stable over the injury period.

d) Profitability, cash profits and return on capital employed

109. The Authority, in Para 164 – 166 of the preliminary findings has noted that the profitability of the domestic industry has declined and the domestic industry has incurred losses and cash losses in the period of investigation. Further, the return on capital employed has also declined significantly over the injury period.

e) Employment, productivity and wages

110. The Authority, in Para 167 – 168 of the preliminary findings has noted that the number of employees, wages and productivity of the domestic industry has increased over the injury period and the domestic industry has not claimed any injury on these parameters.

f) Growth

111. Since no new submissions have been received by any interested parties on growth of the domestic industry, the Authority proposes to confirm Para 169 of the preliminary findings.

g) Factors affecting prices

112. With regard to the submissions that the prices of the domestic industry are not impacted by import price as exporters charge higher prices and determine the price in India, the

Authority notes that the import price was below the cost of sales of the domestic industry in the period of investigation. Further, even when the domestic industry has sold at losses, the price undercutting is positive. Thus, the selling price of the domestic industry has been adversely impacted due to dumping of subject imports in India.

h) The magnitude of dumping

113. The Authority proposes to confirm the preliminary findings that there is significant dumping of subject goods from the subject countries and the same has adversely impacted the conditions of fair competition in the market.

i) Ability to raise capital investments

114. Since no new submissions have been received by any interested parties on ability to raise capital investment of the domestic industry, the Authority proposes to confirm Para 172 of the preliminary findings.

H. MAGNITUDE OF INJURY MARGIN

115. The Authority has determined the non-injurious price for the domestic industry on the basis of the principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the subject goods has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject countries for calculating the injury margin. For determining the non-injurious price, the best utilisation of the raw materials, the utilities and the production capacity by the domestic industry over the injury period have 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 the 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 is being followed.
116. The landed price for the cooperative exporters has been determined on the basis of the data furnished by the exporters. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.
117. As regard the contention that 22% return on capital employed is unwarranted, the Authority notes that it is a consistent practice of the Authority to determine the non-injurious price of the domestic industry based on reasonable return on capital employed, which is 22%. The Authority notes that submissions on reckoning returns on the basis of company level returns without due consideration to the PUC or benchmarking returns to one of the applicants to the exclusion of others or to certain periods the selection of which

is difficult to justify are not sound grounds for the Authority to deviate from its established practice.

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

SN	Name of Producer	NIP	Landed Price	Injury Margin	Injury Margin	Injury Margin
		USD/MT	USD/MT	USD/MT	%	Range (%)
A. China						
1	Chiping Xinfu Polyvinyl Chloride and Chiping Xinfu Huaxing Chemical Co., Ltd.	***	***	***	***	15-25%
2	Tianjin Bohua Chemical Development Co., Ltd.	***	***	***	***	5-15%
3	Qingdao Haiwan Chemical Co., Ltd.	***	***	***	***	10-20%
4	Non – Sampled Producers	***	***	***	***	10-20%
5	Others	***	***	***	***	20-30%
B. Indonesia						
6	PT Asahimas Chemical	***	***	***	***	0-10%
7	PT. TPC Indo Plastic and Chemicals	***	***	***	***	0-10%
8	Others	***	***	***	***	20-30%
C. Japan						
9	Kaneka Corporation	***	***	***	***	0-10%
10	Shin-Etsu Chemical Co., Ltd.	***	***	***	***	0-10%
11	Taiyo Vinyl Corporation	***	***	***	***	0-10%
12	Non-Sampled Producers	***	***	***	***	0-10%
13	Others	***	***	***	***	10-20%
D. Korea						
14	LG Chem, Ltd.	***	***	***	***	0-10%
15	Hanwha Solutions Corporation	***	***	***	***	(0-10%)
16	Others	***	***	***	***	15-25%
E. Taiwan						
17	China General Plastics Corporation and CGPC Polymer Corporation	***	***	***	***	0-10%
18	Ocean Plastic Co., Ltd.	***	***	***	***	0-10%
19	Formosa Plastic Corporation	***	***	***	***	0-10%
20	Others	***	***	***	***	15-25%
F. Thailand						
21	Thai Plastics and Chemicals Plc.	***	***	***	***	0-10%
22	AGC Vinythai Public Company Limited	***	***	***	***	0-10%

23	Others	***	***	***	***	20-30%
G. USA						
24	Westlake Chemicals & Vinyls LLC, Westlake Vinyls Inc. Westlake Vinyls Company LP	***	***	***	***	10-20%
25	Shintech Incorporated Shintech Louisiana L.L.C	***	***	***	***	5-15%
26	Oxy Vinyls, L.P.	***	***	***	***	20-30%
27	Others	***	***	***	***	40-50%

I. NON-ATTRIBUTION ANALYSIS AND CASUAL LINK

119. The Authority had examined in the preliminary findings whether the domestic industry has suffered injury due to other factors. The Authority found that injury to the domestic industry has not been caused due to any other known factors and the injury caused is due to dumping of subject goods from the subject countries. Further, the Authority had provisionally concluded existence of causal link between dumping and injury. The Authority has examined hereinbelow additional arguments raised by the other interested parties with regard to causal link and non-attribution analysis.
120. With regard to the submissions that the losses are not due to imports as domestic industry was profitable during COVID-19 and decline in losses does not correlate to decline in selling price, the Authority notes that the losses of the domestic industry have increased in the period of investigation and have not declined. Further, none of the interested parties have provided any evidence of impact of COVID-19 on the performance of the domestic industry.
121. As regard the submission that it must be examined whether the domestic industry is capable to withstand fair competition and Finolex is selling at higher prices, the Authority notes that the performance of the domestic industry was better when there was no dumping in India. However, the dumping into the country resulted in deterioration in performance of the domestic industry. With regard to pricing strategy of Finolex, the Authority notes that the cost structures of Finolex and the applicants may be different as the applicants produce the subject goods to sell in the merchant market while Finolex produces majorly for captive consumption.
122. With regard to the submissions that the product under consideration is being imported at comparable prices from all countries and the injury is due to other factors including inherent features of the domestic industry, internal inefficiencies, costs associated with capacity expansion and other market dynamics, the Authority notes that the imports are being dumped from all the subject countries. This is evident from the data submitted by the responding producers and exporters. Further, the product under consideration being a commodity product, the prices tend to remain in the similar range. Further, only one of

the applicants has undertaken capacity expansion in the injury period. While the profitability of such applicant has declined, the other two applicants have incurred losses in the period of investigation. The domestic industry was not suffering injury when there was no dumping in India and its performance was much better. Thus, injury is due to dumping and not due to any factor inherent to the domestic industry. In any case, there is no non-attribution analysis required to be conducted for factors inherent to the domestic industry, which have remained unchanged over the period.

123. With regard to the submissions that the injury may be on account of captive consumption, the Authority notes that only one of the applicants captively consumed the subject goods. Further, such captive consumption is only *** of the total production by the said applicant and thus, injury cannot be attributed to captive consumption.
124. The other interested parties have also submitted that injury is due to fluctuating nature of raw material and fixed price contracts of DCW. The Authority notes that the raw material for the subject goods is VCM which is a derivative of crude. Since the nature of crude is such that the price is fluctuating, the raw material price of the subject goods also fluctuates. However, in a normal business scenario, the selling price of the subject goods should fluctuate in accordance with the price of the raw material. The same has not been observed in the present case. As noted hereinabove, while raw material cost of the product has increased, the price of imports has declined. Further, there is no evidence of fixed price contracts of DCW on record, as alleged by other parties.
125. With regard to the submissions that the domestic industry is suffering injury due to shut down, the Authority notes that the domestic industry did not face any abnormal shutdowns in the injury period.

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

J.1. Submissions by other interested parties

126. The other interested parties have made the following submissions with regard to the Indian industry's interest post issuance of the preliminary findings:
 - i. There is a significant demand-supply gap, and the applicants have not attempted to increase its capacity sufficiently to meet domestic demand despite 14 years of protection. The applicants have increased capacity only by 1,00,000 MT in the last 10 years.
 - ii. There is no legal basis which makes it mandatory for the Authority to levy anti-dumping duty even if there is a demand-supply gap.
 - iii. The imposition of the anti-dumping duty will affect the availability of goods in India and not be in the interest of the public at large.
 - iv. The applicants are trying to abuse the anti-dumping investigation to undertake monopolistic and anti-competitive practices and the entire investigation is to target

raw material imports of Epigral which is in competition with DCW Limited for manufacturing C-PVC.

- v. Anti-dumping duty should not be used to give undue advantage to domestic producers and create a monopoly position in the market.
- vi. From the preliminary findings, it is evident that DCW and RIL plan to exclusively use in-house PVC suspension resin for CPVC production. Imposition of duty in such a situation could lead to shortage of PVC resins for Indian pipe and fitting manufacturers/processors which would result in significant supply constraints.
- vii. Sectors such as profiles (21%), pipes (6%), calendaring (10%), sheets (16%), and wire and cables (9%) are witnessing considerable demand growth. Coupled with government projects like the Har Ghar Jal Yojna and Pradhan Mantri Krishi Sinchaayee Yojana are expected to drive the increased consumption of PVC pipes. Imposition of duty could lead to critical projects becoming economically unviable.
- viii. The imposition of duties will also impact the competitiveness of MSMEs. The additional costs would make their products unsustainable in the long run.
- ix. An increase in input costs due to the duties will lead to job losses and affect and economic development of MSMEs.
- x. Higher production costs because of the duties on key materials will lead to reduced export competitiveness.
- xi. The Authority has already imposed or in process of imposition of anti-dumping duties or Countervailing duties on several key products used by members of AIPMA and OPPI namely; PVC Suspension Resin, PVC Paste Resin, Titanium Dioxide, Plastics Processing Machines, Effect Pearlescent Pigments or Mica Pearlescent Pigments, Azo Pigments and Low-Density Polyethylene (LDPE). The imposition of duties in the present investigation will negatively impact both domestic production and job creation and stifle the sectors potential, particularly since a large number of members belong to MSME sector.
- xii. The domestic producers of PVC suspension resin have raised their prices by ₹ 14 per kg, since the initiation of investigation, due to demand supply dynamics in the market.
- xiii. Imposition of anti-dumping duties on PVC resin could significantly impact pharmaceutical industry as well as the common man and overall health industry.
- xiv. The expected impact of the imposition of these anti-dumping measures on the cost of pharmaceutical packaging is an increase of around 30-40%, which is an increase of 10% in the cost of generic medication.
- xv. Despite their large production capacity, RIL and Finolex are dependent on imports, which clearly shows that the domestic industry is unable to match market demand in terms of quality.
- xvi. The imported downstream product is 15-20% cheaper than the domestic product. Imposition of anti-dumping duty will widen this gap and harm the local downstream industry which are a part of unorganized sector.
- xvii. The Authority should quantify the impact of duties based on information on record and not based on the fact that the duty in the past did not have any adverse impact on the downstream industry.

J.2. Submissions by the domestic industry

127. The domestic industry has made the following submissions with regard to the Indian industry's interest post issuance of the preliminary findings:

- i. As opposed to the submissions of the other interested parties, demand-supply gap is not a ground for dumping in India or non-imposition of anti-dumping duty. Imposition of anti-dumping duty will not restrict imports into India but only ensure that such imports are made at fair price.
- ii. The Indian industry is expanding its capacities in order to bridge the demand-supply gap. In case, the situation does not change in India, such investments will turn unviable.
- iii. Contrary to the submissions of the other interested parties, the requirement of Epigral during the period of investigation was only 0.23% of the Indian consumption and no industry will file an application to target such negligible volume of imports. Further, the application has been filed by three applicants and only one of the applicant is a producer of C-PVC and competing with Epigral.
- iv. As opposed to the submissions by the other interested parties, DCW Limited produces C-PVC using S-PVC and M-PVC and intends to continue the same. Even if DCW Limited uses its own S-PVC exclusively for manufacturing C-PVC, it will not create scarcity of subject goods in India.
- v. Economic viability of the downstream industry cannot be said to be dependent upon dumped prices of the product under consideration.
- vi. As opposed to the submissions of the other interested parties, there is no anti-dumping duty on imports of LDPE and no ongoing investigation on the product.
- vii. There are 22,000 members of AIPMA, all of such members may not be users of S-PVC. Some of such users may be impacted by duty on one of the products but not all the products as listed by AIPMA.
- viii. The other interested parties have not provided any evidence that the downstream industry is involved in exporting the product from India. In any case, in order to export, the downstream industry can import under advance authorisation without payment of anti-dumping duty.
- ix. Contrary to the submissions of the other interested parties, increase in selling price has to be examined in light of increase in raw material cost and cost of sales.
- x. The other interested parties have not provided calculations for 30-40% impact of duties claimed by them. In any case, there was no adverse impact on the users when the prices of the product under consideration were higher in India.
- xi. As opposed to the submissions by the other interested parties, the domestic industry has operated at a high capacity utilization and has been able to sell a large part of its production. The other producers have imported to shield themselves from dumping.

J.3. Examination by the Authority

128. With regard to the contention that imposition of anti-dumping duty will lead to monopoly and higher prices for users, the Authority notes that imposition of anti-dumping duty only ensures fair prices in India and does not restrict or bans imports. The Authority has determined the dumping margin and injury margin based on the responses filed by the exporters and not as per the facts available. In such a case, imposition of anti-dumping duty will ensure fair market prices in India.
129. With regard to the submissions that there is demand-supply gap in India, the Authority notes that demand-supply gap is not a justification for dumping in India. The Authority has determined the dumping margin based on the response filed by the foreign producers and exporters. The dumping margin is positive and significant. Further, demand-supply gap in India does not bar the Authority from recommending imposition of anti-dumping duty.
130. The applicants have submitted as shown in table below that the Indian industry is expanding capacities in order to bridge the demand-supply gap in India. Since the landed price is below the cost of sales of the domestic industry, the market situation is not conducive for any investment to bridge the demand-supply gap. Thus, there is a need for imposition of anti-dumping duty in order to establish fair market situation in India.

SN	Name of producer	Capacity (MT)	Expected in
1.	Reliance Industries Limited	12,00,000	2025-26
2.	Adani Petrochemicals	10,00,000	2026-27
3.	IOCL, Paradeep	6,00,000	2027-28
4.	IOCL, Baroda	2,00,000	2027-28
5.	Total	30,00,000	

131. With regard to the submissions that the domestic industry is abusing the trade remedial investigation, and the entire exercise is to target raw material imports of Epigral Limited, the Authority notes that the application of imposition of anti-dumping duty is filed by three domestic producers of the subject goods. Only one of the domestic producers of the subject goods is a producer of C-PVC and is in direct competition with Epigral Limited. The other two producers do not produce C-PVC. Further, the total imports by Epigral Limited during the period of investigation were negligible in comparison to total imports into India. Thus, the present investigation cannot be construed as targeting the imports by an individual user.
132. The Authority further notes that the contention that imposition of anti-dumping duty will only ensure fair prices in India and not restrict imports into India. Epigral Limited will

be able to import the subject goods from the subject countries at fair prices and thus, its profitability will not be hampered.

133. With regard to the submissions that RIL and DCW plan to captively use the subject goods, the Authority notes that there is no evidence in record which suggests the same. While DCW Limited uses the subject goods captively, the capacity of S-PVC is much more than that of C-PVC. Thus, there is nothing to indicate that DCW Limited would not supply in the domestic merchant market after imposition of anti-dumping duty.
134. The other interested parties have submitted that imposition of anti-dumping duty will make the downstream industry unprofitable. The Authority notes that the user industry cannot claim its viability based on dumped prices of imports. Further, the import price during 2020-21 and 2021-22 was much higher than the period of investigation. There is no evidence on record which suggests that there was an adverse impact on the user industry at this time.

Particulars	Unit	2020-21	2021-22	2022-23	POI
Landed price	₹/MT	82,169	1,24,033	95,518	76,156

135. With regard to the export competitiveness of the downstream industry, the Authority notes that the downstream industry has an option to import the subject goods under advance authorization without payment of anti-dumping duty. Thus, imposition of anti-dumping duty will not impact the interest of the downstream export-oriented industry.
136. There is no evidence on record to show that imposition of anti-dumping duty will lead to creation of monopoly in India. The Authority notes that there are five producers of subject goods in India. Additionally, the subject goods are also produced in non-subject countries and can be imported from such countries without payment of anti-dumping duty.
137. With regard to the submissions that anti-dumping duty has been levied on multiple raw materials of the downstream industry, the Authority notes that the association has failed to point out the downstream product being manufactured by the user industry. There are more than 20,000 members of the association manufacturing different products using different raw materials. While it is possible that certain raw materials used by certain users attract duty, it cannot be considered that all anti-dumping duties impact a single downstream product produced by individual users.
138. The other interested parties have claimed that the domestic industry has increased its prices post period of investigation. However, there is no information on record to substantiate such a claim. In any case, increase in selling price cannot be examined in isolation with the change in cost of sales.

139. The Authority notes that the majority of use of the product under consideration is in manufacturing of PVC Pipes. The applicant has, accordingly, quantified the impact of anti-dumping duty on the prices of PVC pipes. It is noted that the impact of imposition of anti-dumping duty on the prices of the downstream industry will be negligible.
140. The essential facts gathered by the Authority during the investigation, and as established based on information received from various sources are hereby disclosed in the present disclosure statement, to enable the various interested parties to offer their comments on these facts so gathered. The Authority will make the final determination on various aspects of the investigation based on the comments received from the interested parties to the extent they are relevant.
141. The Authority proposes to come to a final conclusion on the matter after receiving the comments from all interested parties on this disclosure statement.

K. METHODOLOGY FOR DETERMINATION OF NON-INJURIOUS PRICE

142. The non-injurious price has been determined by adopting the verified information/data relating to the cost of production for the period of investigation (1st October 2022 – 30th September 2023) in respect of the domestic industry. Detailed analysis/examination and reconciliation of the financial and cost records maintained by the company, wherever applicable, were carried out for this purpose.
143. The non-injurious price for the domestic industry has been determined in terms of principals outlined in Annexure III to the Rules as briefly described below:
- a) **RAW MATERIAL COST:** The best utilization of raw material by the domestic producers, over the period of investigation and preceding three years period, at the period of investigation rates was considered.
 - b) **COST OF UTILITIES:** The best utilization of utilities by the domestic producers, over the period of investigation and preceding three years period, at the period of investigation rates was considered.
 - c) **PRODUCTION:** The best utilization of production capacities over the period of investigation and the preceding three years period was considered.
 - d) **SALARY & WAGES:** Proprietary of expenses grouped under this head and charged to cost of production was examined. It has been ensured that no extraordinary or non-recurring expenses were charged to production.
 - e) **DEPRECIATION:** The reasonableness of the amount of depreciation charged to the cost of production was examined to ensure that no charge has been made for facilities not deployed to production of subject goods. Further, amortization of goodwill has been disallowed.
 - f) **IDENTIFICATION AND ALLOCATION / APPORTIONMENT OF EXPENSES:** The reasonableness and justification of various expenses claimed for the period of investigation has been examined and scrutinized by comparing with the corresponding amounts in the immediately preceding year and admitted for computing non-injurious price.
 - g) **REASONABLE RETURN ON CAPITAL EMPLOYED:** A reasonable return (pre-tax) of 22% on average capital employed (i.e., Average Net Fixed Assets and Average Working Capital) for the product under consideration was allowed for recovery of interest, corporate tax and profit-
 - h) Interest is allowed as an item of cost of sales and after deducting the interest, the balance amount of return has been allowed as pre-tax profit to arrive at the non-injurious price.
 - i) **NON-INJURIOUS PRICE FOR THE DOMESTIC INDUSTRY:** The non-injurious price for the product under consideration is proposed as Rs ***/MT.