

No.14/1012/2012-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhavan, New Delhi

Final Findings

Date: 4th April, 2014

Sub: Anti-dumping investigation on import of PVC Suspension Resin from European Union (EU) and Mexico – Final findings

WHEREAS, having regard to under the Customs Tariff Act, 1975, as amended from time to time, (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof, as amended from time to time, the Designated Authority (hereinafter referred to as Authority) received a written application from M/s DCW Limited (“DCW”), Chemplast Sanmar Limited (“Chemplast”), DCM Shriram Consolidated Ltd. (“DSCL”) and Reliance Industries Limited (Reliance), (hereinafter also referred to petitioners or applicants) alleging dumping of PVC Suspension Resin (hereinafter referred to as subject goods) from European Union (EU) and Mexico (hereinafter referred to as subject countries).

2. Whereas the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 5th October 2012 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the sub-Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommendation of the anti-dumping duty.

PROCEDURE

3. The procedure described below has been followed.
 - a. The Designated Authority (hereinafter referred to as the “Authority”), under the above Rules, received a written application from DCW Limited (“DCW”), Chemplast Sanmar Limited (“Chemplast”), DCM Shriram Consolidated Ltd. (“DSCL”) and Reliance Industries Limited (“Reliance”) (hereinafter referred to as the “applicants”) as domestic industry of the subject goods, alleging dumping of Polyvinyl Chloride (PVC) Suspension Grade Resin originating in or exported from the European Union and Mexico (hereinafter referred to as the “subject countries”).

- b. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicants. The application was, therefore, considered as properly documented.
- c. The Authority, on the basis of sufficient evidence submitted by the Applicants to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries.
- d. The Authority notified the embassies of the subject countries in India about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5 (5) of the AD Rules.
- e. The Authority issued a public notice dated 5th October 2012 published in the Gazette of India, Extraordinary initiating anti-dumping investigation concerning imports of the subject goods from the subject countries.
- f. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicants) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- g. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
- h. The Authority provided copy of the on-confidential version of application of the known exporters and the embassies of the subject countries in India in accordance with Rule 6 (3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- i. The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

<p>1. Policyd S.A De C.V Av. La Presa No.8. Col. Lázaro Cárdenas, San Juan Ixhuatepec Tlanepantla, Edo. De México, 54180.</p>	<p>2. Mexichem Río San Javier No. 10, Fracc. Viveros del Río Tlanepantla, Estado de México.</p>
<p>3. Novinco Apartado n° 1011, Ec S. Mamede De Infesta, 4466-951 São Mamede De Infesta Mexico</p>	<p>4. Vyncel Río San Javier No. 10, Fraccionamiento Viveros del Río, Tlanepantla Estado de México. México C.P.54060</p>
<p>5. Ineos Chlor Vinyls Runcorn Site HQ, South Parade</p>	<p>6. Cires SA P.O. Box 20, Samouqueiro –</p>

	Runcorn, Cheshire WA7 4JE Germany		Avanca 3864-752 ESTARREJA Portugal
7.	Mondo SPA Piazzale E.Stroppiana, 1 12051 Alba, Fraz. Gallo - Italia	8.	Arkema 420 rue Estienne d'Orves 92705 Colombes Cedex
9.	Vinnolit Carl-Zeiss-Ring 25 85737 Ismaning, Germany	10	Chemieuro S. c/Coso 33, 4° Pta 50003 Zaragoza Spain
11.	Solvay rue de Ransbeek, 310 - B-1120 Brussels - Belgium		

j. In response to the initiation notification, the following exporters/producers from European Union and Mexico have responded:

- a. INEOS ChlorVinyls Belgium NV, Belgium
- b. INEOS Vinyls Deutschland GmbH, Germany
- c. INEOS Vinyls Sales GmbH, Germany
- d. INEOS Sverige AB, Sweden
- e. INEOS Newton Aycliffe Ltd, United Kingdom
- f. Mexichem Resinas Vinilicas, Mexico
- g. Government of Mexico.

k. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule6(4)of the AD Rules:

1.	SHALIMAR REXINE INDIA LTD. 1st Floor, Gumam Chambers 67, Ganesh Peth, Pune - 411 002 Maharashtra	2.	FINOLEX GROUP Finolex Group, D-1/10, MIDC, Chinchwad, Pune
3.	THE SUPREME INDUSTRIES 17/18, Shah Industrial Estate, Veera Desai Road, Andheri (W), Mumbai - 400 053	4.	KRISHNA VINYL GROUP Belagaon Village, Boisar (East), Mumbai
5.	JAIN IRRIGATION SYSTEMS Jain House, Police Court Lane, Fort, Mumbai - 400 001	6.	PRINCE GROUP Prince Arcade, C-10, Century Road, Marol MDC, Andheri Mumbai - 400 093
7.	KALPANA INDUSTRIES 2/B, Prictona St. Kolkata - 700 071	8.	COSMOS CORPORATION Jai Gurudeo Complex, Shop No.C-4, Ground Floor,, Bhiwandi
9.	POLYTRUSIONS PRIVATE LTD.	10	POLYCAB CABLES PVT. LTD.

	1-B, Gleneden Place, 813, Poonamallee High Road, Killpauk, Chennai - 600010		Hicco House, North Wing, 1ST Floor, 771, Pandit Satawalekar Marg, Mahim, Mumbai - 400 016
11.	CHANDUBAI GROUP No.58, Bharathisasan Street, Muthlalpet, Chennai	12	J P GROUP 4314/5, Jai Mata Marg, Tri Nagar, New Delhi - 110 035
13.	Royal Cushion Vinyl Product Plot No.9, Behind National Avenue, Akruiti Road, Mandivali (East), Mumbai -400 001	14	KISAN GROUP TEX Centre, K Wing, 3rd Floor, 26-A Chandiwal Road, Andheri (East), Mumbai -400 059
15.	GOLDEN GROUP E-5, Mayapuri Indl. Area, Phase II, New Delhi - 110 064	16	PREMIER POLYFILM LTD. 40/1A, Site IV, Industrial Area Sahibabad, Ghaziabad (U.P.)
17.	V.K.GANDHI GROUP 10/60, Industrial Area, Kirti Nagar, New Delhi	18	OMEGA UDYOG 605, Krishna Apartment, Sector 18, Noida, UP
19.	FINE FLOW PLASTIC INDUSTRIES 403 Steel Centre, Ahmedabad Road, Karnak Bunder, Masjid, Mumbai - 400 009	20	KRITI INDUSTRIES (INDIA) LTD. Chetak Chambers, 14, R.N.T. Marg, Indore M.P. - 452 001
21.	SIGNET OVERSEAS LTD. 114-116, Trade House 14/3, South Tukoganj, Indore, M.P.	22	VEEKAY POLYCOATS LTD. Flat No.70, 7th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi - 110 001
23.	AVON PLASTICS GROUP No.7/1, 4th Cross, Padarayanpura, Mysore Road Cross, Bangalore - 560 026	24	KLJ GROUP KLJ House, Rana Marg, Near Kirti Nagar, New Delhi - 110 015
25.	CAPRIHANS INDIA LTD. D Block, Shiovsagar, Dr.Annie Besant Rd, Worli, Mumbai - 400 018	26	PAR PETROCHEM LTD. Petro House, 1206, 1st Floor, Bahadur Garh Road, Delhi
27.	SUDHARKAR GROUP Balaram Thanda,	28	SURENDER COMMERCIAL 14, Royd Street,

	Near Industrial Estate, Surya Pet, Dist. Naigonda, Andhra Pradesh - 500 001		Kolkata
29.	MM Plastics Building No.26/779, Pant Nagar, Ghatpokar (East), Mumbai	30	K S PLASTICS 22A, Sardar Bazar, New Delhi
31.	DELUXE KAARAN IMORT PVT. LTD. 321, Siddhivinayak Housing Society, Bhiwandi	32	AASU CHEMPOPLAST Shop No.907, Netaji Subhash Place, P.P.Tower, Pitampura, New Delhi - 110 034
33.	DUTRON PLASTICS Dutron House, Mithakhali Underbridge, Navrangpura, Ahmedabad, Gujarat - 380 006	34	PRFINTCRAFTS 16-A/19, WEA, Ajmal Khan Road, Karol Bagh, New Delhi
35.	ADITYA INDUSTRIES 5, Khosla Corss Lane, 1st Floor, Near Paydhoni, Masjid Buder, Mumbai - 400 003	36	JEWEL POLYMERS C-636, DSIDC Industrial Area, Narela, Delhi
37.	FANCY POLYMERS PVT LTD C-3, Local Shopping Centre, Paschimi Marg, Vasant Vihar, New Delhi - 110 057	38	VARSHA CORPORATION LTD. A/3-G, Malad Industrial Estate, Malad, Mumbai
39.	MAXX IMPEX 30/44, Gali No.7, Vishwas Nagar, Shahadara, Delhi	40	ORIPLAST LTD. 9/A, Wood Street, Kolkata - 700 016
41.	AMISHA VINYLs PVT LTD A-21, Sitaram Building, Kolkata - 700 016	42	NOUVELLE CREDITS PVT.LTD. 4316/17, 3rd Floor, Saini Market, New Delhi
43.	D.R.POLYMERS LTD C-24, Mansarovar Garden, DR Complex, New Delhi - 110 015	44	SINTEX INDUSTRIES LTD. Plastic Division, Kalok (NG), Kalol, Mehsana, Gujarat
45.	SANKHLA INDUSTRIES 1st Floor, Race Course Road, Banalore, Karnataka - 560 001	46	SHANTILAL MAHENDRAKUMAR 23, Gurukrupa Apartments, H.C. Kelkar Road, Dadar, Mumbai
47.	SAM POLYMERS	48	PRAKASH INDUSTRIES

	115/4A, Vidyut, Near RBI Colony, Shalimar Baug, New Delhi		Near IOCL Depot, Brijwasan, New Delhi - 110 061
49.	R.S. OVERSEAS PVT.LTD. F-31, 1st Floor, Bhagwant Singh Market, 3003, Bahadurgarh Road, New Delhi	50	INCOM CABLES PVT LTD C-46, Mayapuri Industrial Area, Phase II, New Delhi
51.	DIAMOND PIPES & TUBES 7th Cross Wilson Garden, Bangalore , Karnataka - 560 027	52	CHAITANYA IMPOGENEX Chikal House, 146-B, Princes Street, Mumbai
53.	TIRUPATI GROUP Plot No.81, Function Industrial Estate, Patparganj, New Delhi - 110 092	54	APOLLO PIPES A-90, Naraina Industrial Area, Delhi - 110 052
55.	HAVELLS INDIA Havells India, E-1, Sector 59, Noida (U.P.)	56	OSWAI CABIE PRODUCTS LTD A-93/1, Wazirpur Group Industrial Area, Delhi - 110 052
57.	MEGHA INDUSTRY Shop No.9/96, Shaasin Gali, Vishwas Nagar, Delhi - 110 052	58	ASSOCIATED CAPSULES LTD Kalpatru Society, 289-2, Mahatma Phule Peth, Timber Market Road, Pune

- l. None of the importers/users of the subject goods has responded in the form of questionnaire responses during the investigation proceedings and are therefore treated as non cooperative in this investigation. However, comments have been received from other users and importers namely M/s AIPMA, Sankhla Industries, Sree International, Polyresins and other importers.
- m. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. Submissions made by all interested parties have been taken into account in present findings.
- n. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- o. Further information was sought from the applicant and other interested parties to the extent deemed necessary.

- p. The Non-injurious Price has been worked out on the basis of information on the cost of production and cost to make and sell the subject goods in India furnished by the domestic industry and on the basis of Generally Accepted Accounting Principles (GAAP) and in accordance with Annexure III of the anti-dumping rules, so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry;
- q. Investigation was carried out for the period starting from 1st April 2011 to 31st March 2012 (POI). The examination of trends, in the context of injury analysis covered the period from 2008-09, 2009-10, 2010-11 and POI.
- r. Exchange rate for conversion of US\$ to INR in the POI has been considered at Rs.48.14 as per customs data.
- s. The Central Government has accorded permission for extension of time up to 4th April 2014 for completing the subject antidumping investigation and notifying the final findings.
- t. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 20th December, 2013. The parties which presented their views in the public hearing were requested to file written submissions of the views expressed orally. The arguments made in the written submissions/rejoinders received from the interested parties have been considered, wherever found relevant.
- u. Request was made to the Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata to arrange details of imports of subject goods in India for the period of investigation and preceding three years and the same was received.
- v. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have been considered in Final Findings. The comments to the disclosure statement have been received from the following interested parties. These comments have been examined by the Authority in this final finding.
 - a. INEOS ChlorVinyls Belgium NV, Belgium
 - b. INEOS Vinyls Deutschland GmbH, Germany
 - c. INEOS Vinyls Sales GmbH, Germany
 - d. INEOS Sverige AB, Sweden
 - e. INEOS Newton Aycliffe Ltd, United Kingdom
 - f. Mexichem Resinas Vinilicas, Mexico
 - g. The domestic industry
 - h. Sankhla Industries
 - i. Sree International
 - j. European Union

- w. *** in this final findings represents information furnished by the applicants on confidential basis, and so considered by the Authority under the Rules.

A. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. The Product under consideration in the present investigation is homopolymer of vinyl chloride monomer (suspension grade), where various polymer chains are not linked to each other, falling under customs classification no. 3904, known as PVC suspension resin. The product under consideration however, excludes the specialty PVC suspension resins such as cross-linked PVC, chlorinated PVC (CPVC), vinyl chloride – vinyl acetate copolymer (VC-VAc), PVC paste resin and PVC blending resin.

Views of Exporters, Importers, Consumers and other Interested Parties

5. Some of the interested parties comprising importers and users have submitted that higher K value suspension resins are not manufactured by the domestic industry and therefore they should be excluded from the purview of the product under consideration.

Views of the Domestic Industry

6. The domestic industry has made the following submissions with regard to the issue of the product under consideration.
- a. PVC suspension is the most versatile thermoplastic forming, on one extreme, highly rigid product such as pipes and profiles, and on the other, highly flexible products such as soft leather cloth and flexible footwear. It is one of the largest produced and consumed plastic resins. The basic structure of PVC suspension is $(C_2H_3Cl)_n$.
 - b. Through polymerization process, VCM monomer is converted into vinyl polymer, a fine-grained, white powder i.e. PVC resin. There are different types of polymerization processes viz. 1) Suspension polymerization, 2) Emulsion polymerization, 3) Bulk Mass polymerization and 4) Micro Suspension polymerization process. About 85% of the world's PVC production is by suspension polymerization.
 - c. The scope of the product under consideration covers Poly Vinyl Chloride (PVC) - Suspension Grade only. The product is classified under Chapter 39 of the Customs Tariff Act, 1975 under subheading 3904.2110. The customs classifications are however, indicative only and are in no way binding on the scope of the investigation. The Designated Authority should recommend anti dumping duty on all imports of the product under consideration falling under classification 3904.
 - d. PVC is used in manufacturing of various products like Pipes & Fittings, Flexible Hoses, Films/Sheets, Bottles, Profiles, Wire & Cables, Footwear, etc. PVC Pipes & Fittings are used for Irrigation, Drinking water supply, Buildings construction and Sanitation for plumbing, Sewerage, Rainwater ducting, Conduits for concealing electrical wiring, etc. PVC Films/sheets are used for packaging application, rainwear, insulation tapes, table covers, stationery items, inflatable

toys, photo albums, collar bands, stretch cling/stretch wrap/twist wrap films, bill board film and many more applications. PVC Profiles are used mainly in applications like doors, windows, panels, partitions, frames, kiosks etc. PVC is used in Wire & Cables, which are used mainly in manufacturing domestic wiring, electrical cords and low voltage power cables.

- e. PVC Suspension produced by the applicants and imported from subject countries is comparable in terms of characteristics such as physical and chemical characteristics, product properties, manufacturing process & technology, functions and uses, product specifications, pricing, distribution and marketing and should therefore be treated as like articles within the meaning of the term.
- f. There is no known difference in the subject goods produced by the Indian industry and those imported from the subject countries. The subject goods produced by the applicants and those imported from the subject countries are comparable in terms of physical and technical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing, and tariff classifications of the goods. The two are technically and commercially substitutable. Consumers use the two interchangeably. Hence, the applicants submit that subject goods produced by the applicant companies and the subject goods imported from the subject countries are like articles within the meaning of the Anti-dumping Rules.

EXAMINATION BY THE AUTHORITY

- 7. The product under consideration is homo-polymer of vinyl chloride monomer (suspension grade), where various polymer chains are not linked to each other, falling under Customs Classification No. 3904. The product under consideration however, excludes the specialty PVC suspension resins such as cross-linked PVC, chlorinated PVC (CPVC), vinyl chloride – vinyl acetate copolymer (VC-VAc), PVC paste resin and PVC blending resin.
- 8. The Authority notes that the scope of the product under consideration has been examined in detail in previous case relating to the imports of the product from different sources. The scope of the product under consideration in the present case is the same as the scope of the product under consideration in the previous investigation.
- 9. The evidence on record shows that imports of product under consideration has been cleared under various classifications falling under 3904. Since the investigation is in respect of product description and classification is merely indicative, the Authority has conducted investigations in respect of imports of the product under consideration, and customs classification has been specified only for the convenience of the customs authorities.
- 10. The Authority notes that there is no known difference in the subject goods produced by the Indian industry and those imported from the subject countries. The two are comparable in terms of physical and technical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and

marketing, and tariff classifications of the goods. The two are technically and commercially substitutable. Consumers use the two interchangeably. With regard to arguments placed by some interested parties about exclusion of certain high K value suspension resins, it is noted that this issue was duly examined in the final findings of the anti dumping investigation of PVC suspension resin which was issued vide Notification No. 14/8/2006-DGAD dated 26th December, 2007 (in the para 21 to 24 of the final findings). In addition, no substantive evidence has been placed by these importers that these higher K value PVC suspension resins are not like article to the product under consideration imported from subject countries. In fact, it is noted that none of the interested parties comprising users and importers has filed response to the importers questionnaire to the Authority. With regard to submissions by various interested parties about exclusion of off grade product as not being like product, it is noted that off-Grade material does not have different physical and technical characteristics. Manufacturing process, raw materials, functions & usage, cost of production, tariff classification are the same. In view of the above, these products have been treated as like article and these have been included for the purpose of determining the dumping margin.

11. The Authority therefore concludes that the product manufactured by the Applicants constitute like article to the product under consideration being imported into India from the subject countries.

B. SCOPE OF DOMESTIC INDUSTRY AND STANDING

12. Rule 2 (b) of the AD rules defines domestic industry as under:

“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”

13. It is noted that the application has been filed by DCW, Chemplast, DSCL and Reliance on behalf of domestic industry of the subject goods. There is one other producer of the subject goods in India, namely, Finolex Industries Limited (“Finolex”), which has supported the petition.

Views of Exporters, Importers, Consumers and other Interested Parties

14. It has been submitted that DSCL does not come within the purview of the definition of ‘domestic industry’, therefore, DCSL should be excluded from the purview of Domestic Industry as the said domestic producer had imported subject goods from subject country. Post disclosure, these interested parties have reiterated their earlier submissions on the status of domestic industry.

Views of the Domestic Industry

15. The domestic industry has made the following submissions with regard to the issue of standing.
- a. None of the Applicants should be excluded from the scope of domestic industry under Rule 2(b) of the Anti-dumping Rules, as none of them has imported the subject goods from the subject countries during period of investigation, nor are they related to any importer or exporter of the subject goods in the subject countries.
 - b. The Applicants have exported the subject goods.
 - c. Neither Chemplast nor DCW has imported the subject goods directly or indirectly from the subject countries.
 - d. DSCL has imported the subject goods but not from the subject countries during the period of investigation. The company has a number of divisions including Shriram Vinyl & Chemical Industries and Shriram Polytech. The subject goods are produced in Shriram Vinyl & Chemical Industries and Shriram Polytech consumes the product for making compounds out of it. Shriram Polytech imported small volume of product under consideration. The volume of imports by DSCL is quite low looking at the overall import of product under consideration in India, consumption in India and production by the company.
 - e. Finolex is a regular importer of the product under consideration. However, the imports are for captive consumption. Finolex is not related either directly or indirectly to any exporter or importer of the subject product from the subject countries.
 - f. Collective production of the Applicants constitutes a major proportion of the Indian production. Hence, the petition satisfies the requirement of standing under the Anti-dumping Rules and the Applicants constitute domestic industry.

EXAMINATION BY THE AUTHORITY

16. It is noted that the application has been filed by DCW, Chemplast, DSCL and Reliance on behalf of the domestic industry. Further, the petition has been supported by Finolex. The production of the applicants accounts for more than 50% of total Indian production and therefore constitutes a major proportion of the total domestic production of the like article.
17. It is noted that some of the petitioners companies have imported small volumes of imports during the injury period. However, during period of investigations, only DSCL has imported small volumes of the product under consideration. The Authority notes that Rule 2(b) of the Anti-dumping Rules provides discretion to it to either include or exclude on reasonable and equitable grounds in certain situations, those domestic producers who are related to the exporters or importers or who are themselves importers of the allegedly dumped articles while determining the domestic industry. This has been reaffirmed by Hon'ble Division Bench of the Madras High Court in their judgment dated 27.04.2012 in Writ Appeal Nos. 193/2012, 194/2012, 189/2012 and 195/2012.

18. Further, the Authority notes that none of the Applicants has imported the subject goods from the subject countries during the period of investigation, nor are they related to any exporter or importer of the subject goods. In respect of imports made by DSCL, it is noted that the imports were made in small volumes for captive consumption from countries other than the subject countries. In view of the above facts of the case, the Authority considers it appropriate to treat all applicant domestic producers as eligible to constitute domestic industry.
19. The Authority further holds that the applicants satisfy the requirements of Rule 2(b) and Rule 5(3) of the AD Rules with regard to the requirement of constitution of domestic industry and standing.

Other Post disclosure comments by Exporters, Importers, Consumers and other Interested Parties

20. It has been stated that the decision by the Authority to conclude the investigation without completing on-site verification visits at any of the premises of the INEOS entities is unjustified and unfair. It is respectfully submitted that in the absence of an on-site verification, the Authority should have accepted the data submitted by INEOS.
21. Two Ineos group companies have submitted that significant differences in the selling prices of the various grades of S-PVC exported to India during the POI which has been completely ignored by the Authority. Inclusion of off-grade S-PVC in the definition of the product under consideration is inappropriate.
22. INEOS Sverige had provided two versions of Appendix 8 (the cost of production annex) as was requested by the Authority and the first version of the same completely coincided with Appendix 7. Further, the Authority would have been able to reconcile the second version of Appendix 8 (the roll through cost basis) with Appendix 7 had it carried out an on-site verification visit.
23. The export sales made via ICC Handels A.G. have been rejected on the grounds that the selling price and adjustments have not been disclosed
24. The dumped imports are not undercutting the prices of the domestic industry in the market.
25. The increase in imports from the Subject Countries during the POI has not caused price depression in the domestic market
26. The Authority has been provided with evidence that the domestic industry's production economics became less efficient during the POI owing to increases in key raw material purchase prices (VCM) and processing costs.
27. The dumped imports did not have had significant adverse price effect in terms of price underselling.
28. It has been submitted that the name INEOS Newton Aycliffe Ltd has been stated in the duty table at page 46 of the Disclosure Statement together with a footnote that the business has been transferred to M/s INEOS ChlorVinyls Ltd. (U.K.). INEOS requests the Authority instead include M/s INEOS ChlorVinyls Ltd. in the duty table with a footnote that the prior to 01.05.2013 the operations of M/s INEOS

ChlorVinyls Ltd. were carried out by M/s INEOS Newton Aycliffe Limited. Second, in the duty table at page 46 of the Disclosure Statement, INEOS requests the Authority to replace "INEOS Desutschland GmbH" with "INEOS Vinyls Deutschland GmbH". Third, in the duty table at page 46 of the Disclosure Statement, INEOS requests the Authority to replace "M/s INEOS ChlorVinyls Limited" with "M/s INEOS ChlorVinyls Belgium NV".

29. The Mexican exporter has stated that they are disappointed to note that the Authority has not accepted the data concerning the normal value given by MRV. In this respect, it has been submitted that it has not been given sufficient opportunity to clarify/correct the alleged inconsistencies in the data as the Authority chose not to issue preliminary findings or even conduct verification in the present matter. It is submitted that the decision of the Authority not to issue the preliminary findings and cancelling the verification visit, have had a punitive impact on MRV and is against the principles of Natural Justice.
30. It has also been submitted that causal link is not established between the imports of the subject goods from the subject countries and alleged injury to the Domestic Industry. Under Anti-Dumping Rules, to segregate the injury caused to the Domestic Industry, if any, from SSR Countries and the subject countries is required.
31. It has also been submitted that higher K value is not manufactured by 3 local manufacturing companies and this results in monopoly and price fixing and shortages. It has also been submitted that K value of 80 is not manufactured by any local producer but there is anti dumping duty at present which is beyond comprehension. It has also been submitted that they as processing industry are vulnerable to vagaries of INR to US\$ and local manufacturing companies price fixing. If local companies are fixing prices based on the markets and not same price ex works for all the regions in India and offer regional subsidy, it amounts to price fixing. It has also been submitted that total imports from EU constitutes hardly 5.4 % and to consider it as inflicting injury to the domestic industry itself is bereft of any substance.
32. INEOS Chlor Vinyl is one of the most renowned companies in the world of SPVC Resin supplying to more than 25 countries around world and India is not even 10% of its market share and to state that it is dumping its material in India at lower price does not augurs well on any count.
33. It has been submitted by EU that even though a verification visit is not a legal obligation under WTO Rules, in this case it appears that such a visit would have allowed to clarify some important issues. They have requested the Indian Authorities to make sure that the arguments of the company, INEOS are duly taken into consideration. They have also raised issues concerning the calculation of the injury margin. The Commission has observed that a profit margin of 22% was used in order to reach the non-injurious price. First, the level of this margin is extremely high and unlikely to reflect a normal situation. Second, it appears that this margin corresponds to the return on capital employed (profit expressed as a percentage of fixed assets/working capital) but seems to have been applied to the cost of production for the establishment of the NIP. It would rather be expected that the calculations would have been based on a reasonable amount of profit (based on turnover) that the domestic industry could normally achieve in the absence of dumped imports. Such a level of profit would only very rarely be more than 10%. Finally, the Commission

considers that the individual duty rate established for the cooperating exporting producers should be used for each export transactions, independently whether the products are exported directly or via a third party. It would indeed be illogical that if INEOS would export its product via a third entity its products would be subject to a duty different than the one established for this exporting producer.

Post Disclosure Comments of the Domestic industry

34. It has been submitted that the Authority should specify that the scope of proposed anti dumping duty is 3904. It has further been submitted that the response of the responding exporters are required to be rejected, given that the same remained grossly incomplete even after sufficient opportunities provided to them. The exporters cannot be provided indefinite opportunities, particularly when they have provided information in the form and manner prescribed and did not complete the deficiencies pointed out by the authority.
35. The responding exporters have not established the need for grade to grade comparison. Further, the domestic industry has established that grade to grade comparison is not required.
36. In view of significant variation in the price of VCM and Suspension Resin on month-to-month basis, the dumping margin is required to be determined undertaking month to month comparison.
37. The petitioners had requested the Designated Authority to consider date of order as the date of sale. None of the exporters have provided any evidence to justify that the claim of the petitioners in this regard is untenable. The Designated Authority is requested to consider date of order as the date of sale for determination of export price.
38. The domestic industry is suffering injury from present subject countries as also subject countries of sunset review investigations.
39. The injury margin methodology does not constitute fair comparison because (i) whereas the domestic industry NIP and price have been considered at ex-factory level, the import prices include freight cost incurred by the exporter; (ii) whereas the import price includes significant credit period, the NIP of the domestic industry has been determined at cash level, (iii) whereas the domestic industry NIP and selling price of domestic industry has been considered excluded discounts & commission, the landed price of imports is inclusive of discounts & commission, (iv) whereas the NIP and selling price of domestic industry is at ex-factory level, the import price is at delivered levels.
40. The working capital for the purpose of determining capital employed should be determined by excluding interest bearing creditors from current liabilities.
41. The authority is required to consider actual raw material, utilities consumption, production and cost of production for determination of non injurious price. Capital employed should be determined considering present value of fixed assets, or at the least gross value of fixed assets. In any case, adoption of net fixed assets is highly inappropriate and, in fact, unfair to the domestic industry. Further, the captive VCM should be valued at its market values.

42. Anti dumping duty may be imposed only as fixed quantum of anti dumping duty, expressed in terms of US\$ considering anti dumping duty imposed earlier on this product and the fact that the cost and price of the product fluctuated significantly.

Examination by the Authority

43. The Authority has examined the contention of all interested parties in the respective headings in this final finding. With regard to requests for name changes as made out in the earlier paragraphs, the same has been carried out in accordance with the Anti dumping rules and Agreement on Anti Dumping(ADA).

C. DUMPING MARGIN

D.1 NORMAL VALUE

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

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

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

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

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

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

Views of Exporters, Importers, Consumers and other Interested Parties

- C. It has been submitted that the Authority ought to exclude off-Grade Products from the product under consideration.

Views of the Domestic Industry

45. The following are the submissions made by the Applicants in respect of normal value.

- a. The Applicants, for the purpose of determining the normal value of the product under consideration in the EU and Mexico, referred to the prices quoted in the *IHS Chemical Market Advisory Service: Global Vinyls* report (formerly *Harriman Chemsult Vinyl Chloride Report*). *Harriman Chemsult Vinyl Chloride Report* began to be marketed as *IHS Chemical Market Advisory Service: Global Vinyls* from January 2012.
- b. The Applicants have claimed that Harriman Chemsult is a leading source of information and insight in pivotal areas that shape today's business landscape. Harriman Chemsult Chemical Market Advisory Service: Global Vinyls (formerly Harriman Chemsult Vinyl Chloride Report, CMAI Europe PVC Stream Report and CMAI Europe PVC Price Report) covers the world's vinyl chloride markets and offers complete coverage of the vinyl value chain throughout the America, Asia and Europe.
- c. The Applicants have claimed that Harriman Chemsult regularly reports the prices of product under consideration, and such prices constitute reasonable, accurate and adequate information for determination of normal value. The applicants therefore submit that the prices reported in Harriman Chemsult may kindly be considered for determination of normal value.
- d. The Applicants submitted the prices reported in Harriman Chemsult Vinyl Chloride Report until December 2011 and IHS Chemical Market Advisory Service: Global Vinyls from January 2012 onwards to the Authority for the determination of normal value.
- e. The Applicants have for the purpose of determining normal value for EU and Mexico referred to the prices quoted in the Harriman Chemsult report. For EU, the Applicants have considered the price quoted for Benelux (Belgium, Netherland and Luxembourg), France, Germany, Italy, Spain and UK due to non availability of prices prevailing in EU as a whole. The Applicants have determined month-wise normal value by considering the average of the highest and the lowest price given in the report.
- f. The Applicants assessed the cost of production of the foreign producers by considering international price of VCM and best estimates of the conversion cost and overhead costs. The selling price of the product during the relevant month has been compared with the cost of production for the month. The Applicants claimed that the selling price in several months of the investigation period were below cost of production. In other words, the selling price during the relevant period was not in the ordinary course of trade. The Applicants have therefore claimed to have adopted cost of production (after including reasonable addition for profit) wherever the selling price was below cost of production. Wherever the selling price was above the cost of production, the applicants have adopted selling price.
- g. The domestic industry has objected to claim made by exporters for grade to grade comparison for the purpose of determination of dumping margin. In this regard, they have asked whether the exporters have provided details of cost of production of all grades sold in the domestic market, or the same has been restricted to only grades exported to India and whether the exporters have provided invoice/transaction wise

details of all exports to third countries and whether the exporters have provided cost of production details of all exports to third countries – grade wise and exhaustive list of all grades produced and sold by each of the exporter and also exhaustive list of all grades sold by each of the exporter in its (i) domestic market, (ii) exports to India and (iii) exports to third countries.

- h. The Designated Authority is required to do comparison on grade to grade basis only if the need for the same has been established by the exporters. In the present case, however, none of the exporters have established the need for such grade to grade comparison. On this account itself, their claims must be rejected.
- i. Large number of exporters has not even disclosed grades sold by them in the domestic market and exports to India. This is despite the fact that all exporters widely publicize the grades produced and sold by them. The reason for suppression of this information is not business sensitivity of the information. The reason for suppression of this information is to prevent the domestic industry from establishing that the claim for grade to grade comparison is without any legal and factual basis and is in fact an attempt to manipulate the dumping margin.
- j. With regard to quality of the product, it has been stated that in the production process of PVC Suspension Resin, the producers change production from one grade to other grade on-line and without completely suspending production. During the transition stage, the goods produced do not strictly conform to either of the grades specification. These goods are sold as seconds/sub-standard goods. Some producers tend to report this as different grades. These are however not different grades. These are merely off-specs or sub-standards of a particular grade. These cannot be treated as different grade for the purpose of determination of dumping margin.
- k. Grade to grade comparison should not be done for dumping margin determination – In order to qualify for a grade to grade comparison; the exporters must establish that there is significant difference in associated costs and prices of different grades. In this regard, they have stated that the responding exporters have not maintained any price list for the product which further establishes that the exporters have not declared a consistent pattern of price difference for different grades.
- l. Further, they have stated that the price difference between different grades for the domestic market is in the region of 2-4%. It would thus be seen that the difference in prices of different grades is quite insignificant. Further, while this is the extent of price difference in the price lists of the domestic industry, as far as imports are concerned, the actual price difference either does not exist or even negative.
- m. It has been submitted by the domestic industry that the product which should fetch higher price in fact has been sold at a lower price and vice-a-versa. For example, while price of S-70 should be slightly higher than price of S-65, there are several transactions reported in the same month wherein the import price of S-65 grade is in fact much higher than the import price of S-70 grade. They have also stated that there is no consistent pattern of price difference between different transactions.

- n. With regard to the cost difference, it has been stated that the cost difference between different grades is not even 1%. The domestic industry has therefore opposed any grade to grade comparison for the purpose of dumping margin determination.
- o. It has been stated that there is significant variation in the price of VCM and Suspension Resin within a short period. With regard to the legal position as per Rule 6(1) of the Anti-dumping rules, it has been stated that whereas the rule required Authority to undertake comparison in respect of sales made at as nearly as possible the same time; there is no specific legal obligation on the Designated Authority to undertake grade to grade comparison. The rules merely require the Designated Authority to make an allowance for differences in factors affecting price comparability. Thus, if exporters are able to quantify the difference in price on account of differences in physical characteristics, the Designated Authority may at best consider an allowance. However, there is no specific obligation on the Designated Authority to undertake grade to grade determination of dumping margin. At the same time, it would be seen that the rules oblige the Designated Authority to consider both normal value and export price pertaining to, as far as possible, the same time period. Thus, the rules require the Authority to consider normal value and export price for the same time period which purpose can be achieved by undertaking month to month comparison. They have requested the Authority to issue the final findings without undertaking spot verification of the information filed by the foreign producers

Examination by the Authority on the issues raised on Dumping Margin

- 46. The following is the examination by the Authority on the issues raised by the interested parties on the issue of determination of dumping margin.
- 47. The petitioners have claimed in their petition that in view of significant variation in the prices with time period, the dumping margin is required to be determined first for each of the months of the proposed investigation period and thereafter weighted average for the investigation period. The responding producers and exporters were requested to provide sufficient information to enable the Designated Authority to ensure fair comparison between normal value and export price, by considering sales made at as nearly as possible the same time. In this regard, responding producers and exporters were requested to provide sufficient information on month wise basis by providing volume and value of consumption of major raw materials and any other information that they may like to provide with regard to cost of production of the product under consideration at the time of sale.
- 48. After examining the response of producer and exporter in reply to deficiency letters issued to them, it is noted that the import data relating to product under consideration as per response of the responding producers and exporters do not show any consistent pattern of difference in prices for different types or grades of the product imported into India. Further, all the responding producers and exporters have not claimed different cost of production under Appendices - 8A and 8B for different grades of product produced and sold by them in the domestic and export market. With regard to submissions by various interested parties about exclusion of off grade product as not being like product, it is noted that off-Grade material does not have different

physical and technical characteristics. Manufacturing process, raw materials, functions & usage, cost of production, tariff classification are the same. In view of the above, these products have been treated as like article and these have been included for the purpose of determining the dumping margin.

49. Further, the response to the questionnaire and information on record shows significant variation in the price of the product under consideration with time period. Further, there is significant variation in the cost of production and sales price with time period because of variations in the input prices. Para 6(i) of Annexure-I requires that while arriving at margin of dumping, the Authority shall make a fair comparison between the export price and the normal value and the comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. In view of the same, the Authority has considered and compared the normal value and export price by undertaking month by month comparisons. The weighted average dumping margin has been determined considering associated import volumes. With regard to submissions made by the interested parties post disclosure about the fact that the Authority should have carried out onsite verification or the Authority should have accepted the response of the exporters, it is stated that onsite verification was conducted as was deemed necessary by the Authority taking into account factual matrix of the case. With regard to the issue of determination of dumping margin without undertaking verification visit, it may be mentioned that it is not mandatory for the authority to undertake verification visit and in any case, the Authority has considered all the data/explanations given by INEOS before coming to the conclusion. With regard to granting of separate dumping margin to those producers who have exported the subject goods through third party, it is noted that separate dumping margin is given to those producers who have exported the subject goods to India either directly or through a trader who has submitted complete response for all the exports of the subject goods of the co-operating producer, made by him and thereby providing complete chain of the subject exports from the producer to the exporter and exporter to the importers in India.

Determination of Dumping Margin : Examination by Authority

50. The Authority sent questionnaires to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. In response thereto, the following exporters have filed their questionnaire response.
- a) INEOS ChlorVinyls Belgium NV, Belgium
 - b) INEOS Vinyls Deutschland GmbH, Germany
 - c) INEOS Vinyls Sales GmbH, Germany
 - d) INEOS Sverige AB, Sweden
 - e) INEOS Newton Aycliffe Limited, UK
 - f) M/s Mexichem Resinas Vinilicas , S.A. de C.V, Mexico

Normal Value, Export Price and Dumping Margin for European Union

51. It is noted that the response from the European Union have been filed by 5 producers and exporters from EU. These producers and exporters as follows:
- a. M/s INEOS Vinyls Deutschland GmbH, Germany (Producer)
 - b. M/s INEOS Vinyls Sales GmbH, Germany (Exporter)
 - c. M/s INEOS Sverige AB, Sweden (Producer and exporter)
 - d. M/s INEOS ChlorVinyls Belgium NV(Producer and exporter)
 - e. M/s INEOS Newton Aycliffe Limited, UK.(Producer and exporter)

M/s INEOS Vinyls Deutschland GmbH (IVD) and M/s INEOS Vinyls Sales GmbH (IVS), Germany

52. From the response submitted, it is noted that M/s INEOS Vinyls Deutschland GmbH (hereinafter “**IVD**”) is incorporated under the laws of Germany. INEOS Vinyls Sales GmbH (hereinafter IVS) and M/s IVD have filed a joint response before the Authority. It is noted from the response that M/s IVS was incorporated under the laws of Germany on 15.06.2005. IVD was also incorporated under the laws of Germany and there has been no change in the structure of the two companies since then. INEOS Vinyls Deutschland GmbH is 90% owned by INEOS Norway SPV Ltd. and 10% owned by INEOS Vinyls GmbH & Co. KG. INEOS Vinyls GmbH & Co. KG is 100% owned by INEOS Chlor Vinyls Holdings Ltd as limited partner with 100% interest and INEOS Vinyls Deutschland (Holding) GmbH as unlimited partner with no interest. INEOS Chlor Vinyls Holdings Ltd. is 100% owned by INEOS Norway SPV Ltd. INEOS Norway SPV Ltd. is 100% owned by Kerling plc. Kerling plc is 100% owned INEOS Group Investments Ltd. INEOS Group Investments Ltd. is 100% owned by INEOS AG. Both the companies i.e. IVS and IVD have their principal place of business at Inhausersieler.

Normal value

53. It is noted from the response that IVD is the manufacturer of goods and IVS is the exporter of the goods manufactured by IVD. It is also noted that M/s INEOS ChlorVinyls Ltd. is acting as a “Principal” Company for the ChlorVinyls business in Germany. It buys the raw material and provides them to IVD for manufacture of the finished stock on behalf of the “Principal” in exchange for a “processing fee”. The raw materials, work in progress and finished goods always remain in the ownership of the Principal. The Principal then sells the finished goods to IVS which in turn sells the subject goods to external customers.
54. It is noted that the company (IVS) sells the subject goods to end user in domestic market directly as well as to other entities in the domestic market who are distributors of the subject goods. For the domestic market sales, the IVS has claimed adjustment of account of Inland Freight, Credit expenses and packing expense. A deficiency letter was earlier issued to the company seeking further information in regard to the

response filed by them in response to exporter's questionnaire. Amongst major deficiencies pointed out to the company, was that the principal has not filed the questionnaire response and in order to examine the arrangements between the principal and other related companies, the Authority needed an English version of the agreement between the principal and other related companies. It was also communicated that the various appendices enclosed with the questionnaire response appears to have been mixed up with the data of Principal, IVD and IVS. Further, it was also pointed out that the data of INEOS Wilhelmshaven has not been furnished. Further, it was pointed out that the basis of allocation of expenses of the company between subject goods and other products has not been furnished. In addition it is noted that the company has exported the subject goods to India via a trader in Middle East but that company has not submitted their response to the Authority.

55. In their response, it has been submitted by the company that the major raw materials required for manufacture of the subject goods are Chlorine, Ethylene, Ethylene Dichloride and Vinyl Chloride. It has also been submitted that some raw materials are purchased from related entities at arm's length basis. The Company has submitted that the prices for all the related party transactions are derived from the data published by HIS Chemicals in their monthly market reports.
56. The company has made adjustments of *** EUR in the cost of production of the subject goods during the period April-June 2011. It has been further stated that expenditure reported in Appendix-7 of the Exporter's Questionnaire response (EQR) is consolidated from companies INEOS Vinyls Deutschland GmbH, INEOS Vinyls Sales GmbH and INEOS Chlor Vinyls Ltd., (Principal) and no consolidated audited accounts are being produced covering these three entities. In view of the above position, the Authority has not been able to determine the cost of production/sales of the PUC and therefore it was not possible for the Authority to conduct ordinary course of trade test to determine normal value based on domestic sales. In this regard, it is noted that the application filed by the domestic industry contains estimates of sales price in countries in the European Union on the basis of published price of the subject goods in Harriman Chemsult and the same has been considered for the purpose of determination of normal value.

Export Price

57. It is noted that the Company had made all the exports to India directly with the exception of *** transactions where the exports to India were made through a unrelated trader in Middle East. It is noted that the aforesaid trader has not filed any response. The Authority has, therefore, taken into account only direct exports to India (***) of total exports) for the purpose of determining export price for the responding exporter. The company has claimed a single adjustment on account of inland freight, load expenses, ocean freight and ocean insurance collectively. Further, it has also claimed adjustments on account of commission charges. The exporter has stated that the adjustments for these expenses have been claimed on the basis of actuals. The company has also claimed adjustment on account of credit expenses and packing expense. The Authority has accepted the export price along with all adjustments claimed by them in their response. The export price so determined on a monthly basis has been used to determine dumping margin for that month.

INEOS SVERIGE AB

58. INEOS SVERIGE AB is a private limited company incorporated under the laws of Sweden. The company was initially incorporated as AKTIEBOLAGAT International Casein Company and subsequently the name was changed to INEOS SVERIGE AB. The Company is a 100% subsidiary of M/s INEOS Norway SPV limited which in turn is a 100% subsidiary of Kerling Plc. Kerling Plc is 100% owned by INEOS Group Investment Limited which in turn is a 100% subsidiary of INEOS AG.

Normal value

59. It is noted from the response filed by the producer and exporter that the entire production of the subject goods takes place at the Company's plant itself. The production process starts from the stage of Chlorine. All the raw materials with the exception of Ethylene are purchased from unrelated suppliers. Ethylene is purchased from unrelated entities as well as from a related entity being INEOS NORGE AS. The company sells the subject goods in domestic market to end users as well as distributors of the subject goods. The company has claimed adjustment of account of Inland Freight, Credit expenses and packing expense.

60. It is noted that a deficiency letter was issued to the company during investigation proceedings seeking further data/ information with regard to response submitted by them. One of the major deficiencies pointed out to the company was that a significant amount of export sales to India were made through the trading company ICC Handels AG, who had not filed the response. In response to the deficiency letter issued by the Authority, a limited and grossly deficient response was filed by ICC Handels. Thus, for a significant part of sales to India, they had not provided the sales price to India. The exporter was also asked to explain along with back up evidence about the purchase price of ethylene from its related party to demonstrate that the transactions were at arm's length basis. The producer/exporter was further requested to furnish details and explain their submission that the purchase of raw materials from the affiliated companies is based on transfer pricing which is based on discount to the monthly price published by the industry body market report.

61. The company has in response to the deficiency letter issued by the Authority provided a comparison of price of Ethylene when procured from unrelated entities and when procured from INEOS NORGE AS to show that procurement of raw materials from the related entity is at an arm's length basis. Further, the company has informed the Authority that the internal transfer price of Ethylene is calculated by giving a discount to the monthly contract price for Ethylene published by the Industry Body IHS Chemicals in their monthly market report. The responding producer/exporter has submitted the response to the deficiencies. The company has stated that the per unit expenses for the product under consideration and the other products (Paste-PVC and caustic) are the same and therefore total expenses were allocated pro-rata to sales volume since there is no difference in the expenses associated with the sale of PUC and non PUC. It has been further stated that two

versions of Appendix-8 of EQR were provided to the Designated Authority and while the first version reflected the true roll through cost of manufacturing the product concerned and the second version was prepared in line with the cost reporting in INEOS Sverige's accounts. It has been further stated that the Designated Authority should use the second version for the purpose of reconciliation with Appendix-7 of EQR and the first version should be used for the purposes of the ordinary course of trade analysis. The true roll through cost of manufacturing reflects the fact that other sites within our group manufacture the inputs into INEOS Sverige's production process and roll through cost removes any internally generated profit created by transfer price used to sell between companies within the same group and transfer pricing between products made on the same site and therefore reconciliation of figures furnished in Appendix-7 of EQR with the figures furnished in Appendix-8 of EQR is not possible. In view of the above position, the Authority has not been able to determine the cost of production/sales of the PUC and therefore it was not possible for the Authority to conduct ordinary course of trade test and determine normal value based on domestic sales.

62. In this regard, it is noted that the application filed by the domestic industry contains estimates of sales price in countries in the European Union on the basis of published price of the subject goods in Harriman Chemsult and the same has been considered for the purpose of determination of normal value.

Export price

63. It is noted that the Company follows two trade channels for its sales to India i.e. direct sales to importers in India and sales through ICC Handels AG A.G., an independent, non-related trader of the subject goods based in Switzerland. The Company has provided some details of onwards sale of goods by ICC Handels AG. It is noted that M/s ICC Handels AG has sold subject goods to the importers in India. The company has claimed a single adjustment on account of Inland Freight, load expenses, ocean freight and ocean insurance collectively. Further, it has also claimed adjustments on account of commission and documentation charges. It has been stated that the same have been claimed on the basis of actuals. The company has also claimed adjustment on account of credit expenses and packing expense. In view of the fact that response filed by M/s ICC Handels AG is grossly deficient and it does not give information on the export price of the subject goods sold to Indian customers which have been produced by the responding producers along with its adjustments, the exports made to India through ICC Handels AG have not been considered for the purpose of determination of export price. The Authority has determined the export price of the subject goods by taking into account only the direct exports (**% of total exports) made by them to India. The Authority has accepted the export price along with all adjustments claimed by them in their response. The export price so determined on a monthly basis has been used to determine dumping margin for that month.

M/s INEOS Chlor Vinyls Belgium NV

64. M/s INEOS Chlor Vinyls Belgium NV is a company incorporated under the laws of Belgium. The company is a 100% owned subsidiary of M/s INEOS Norway SPV Limited which in turn is a subsidiary of M/s INEOS A Gand forms a part of the INEOS group of companies.

Normal value

65. It has been submitted that the company sells the subject goods to end user in domestic market as well as distributors of the subject goods. The responding producer has sold the subject goods to unrelated customers as well as to related entities. The company has claimed adjustment of account of Inland Freight (on actual basis), Load Expenses, Credit expenses and packing expense.

66. A deficiency letter was earlier issued to the company asking for information. Amongst the major deficiencies pointed out to the company was the basis for the adjustments claimed by them and the documents in support of the claim. It was also informed to them that almost all of their sales to were made through the trading company IIC Handels who have not filed the response. In addition, the exporter was requested to provide sufficient information on month wise basis by providing volume and value of consumption of major raw materials and any other information that they may like to provide with regard to cost of production of the product under consideration at the time of sale. It was also noted that the most of the VCM required for manufacture of PVC are captively produced and they were asked to state the basis of pricing the captively produced VCM for working out the cost of PVC. In their response, it has been submitted that the company procures all its major raw materials from non-related external suppliers. It has also been submitted that the company has a fully integrated production chain. The principal raw materials are Ethylene, Sodium Chloride, Potassium Chloride, Electricity and VCM. The company manufactures VCM at site and thereafter transports the same to INEOS Chlor Vinyls France SAS by train and to INEOS Chlor Vinyls Limburg BV by Pipeline. At the aforementioned production sites VCM is transformed to PVC. The two production sites manufacture the product under consideration on behalf of the company in exchange of a tolling fee and the company supplies the necessary raw materials to the above named tolling manufacturers. ICV Belgium in their reply to deficiency letter has inter alia stated that a complete reconciliation of the figures given in Appendix-7 of EQR with the figures furnished in Appendix-8 of EQR is not possible. It has been further mentioned that while the figures given in Appendix-7 are based on the sales quantities whereas the figures furnished in Appendix-8 are based on production quantities and therefore there may be discrepancies in the stock reconciliation figures in Appendices 7 and 8 of EQR. It has also been mentioned that while Appendix-7 of EQR has been prepared based on the integrated price of Chlorine and the SG&A expenses, the figures furnished in Appendix-8 of EQR were based on the fixed rate for Chlorine and does not include SG&A expenses. It has been further stated that it is not always possible to provide a full reconciliation as the cost breakdown requested at Appendix-8 does not reflect the way which ICV Belgium reports its costs. In view of the above position, the Authority has not been able to determine the cost of production/sales of the PUC and therefore it was not possible for the Authority to conduct ordinary course of trade test and determine normal value based on domestic sales.

67. In this regard, it is noted that the application filed by the domestic industry contains estimates of sales price in countries in the European Union on the basis of published price of the subject goods in Harriman Chemsult report the same have been considered for the purpose of determination of normal value.

Export Price to India

68. It is noted that the Company follows different trade channels for its sales to India i.e. direct sales to importers in India well as sales through ICC Handels AG, an independent, non-related trader of the subject goods based in Switzerland who sold the subject goods to traders based in India. The company has claimed a single adjustment on account of Inland Freight, ocean freight and ocean insurance collectively. Further, it has also claimed adjustments on account of load expenses & commission. The same have been stated to have been claimed on the basis of actuals. The company has also claimed adjustment on account of credit expenses and packing expense. In view of the fact that response filed by M/s ICC Handels AG is grossly deficient and it does not give information on the export price of the subject goods sold to Indian customers which have been produced by the responding producers along with its adjustments, the exports made to India through ICC Handels AG have not been considered for the purpose of determination of export price. The Authority has determined the export price of the subject goods by taking into account the direct exports (***)% of the total exports) made by them to India. The Authority has accepted the export price along with all adjustments claimed by them in their response. The export price so determined on a monthly basis has been used to determine dumping margin for that month.

M/S Ineos Newton Aycliffe Ltd. UK

69. INEOS Newton Aycliffe Ltd. is a private limited company incorporated under the laws of England and Wales. The company was initially named as NORSK Hydro Polymers Limited. Later, the company changed its name to INEOS Newton Aycliffe Limited. It has been submitted that subsequently, on 01.05.2013, INEOS Newton Aycliffe Ltd. transferred its S-PVC business to INEOS Chlor Vinyls Ltd. The S-PVC activities formerly carried out by INEOS Newton Aycliffe Ltd. will be continued in the name of INEOS Chlor Vinyls Ltd. The Company has provided the Authority with a copy of the instrument bringing out the restructuring in its letter dated 10.06.2013. M/s INEOS Newton Aycliffe Limited is a 100% subsidiary of M/s INEOS Norway SPV limited which in turn is a 100% subsidiary of Kerling Plc. Kerling Plc is 100% owned by INEOS Group Investment Limited which in turn is a 100% subsidiary of INEOS AG.

Normal value

70. The company sells the subject goods to end user as well as the distributors. The company has claimed adjustment of account of Inland Freight (on actual basis), Credit expenses and packing expense. A deficiency letter was earlier issued to the company asking for information. Amongst the major deficiencies pointed out to the company, it was specifically asked to submit evidence for the adjustments claimed by them including its basis. It was also intimated that almost all of their sales are made through the trading company ICC Handels for which there is no response filed by the trader. It was also stated in the deficiency letter that the purchase of raw materials from the affiliated companies is based on transfer pricing which is based on discount to the monthly price published by the industry body market report. They were asked to explain the basis for providing discount and details of calculation in this regard. They were also asked to provide details of related party transactions and to reconcile the information submitted by them in the different appendices of the exporter's questionnaire.
71. In their reply to the deficiency, it has been stated that the company produces the product at its own site and the production starts from the stage of VCM. It has further been submitted that the company procures all the raw materials from third parties except VCM which is procured from its sister concerns in Norway and Runcorn. The company has claimed that the transaction of VCM with its sister concerns is at arm's length basis and is based on cost plus mechanism calculated on a FOB basis with reference to a discount to the SPVC and caustic soda liquor selling prices published by the Industry Body IHS chemicals in their monthly market reports. Further, it has been claimed by the company that the discounts used in the formula are reflective of the average discounts to the HIS published prices achieved by INEOS in selling caustic soda and SPVC in Europe.
72. It has been stated by INEOS Newton Aycliffe Ltd that two versions of Appendix-8 of EQR were provided to the Designated Authority. While the first version reflected the true roll through cost of manufacturing the product concerned and the second version was prepared in line with the cost reporting in INEOS Newton Aycliffe's accounts. The second version is the version which the Designated Authority should use for the purpose of reconciliation with Appendix-7 of EQR. The first version should be used for the purposes of the ordinary course of trade analysis. The true roll through cost of manufacturing reflects the fact that other sites within our group manufacture the inputs into INEOS Newton Aycliffe's production process. Roll through cost removes any internally generated profit created by transfer price used to sell between companies within the same group and transfer pricing between products made on the same site.
73. In view of the above position, the Authority has not been able to determine the cost of production/sales of the PUC and therefore it was not possible for the Authority to conduct ordinary course of trade test and determine normal value based on domestic sales.
74. In this regard, it is noted that the application filed by the domestic industry contains estimates of sales price in countries in the European Union on the basis of published

price of the subject goods in Harriman Chemsult report and the same have been considered for the purpose of determination of normal value.

Export Price to India

75. The Company follows two trade channels for its sales to India i.e. direct sales to importers in India and sales through ICC Handels AG A.G., an independent, non-related trader of the subject goods based in Switzerland. The Company has provided some details of onwards sale of goods by ICC Handels AG. ICC Handels AG has sold the goods to Importer in India through two invoices, copies of which were provided by INEOS Newton Aycliffe Limited. The company has claimed adjustments on account of inland freight, load expenses, ocean freight, ocean insurance, and commission and bank charges. The same have been claimed on the basis of actual. The company has also claimed adjustment on account of credit expenses and packing expenses. In view of the fact that response filed by M/s ICC Handels AG is grossly deficient and it does not give information on the export price of the subject goods sold to Indian customers which have been produced by the responding producers along with its adjustments, the exports made to India through ICC Handels AG have not been considered for the purpose of determination of export price. The Authority has determined the export price of the subject goods by taking into account the direct exports (***% of total exports) made by them to India. The Authority has accepted the export price along with all adjustments claimed by them in their. The export price so determined on a monthly basis has been used to determine dumping margin for that month.

Dumping margin determination for Ineos group of companies

76. Based on analysis as mentioned above, the normal value and export price of the subject goods have been determined for each company for every month of the POI. Thereafter, the dumping margin and dumping margin in percentage term has been determined for each company for the POI as a whole and thereafter one weighted average dumping margin and dumping margin in percentage term has been determined for the subject goods for the INEOS Group of companies.

Normal Value for Mexico

77. From the response, it is noted that M/s Mexichem Resinas Vinilicas , S.A. de C.V. is a company incorporated pursuant to the General Law of Commercial Companies (“Ley General de Sociedades Mercantiles”) and has claimed to be the only producer of suspension grade PVC from Mexico. It has been submitted that they are a wholly owned subsidiary of Mexichem S.A.B. de C.V., which is one of the largest chemical products producers in Latin America. Further, Mexichem S.A.B. de C.V., owns 100% of Mexichem America Inc., which is a U.S. trading company that sells/buys the subject product, mainly in the North American and South American markets. Mexichem S.A.B. De C.V is also a 100% owner of Mexichem Resinas Colombia, S.A.S., which is a producer of the suspension PVC located in Colombia. It has been

submitted that none of these companies except Mexichem Resinas Vinilicas, S.A. de C.V. are concerned with selling and exporting the subject goods to India. From the response, it is noted that the Company produces the subject product in the following factories in México:

- a) Planta Altamira I in Tamaulipas México
- b) Planta Altamira II in Tamaulipas México
- c) Planta Tlaxcala in Tlaxcala México
- d) Planta La Presa in Estado de México

78. In their response to the Authority, it has been submitted that none of the materials are purchased from related suppliers or captively produced. Mexichem Resinas Vinilicas does not receive either directly or indirectly any grants, subsidies or any other consideration on manufacturing, export or transportation of goods. There are no financial or contractual links or joint ventures with any other company concerning research and development, production, sales, licensing, technical and patent agreements for the product concerned. The product involved in this investigation exported to India and sold by Mexichem Resinas Vinilicas in its home market (Mexico), Polyvinyl Chloride (Suspension type), commonly known as PVC (S-PVC) is a Chloro-ethylene polymer $(C_2H_3Cl)_n$, having molecular mass between 60,000 – 150,000, values which are intimately linked with a K-Value that defines the resin and its use. It has also been submitted that all facilities around the world producing PVC generate small quantities of off-grade resin, which are traded and used in applications which do not strictly comply with full specifications; consequently, with this, price of this resin is cheaper than the prime material but the quantity is so small that it doesn't have any effect on the market. It has been submitted that this off-grade resin should not be considered for purposes of the calculation of the dumping margins, since it is product that does not meet the quality and specifications of the prime product, and does not compete in the market with the prime material.
79. It has been submitted that the subject goods are produced in the above said plants and stored at a common warehouse. A deficiency letter was earlier issued to responding producer requesting them to provide sufficient information to enable the Designated Authority to ensure fair comparison between normal value and export price, by considering sales made at as nearly as possible the same time. In this regard, exporter was requested to provide sufficient information on month wise basis by providing volume and value of consumption of major raw materials and any other information that they may like to provide with regard to cost of production of the product under consideration at the time of sale. The producer cum exporter was also asked to submit the response to the exporter's questionnaire strictly in the form and manner of exporter's questionnaire. Though, replies to the deficiency letter have been received, it is noted that the response with respect to few appendices was still deficient. In particular, it is noted that there is no reconciliation of the information/data given in Appendix-5 to 8 of the response to the exporter's questionnaire. In view of the above, the information/data with respect to cost of production furnished by the producer/exporter has not been considered by the Authority. In view of the above, the Authority has determined the normal value of the subject goods in Mexico on the basis of facts available. In this regard, it is noted that the application filed by the

domestic industry contains estimates of sales price in Mexico on the basis of published price of the subject goods in Harriman Chemsult in Mexico and the same has been considered for the purpose of determination of normal value.

Export price

80. It is noted that the responding producer and exporter has exported the subject goods to India directly. The company has claimed adjustments on account of freight, insurance, and credit expense. In response to the deficiency letter, it has been submitted that for freight, the logistic department of the company has a rate that is negotiated with the transportation companies. From that rate, a factor is obtained which is then applied per ton on any given sale that requires freight. For insurance, the company acquires general insurance coverage which is then allocated per ton of product, based on a factor. The Authority has accepted the export price along with all adjustments claimed by them in their response. The export price so determined on a monthly basis has been used to determine dumping margin for that month.

Dumping Margin for responding producer and exporter from subject countries

81. It is noted that information submitted by responding producers and exporters have been examined by the Authority and it is noted that there is no consistent difference in the prices of the subject goods in terms of various grades which are primarily in terms of different K values. However, there is a marked variation in the prices of the subject goods based on the month to month comparison. For the reasons mentioned above, the Authority has considered appropriate to compare all subject goods on a month wise basis.

82. The export sales to India (net of all the adjustments claimed by the exporter and accepted by the Authority), were compared with the normal values to determine the dumping margin. In the case of exports of Ineos group, the Authority has considered only the direct exports made by them to Indian customers which constituted 76% of the total exports made by them. The Authority has not considered the remaining exports made by Ineos group through unrelated traders as the responses received from them were grossly deficient. The dumping margin has been determined for responding producers and exporters from subject countries by comparing normal values and export prices determined as mentioned above on a monthly basis. The dumping margin for the responding producers and exporters so determined is mentioned in the dumping margin table.

83. It is noted that in the subject investigations many cooperating producers and exporters from European Union are related to each other and form a group of related companies. It has been the consistent practice of the Authority to consider related exporting producers or exporting producers belonging to the same group as one single entity for determination of a dumping margin and thus to establish one single dumping margin for them. The Authority holds that granting of individual dumping margins might enable related exporting producers to channel their exports to India

through the company with the lowest individual dumping margin enabling them to circumvent the anti-dumping measures and thus rendering them ineffective. In view of the above, the related exporting producers belonging to the same group from EU have been regarded as one single entity and accordingly granted one single dumping margin. This margin was calculated on the basis of the weighted average of the dumping margins of the cooperating producers/exporters in the respective groups.

84. The dumping margins during the POI for all co-operating exporters/producers from subject countries thus determined have been shown in the table below.

Dumping Margin for other producers and exporters from Subject countries

85. The export price to India in respect other producers and exporters from subject countries have been determined on the basis of best available information. Information provided by the responding exporters, the applicants and DGCI&S have been relied upon for the purpose. Price adjustments have been made on account of adjustments like freight, insurance, etc. The export sales to India were compared to the corresponding constructed normal value to determine the dumping margin. After the analysis of the exporter's data, the dumping margin is worked out as mentioned in the table below. It is seen that the dumping margins are quite significant.

Determination of Dumping margin for Ineos group of companies (EU) and Mexichem Resinas Vinílicas, S.A. de C.V (Mexico) and residual producers and exporters from EU and Mexico.							
Country/ Territory	Producer	Exporter	Dumpin g margin US\$/M T	Dumpi ng margin %	Group DM US\$/MT	Group DM %	Dum ping Marg in rang e (%)
EU	M/s INEOS Vinyls Desutschland GmbH, Germany	M/s INEOS Vinyls Sales GmbH, Germany	***	***	***	***	65-75
	M/s INEOS Sverige AB, Sweden	M/s INEOS Sverige AB, Sweden	***	***			
	M/s INEOS ChlorVinyls Belgium NV	M/s INEOS ChlorVinyls Belgium NV	***	***			
	* M/s INEOS ChlorVinyls Ltd, UK	* M/s INEOS ChlorVinyls Ltd, UK	***	***			

	Others	Others	***	***	Not Applicable	Not Applicable	75-85
Mexico	Mexichem Resinas Vinílicas, S.A. de C.V.	Mexichem Resinas Vinílicas, S.A. de C.V.	***	***	Not Applicable	Not Applicable	15-25
	Others	Others	***	***	Not Applicable	Not Applicable	35-45

* Prior to 01.05.2013 the operations of M/s INEOS ChlorVinyls Ltd. were carried out by M/s INEOS Newton Aycliffe Limited which transferred its business to M/s INEOS ChlorVinyls Ltd (U.K.) with effect from 01.05.2013.

INJURY

Submissions made by importers, exporters, users and user associations

The following are the submissions of the exporters in the subject investigation

- a. The Annual Report of Indian producers does not show injury. On the contrary, it shows increase in prices and revenues. Reliance report shows increase in sales revenue and net income in third quarter of 2012-13. Finolex Annual Report shows growth in production and sales revenue in 2011-12.
- b. Imports from subject countries did not have a negative impact on the domestic industry prices. Published Reports shows the domestic industry has been able to increase its prices. Reference has been made to published information with regard to Reliance, HIS Chemical Market Services and ICIS which have reported increase in prices.
- c. There is a significant demand supply gap in the country. About 44% of the demand for the product is being met through imports. Imports are thus necessary to meet the demand of the product in the country.
- d. Increased imports were necessary due to unplanned suspension of production by Finolex in the month of July 2011.
- e. European Union is not a principal supplier of the product in the country. Imports from European Union constituted only 5.4% of total imports and could not have caused injury to the domestic industry.
- f. Domestic industry is already operating at high capacities and still there is significant demand supply gap. Imports have to be made to meet the demand for the product in the country.
- g. The Indian industry has not expanded capacities in line with increase in the demand for the product in the country.
- h. Injury to the domestic industry is primarily from other countries in respect of which sunset review investigation are being undertaken at present.

- i. Prices in the Indian market are driven by the prices offered by imports under sunset review. Sales negotiations between INEOS and Indian customers establish that prices are governed by the prices offered by suppliers from sunset review countries.
- j. Injury to the industry is self-inflicted, as the industry has not expanded capacity to capitalize on the rising demand. Further, domestic industry has cost disadvantage, as they are incurring high cost on account of VCM as compared to vertically integrated producers who have captive production of VCM. Further, Finolex imports have caused injury to the industry.
- k. Cost of production of the Indian producers has increased which is the cause for injury. Finolex reported significant increase in respect of electricity, furnace oil, LPG and HSD/SKO, Naphthalite during 2011-12, whereas HIS reported that domestic market has been driven by increasing raw material costs which domestic producers were seeking to offset through sale price increase.
- l. HIS has reported that costs are higher due to limited availability of Vinyl Feedstock which shall continue to restrict investments in new Vinyl plant.
- m. Domestic industry is impacted by endemic structural problems.
- n. Imposition of anti dumping duty will not be in the interest of the consumers' interests, as it will negatively impact downstream consumers. The country is facing demand supply gap. The domestic industry has not committed to enhance its capacities. Capacities are lagging behind the consumption in India. Imports from European Union are vital to the Indian consumers to ensure Indian customers have uninterrupted access to a key chemical building block. Imposition of duty shall enhance cost for the PVC converters. Imposition of duty shall provide SSR countries increased market access vis-à-vis European suppliers.
- o. Both Finolex and Reliance Industries Limited has reported growth in demand. Further, Finolex reported growth in terms of production, sale revenue in 2011-12, Reliance posted 24% year on year increase in net income in the third quarter of the 2012-13.
- p. Any increase in imports from subject countries has not had a negative impact upon domestic sales prices. Reliance, HIS Chemical Market Service and ICIS have reported increase in PVC suspension prices by the suppliers in India.
- q. Dumping by third country exporters. Prices are driven by the availability of product originating from SSR subject countries. This is supported by evidence of sales negotiations between INEOS and Indian customers during POI.
- r. This is a case of self inflicted injury as the domestic industry failed to make necessary investments to capitalize and cost of production disadvantage of domestic industry as they import VCM whereas the producers in subject countries benefit from vertically integrated supply chains which reduces cost of production. It has also been stated that whereas Finolex imports product under consideration from EU, Taiwan and other countries and as such influence imports of PVC and its prices
- s. Finolex reported material increases in respect of electricity, furnace oil, LPG and HSD/SKO, Naphthalite during 2011-12, HIS reported that domestic market has been driven by increasing raw material cost which domestic producers were seeking to offset through sale price increase.
- t. It will negatively impact important downstream industry in India and isolate India from global demand supply gap.
- u. Anti-dumping duty will increase the cost of PVC converters.

- v. It has been stated by Government of Mexico that free flow of trade is essential between the two countries in the present global economic recession. Further, it has been stated that the evidence of normal value is not based on price in Mexico. There is no evidence of imports of product under consideration from Mexico in 17 different tariff items. There is no analysis of the grades of PVC resin imported from Mexico and comparability of those with grades supplied by the domestic industry. Imports even at highest level represent only 2.7% of demand for the product in the Country. Imports from other SSR countries are higher and are cause of injury to the domestic industry. Imports from present countries being much lower, the same could not have impacted the prices of the domestic industry. Import price from Mexico showed increasing trend. Both sales price and cost of production shows increasing trend and increase in cost of production is higher than increase in selling price. It has also been stated that Govt. of Mexico was not notified before initiation of investigations.

Submissions made by Domestic Industry

86. The domestic industry has argued that:

- a) A cumulative assessment of the effects of imports from the subject countries is appropriate since margin of dumping from each of the subject countries is more than the minimum prescribed, the volume of exports from each of the subject countries is more than the minimum prescribed, and the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market.
- b) The domestic industry is suffering injury from dumped imports from the present subject countries and other countries for which the Designated Authority is conducting sunset review.
- c) The demand/apparent consumption in the country have risen continuously throughout the injury period.
- d) The volume of imports from the subject countries has increased significantly in the POI when compared with the base year and previous year.
- e) The market share of the domestic industry and also of other Indian producers has decreased in the POI, while that of imports from the subject countries has increased.
- f) The production of the domestic industry has also increased over the injury period. The capacity utilization of the domestic industry has reduced in the POI when compared with the base year, though it has been increasing from 2009-10 to the POI.
- g) The volume of sales has increased over the injury period.
- h) The volume injury parameters such as production and sales may not show injury taken separately. This is because the nature of the product and the production process is such that the domestic producers cannot afford to run the plant at low utility rates. Plants have to be run continuously and at high utility rates. Further, the domestic producers cannot keep high inventories of the product. The product must be sold at whatever price the domestic producers can get.

- i) Profit per unit, return on investment (ROI) and cash profits have deteriorated substantially over the injury period to the extent that all these parameters are negative in the POI.
- j) Wages have increased. But this was expected given the facts & circumstances. Employment has increased in the POI when compared with the base year, but has declined when compared with the previous year.
- k) The domestic producers are largely selling the goods in the domestic market offering payment terms as “cash against delivery”. In fact, in a large number of cases, payments are received first and material is delivered thereafter. As opposed to this, the foreign producers have been offering interest free credit upto 90 days. This can be verified from the questionnaire responses that have been filed by the responding exporters. Since the credit offered by the domestic industry and foreign producers are different, the non injurious price is required to be compared with landed price of imports after appropriately adjusting any one of the two for the difference in the credit period.
- l) The domestic producers have been incurring significant freight cost in transporting the product from their factory warehouses to depot warehouses within the Country. The goods are sold to the customers from these depot warehouses.
- m) With regard to working capital, it has been stated that in the past, Designated Authority has treated negative working capital as zero for the purpose of determination of capital employed. In any case, it would be inappropriate and against accounting principles to deduct negative working capital from net fixed assets.
- n) Petitioners submit that the questionnaire responses being incomplete, the same are required to be rejected for determination of dumping margin.

EXAMINATION BY THE AUTHORITY

- 87. The Authority has taken note of submissions made by the domestic industry and other interested parties. The Authority has examined the injury to the domestic industry in accordance with the Anti-dumping Rules.
- 88. The Authority has considered the data of the domestic industry pertaining to the product under consideration for the purpose of injury analysis. Therefore, the contention of interested parties regarding the profitability of Reliance and Finolex has no relevance in the analysis made by the Authority. The Authority further notes that one of the domestic producers had commenced commercial production of its green field plant at Cuddalore in 2009-10 for manufacture of the PUC. The Authority notes that this domestic producer had incurred losses since inception in spite of operating at a fairly reasonable capacity due to the price pressure imposed on them by the dumped imports. One of the interested parties has submitted that there is a short fall in the domestic supply of the PUC and therefore import is inevitable. The Authority holds that there is nothing wrong in imports making up the shortfall in

domestic supply but such imports should be at un-dumped and fair prices without causing injury to the domestic industry. The Authority further notes that the selling price of the domestic industry has increased throughout the injury period but the increase was not sufficient to absorb the increase in cost of production particularly the cost of major raw material. The Authority notes that the price suppression caused by the dumped imports had adversely affected the financial performance of the domestic industry. With regard to the submission of EU that the profit margin of 22% allowed to domestic industry is very high and the same appears to have been applied on cost of production instead of capital employed, it is noted that return on capital employed @ 22% has been allowed only on capital employed and not on cost of production as per Anti dumping rules and as per its consistent practice.

89. Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

90. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure-II of Anti-dumping Rules states as under:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

91. It is clearly understood that all parameters of injury need not show deterioration. The Designated Authority must consider all injury parameters and thereafter conclude whether the domestic industry has suffered injury.

92. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.

93. Annexure II para (iii) of the Anti-dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Authority will cumulatively assess the effect of such imports only when the Authority 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 of the import of like article or where the export of individual countries is less than three percent, the imports collectively accounts 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.

94. In this regard, the Authority observes that:

- a. The margins of dumping from each of the subject countries are more than the limits prescribed above;
- b. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market. This is evident from the following:
 - i. The subject goods manufactured by the producers from the subject countries *inter se* and in comparison to the product manufactured by the domestic industry has comparable properties. In other words, the subject goods supplied from various subject countries and by the domestic industry are *inter se* like articles.
 - ii. The information furnished to the Authority gives a reasonable indication that imported and domestic materials are being used interchangeably and there is direct competition between the domestic product and the imported product and imported product *inter se*.
 - iii. Volume of imports from each of the subject countries is significant.
 - iv. Consumers make purchase decision on the basis of prices offered by various suppliers.

95. In view of the above, the Authority considers that it is appropriate to cumulatively assess the effect of imports of the subject goods from EU and Mexico on the domestically produced like article, in the light of conditions of competition between the imported products and the like domestic product.

96. Interested parties have contended that annual reports of the petitioner companies or Finolex does not show injury. The Authority notes that reference in this regard has been made either to increase in volumes reported in the annual reports or increase in sales revenues or selling price referred in the annual reports. With regard to the arguments that Annual report of the petitioners show increase in incomes, it is noted that the Authority has examined the costs and prices of the subject goods produced and sold by the petitioners and has worked out the profitability of the domestic industry in respect of subject goods sold and produced by them which is mentioned in the appropriate headings.

97. With regard to the argument that European Union is not a principal supplier of the product in the market, it is noted that subject investigation has been carried out in

terms of Anti-dumping rules and these rules do not require Authority to distinguish between different dumped sources. The Authority is not required to segregate injury caused by dumped imports from different sources which are subject matter of separate investigations. Further, rules require Authority to examine whether dumped imports have caused injury to the domestic industry.

98. With regard to the contention that despite significant demand supply gap, the domestic industry has not expanded capacities, the Authority notes that the domestic industry has contended that continuous adverse market conditions with regard to product under consideration have prevented the domestic industry from further enhancing the capacities.
99. With regard to the contention that prices in the market has been set by the countries under separate investigations through sunset review, the Authority notes that comparison of month by month prices from Europe and imports from sunset countries shows that import prices from European Union were also at dumped prices and the dumping margin has been found significant in the present case in respect of EU and Mexico.
100. Annexure-II of the Anti-dumping Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

Volume Effect of Dumped Imports and Impact on Domestic Industry

Import Volumes and Share of Subject Countries

101. It is noted that the imports from subject countries have recorded a significant increase in absolute terms during injury period including POI i.e. from 38415 MT in 2008-09 to 137638 MT in 2011-12 (POI).

Volume of Imports	Unit	2008-09	2009-10	2010-11	POI
Subject Countries	MT	38,415	71,650	50,386	1,37,638
EU	MT	34,294	59,697	39,454	1,02,970
Mexico	MT	4,121	11,953	10,933	34,667

Countries attracting anti dumping duties	MT	1,84,282	4,10,357	4,47,600	5,63,008
Trend		100	223	243	306
Other Countries	MT	12,615	63,729	52,482	50,382
Trend		100	505	416	399
Total Imports	MT	2,35,312	5,45,736	5,50,468	7,51,027
Trend		100	232	234	319
Domestic Production	MT	10,25,900	10,75,652	12,37,987	12,40,352
Imports from subject countries relative to domestic production	%	4	7	4	11
Demand	MT	12,08,513	15,30,783	17,30,485	18,80,092
Imports from subject countries relative to consumption	%	3	5	3	7
Share of imports from subject countries in total imports	%	16	13	9	18

102. The Authority is currently conducting a sunset review in respect of imports from China PR, Taiwan, Indonesia, Japan, Malaysia, Thailand, Korea RP and USA. It is noted that imports from these countries have also increased in the POI when compared with the base year, though they have decreased when compared with the previous year. Imports from other countries have been decreasing in absolute terms from 2009-10 to the POI.

103. It is noted that imports from the subject countries in relation to domestic production have increased from 4% in 2008-09 to 11% in the POI. Imports from the subject countries in relation to total demand or apparent consumption in India increased from 3% in 2008-09 to 7% in the POI. Similarly, the imports from the subject countries in relation to total imports have increased from 16% in 2008-09 to 18% in the POI. The Authority, therefore, holds that imports from the subject countries have increased both in absolute and relative terms.

Assessment of Demand and Market Share

104. The demand of subject goods has been determined by adding domestic sales of domestic like product with imports of subject goods from all countries. The Authority notes that demand of subject goods increased during the injury period.

Particulars	Units	2008-09	2009-10	2010-11	POI
Total Domestic sales	MT	7,87,181	8,17,655	9,77,281	9,78,779
<i>Trend</i>	Index	100	104	124	124
Total Imports	MT	2,35,312	5,45,736	5,50,468	7,51,027
<i>Trend</i>	Index	100	232	234	319
Demand	MT	12,08,513	15,30,783	17,30,485	18,80,092
<i>Trend</i>	Index	100	127	143	156
Imports from subject Countries	MT	38,415	71,650	50,386	1,37,638
<i>Trend</i>	Index	100	187	131	358
Share of Domestic Industry in demand	%	65	53	56	52
<i>Trend</i>	Index	100	82	87	80
Share of imports from Subject Countries in demand	%	3	5	3	7
<i>Trend</i>	Index	100	147	92	230
Share of imports from Countries attracting anti dumping duties in demand	%	15	27	26	30
<i>Trend</i>	Index	100	176	170	196
Share of imports from Other Countries in demand	%	1	4	3	3
<i>Trend</i>	Index	100	399	291	257

105. It is noted that the market share in demand of the imports from the subject countries has increased in the POI when compared with the base year and the previous year. Meanwhile, the share of the domestic industry has declined in the POI when compared with the base year and previous year.

Price Effect of the Dumped Imports on the Domestic Industry

Price Undercutting

106. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports of the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison was made between the landed values of the product concerned and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level. This comparison showed that during the period of investigation, the subject goods originating in subject countries were imported in the Indian market at prices which were lower than the Domestic industry selling prices. It is thus noted that imports of

subject goods were undercutting the domestic prices and margin of undercutting is considered significant.

107. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries has been examined with reference to the price undercutting, price underselling, and price suppression or price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject countries.

Particulars	Unit	2008-09	2009-10	2010-11	POI
Domestic Net Sales Realisation	Rs./MT	***	***	***	***
Trend	Index	100	104	110	118
Landed price of imports					
Subject Countries	Rs./MT	35,518	45,153	45,906	51,893
Trend	Index	100	127	129	146
EU	Rs./MT	35,565	46,049	45,583	51,980
Trend	Index	100	129	128	146
Mexico	Rs./MT	35,127	40,679	47,071	51,635
Trend	Index	100	116	134	147
Price Undercutting					
Subject countries	Rs./MT	***	***	***	***
Trend	Index	100	36	54	34
EU	Rs./MT	***	***	***	***
Trend	Index	100	29	57	34
Mexico	Rs./MT	***	***	***	***
Trend	Index	100	72	42	35
Price Undercutting					
Subject countries	%	***	***	***	***
Trend	Index	100	28	41	24
EU	%	***	***	***	***
Trend	Index	100	22	44	23
Mexico	%	***	***	***	***
Trend	Indexed	100	62	32	24
Price Undercutting range					
Subject countries	%	30-40	5-15	10-20	5-15
EU	%	30-40	5-15	10-20	5-15
Mexico	%	30-40	20-30	10-20	5-15

108. It is noted from above that the imports of subject goods from the subject countries are undercutting the prices of the domestic industry during the injury period. Further it is noted that the subject countries individually are undercutting the prices of the domestic industry.

Price Under selling

109. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. After due examination, it is seen that the Landed price of the subject goods into India from subject countries has been lower than the NIP determined for the domestic industry resulting in price underselling. The price underselling margin has been determined by taking NIP and landed value on a monthly basis.

Particulars	POI
Price Under selling US\$/MT	
EU	***
Mexico	***
Price Under selling %	
EU	***
Mexico	***
Price Under selling (% Range)	
EU	0-10
Mexico	0-10

Price Depression and Suppression

110. It is noted that the Domestic Industry is not adversely affected by the reason of price depression as domestic selling price has increased during the injury period.

111. However, it is noted that the Domestic Industry is adversely affected by the reason of price suppression. It is noted that the cost to make and sell the domestic like product by the domestic industry has increased during 2010-11 and POI after a fall in 2009-10. The Selling price of the domestic industry has increased during the injury period. However, the increase in selling price was not in proportion to the increase in cost to make and sell the subject goods. The price suppression is considered significant.

(Rs. per MT)

Particulars	2008-09	2009-10	2010-11	POI
Cost to make and sell	***	***	***	***
Index	100	91	103	126
Increase (Decrease) from base year (%)	-	(***)	***	***
Domestic Selling Price	***	***	***	***
Index	100	105	109	116
Increase (Decrease) from base year (%)	-	***	***	***

Economic parameters of the domestic industry

112. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

Production, Capacity, Capacity Utilization and Sales

113. It is submitted by the domestic industry that they had enhanced the capacities which started commercial production in 2009-10, and became fully operational in 2010-11 which lead to increase in the volume of production. It is noted that there is an increase in the volume of production as well as domestic sales. However, the capacity utilisation of the domestic industry has decreased in the injury period as compared to the base year.

Particulars	Unit	2008-09	2009-10	2010-11	POI
Capacity	MT	808,320	897745	1,029,320	1,029,320
Production	MT	784,884	833,651	977,797	985,559
Capacity Utilization	%	97.10	92.86	94.99	95.75
Domestic Sales	MT	769,326	800,227	951,324	951,941

114. It is thus concluded that volume of production and domestic sales of the domestic industry improved over the period. However, the capacity utilisation has declined during the entire injury period.

115. With regard to the contention that despite significant demand supply gap, the domestic industry has not expanded capacities, the authority notes that while it may be true that the domestic industry may not be able to meet the demand, the same does not justify existence of dumping of the product and adverse price effect on the domestic industry. It is also noted that the domestic industry has contended that continuous adverse market conditions with regard to product under consideration has prevented the domestic producers from further enhancing the capacities.

Profitability, return on investment and cash profits

116. The data on Profitability and return on investment of the domestic industry are furnished in the table given below:

Particulars	Unit	2008-09	2009-10	2010-11	POI
Profit/loss before tax	Rs./MT	***	***	***	***
Trend	Index	100	238	169	17
Profit/loss before tax	Rs./lakhs	***	***	***	***
Trend	Index	100	248	208	21
Profit/loss before interest and tax	Rs./lakhs	***	***	***	***
Trend	Index	100	210	177	28
Cash profit	Rs./lakhs	***	***	***	***
Trend	Index	100	231	196	27
ROCE	%	***	***	***	***
Trend	Index	100	156	167	26

117. Profitability of the domestic industry has been determined by considering the cost to make & sell and the selling price. It is noted that profitability of the domestic industry has increased in 2009-10 and thereafter declined. The profitability during POI has steeply declined. Further, as a result of steep decline in profitability, the profit before interest, cash profits and return on investment in POI also steeply declined.

Market Share

118. It is noted that the market share of the domestic industry declined in the POI, whereas that of imports from the subject countries increased over the injury period.

Market Share	Unit	2008-09	2009-10	2010-11	POI
Demand	MT	12,08,513	15,30,783	17,30,485	18,80,092

Share of Domestic Industry	%	65	53	56	52
Share of Subject Countries	%	3	5	3	7

119. As regards the argument that European Union is not a principal supplier of the product in the market, the authority notes that the rules do not require authority to distinguish between different dumped sources. The authority is not required to segregate injury caused by dumped imports from different sources which are subject matter of separate investigations. Further, rules require authority to examine whether dumped imports have caused injury to the domestic industry. In a situation where dumped imports from different sources have caused injury to the domestic industry and where such different sources are under investigation through different investigations, the rules do not require authority to determine the extent of causal link from different sources.

Employment, Productivity and Wages

120. It is noted from the Table given below that the employment with the domestic industry increased from 2008-09 to 2009-10 but declined thereafter. Wages paid increased over the injury period. Productivity per day, as well as productivity per employee, also showed an increase. The domestic industry has claimed that trends with respect to employment and wages are determined by a number of factors, and may not be indicative of dumping.

Particulars	Unit	2008-09	2009-10	2010-11	POI
Employment	Nos.	***	***	***	***
Trend	Index	100	116	115	115
Productivity per day	MT	***	***	***	***
Trend	Index	100	106	125	126
Productivity per	MT	***	***	***	***
Trend	Index	100	91	108	109
Wages	Rs Lacs	***	***	***	***
Trend	Index	100	105	144	161

Inventories

121. It is noted from the data furnished in the Table given below that the average inventory levels of the domestic industry increased till 2010-11 but declined during the period

of investigation. However, the levels of inventories with the domestic industry have steeply increased over the injury period.

Particulars	Unit	2008-09	2009-10	2010-11	POI
Average Stock	MT	***	***	***	***
Trend	Index	100	299	395	283

Factors affecting prices

122. It is noted that market conditions are favourably disposed towards using the product produced by the domestic industry and yet the market is forcing the domestic industry to sell the product at injurious prices. It is noted that decline in operating performance of domestic industry is because of dumped imports coming into the country. The capacities for the product under consideration are lower than demand for the product in the Country and therefore it cannot be said that the domestic industry is selling at low prices in distress. Given significant presence of imports in the market, and as contended by the domestic industry, the domestic industry is forced to set its prices in line with the import prices, even when the domestic industry wishes to set its prices considering the movements in VCM. The domestic industry specifically contended that it should set its prices upward or downward depending on the increase or reduction in costs due to changes in VCM. However, since imported goods are dominant in the market, the domestic industry is forced to set its prices considering the prices offered by the foreign producers. It is thus noted that the major factor affecting the level of domestic prices is the price at which the imported goods enter into the country.

Growth

123. Though the domestic industry has recorded a positive growth in volume terms it has recorded significantly negative growth in financial terms as could be observed from the following Table. It is also noted that during POI, the growth in volume terms was very minimal and there was significant negative growth in financial parameters during POI.

		2008-09	2009-10	2010-11	POI
Growth in					
Production	%	-	6.21	17.29	0.79
Domestic Sales	%	-	4.02	18.88	0.06
Profit	%	-	***	(***)	(***)
Cash Profit	%	-	***	(***)	(***)
ROCE	%	-	***	***	(***)

Ability to raise capital investments

124. The Authority notes that despite the increase in demand for the product under consideration in the Country, only one domestic producer has made capacity addition in 2009-10. The Authority notes that given the profitability of the domestic industry in POI, it is unlikely that the domestic industry would be in a position to raise funds for investment in capacity addition for PUC.

Level of dumping & dumping margin

125. It is noted that the imports coming into India from the subject countries are above the de minimis level of dumping margin.

Conclusion on injury

126. There has been a significant increase in the volume of dumped imports from subject countries in absolute terms. The share of dumped imports in relation to the consumption of subject goods in India has also increased significantly. Imports have thus increased both in absolute terms and in relation to production and consumption in India. The dumped imports are undercutting the prices of the domestic industry in the market. It is also determined that the dumped imports have had significant adverse price effect in terms of price suppression and price underselling. Imports have prevented the domestic industry from raising its prices in proportion to the cost increases. Further, the dumping margins from responding producers and exporters from the subject countries have been determined and are considered significant. With regard to consequent impact, it is noted that dumped imports of subject goods from subject countries have adversely impacted the performance of the domestic industry in respect of profits, cash flow and return on investment. Therefore, the Authority concludes that the domestic industry has suffered material injury and such injury has been caused by price and volume effects of dumped imports from the subject countries.
127. It is noted that the demand/consumption of the product in the Country is significantly higher than the capacities with the Indian producers. Thus, imports of the product were inevitable. However, it is not the contention of the domestic industry also that imports have had adverse volume effect on the domestic industry. Even the domestic industry has contended that despite significant demand supply gap in the country and despite the fact that significant share of demand in the country is required to be met by imports, performance of the domestic industry deteriorated materially with regard to profits, return on investment and cash flow. Imports are undercutting the domestic prices. Price undercutting has led to significant suppressing effect on the prices of the product in the market. Further, the imports are resulting in significant price underselling.

D. Causal Link

128. The Authority has examined whether other factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link has been done as follows:

Imports from third countries

129. The Authority has examined the transaction-wise imports data of the subject goods from DGCI&S. It is noted that, besides imports from the subject countries and the countries being examined by the Authority in the concurrent sunset review investigation, imports. As regards imports from countries in respect of which sunset review investigation is being conducted, the Authority notes that these imports are at marginally higher prices even though they have been alleged to have been made at dumped prices.

Contraction in demand

130. The Authority notes that the demand for the subject goods has shown significant improvement during the injury period. Possible contraction in demand could not have caused injury to the domestic industry.

Changes in the pattern of consumption

131. It is noted that the pattern of consumption with regard to the product under consideration has not undergone any material change. The investigation has not shown existence of alternate competing products and possible injury being caused by such alternate products.

Trade Restrictive practices of and competition between foreign and domestic producers

132. The Authority notes that the subject goods are freely importable and there are no trade restrictive practices in the domestic market. There is no restriction on fair trade in the country and imports of the subject goods take place from several countries and compete with the domestic producers. There are several producers of the subject goods in the domestic market and there is healthy growth in demand, which outstrip the supply. Therefore, demand not being a constraint, unhealthy competition in the domestic market or any unfair trade restrictive practices have not contributed to the claimed injury of the domestic industry.

Developments in Technology

133. The Authority notes that there is no contention of significant developments in technology. Therefore, development of technology is not a possible cause of injury to the domestic industry.

Export performance

134. The injury analysis has been done on the domestic operation of the domestic industry to the extent separate information is available. Further, export volumes of the domestic industry have not materially declined. Nor the injury to the domestic industry has been found in respect of volume parameters. The price parameters (profits, return on investment and cash profits) are based only on domestic operations

and therefore, injury if any due to export performance of the domestic industry has not been attributed to the injury suffered by the domestic industry.

Productivity of the Domestic Industry

135. The productivity of the domestic industry has improved over the period and therefore decline in productivity cannot be the reason for the established injury to the domestic industry.

Other factors and Factors establishing causal link

136. It has been contended that injury to the domestic industry is self-inflicted. The Authority, however, notes that the factors listed by the interested parties in this regard do not establish that the claimed injury to the domestic industry is self-inflicted. It is noted in this regard that there is significant deterioration in the performance of the domestic industry in respect of profits, return on investment and cash flow. Imports are undercutting the domestic prices and the margin of dumping and injury margin are quite significant.
137. With regard to the contention that the increase in the cost of production of the domestic industry is causing injury to the domestic industry, the Authority notes that the petitioners have contended that the increase in the cost of production is due to global increase in input prices. The interested parties have not established that such increase in the costs were peculiar only to domestic producers and were not universal. If costs have universally increased, it is legitimate expectation of the domestic industry to increase its prices in line with cost increases.
138. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from subject countries. Therefore, the causal links between dumped imports and the injury to the domestic industry is established on the following grounds.
- a. The volume of dumped imports from subject countries has significantly increased over the injury period. Resultantly, the market share of the dumped imports from the subject countries in the total imports of subject goods has increased.
 - b. Dumped imports from the subject countries are undercutting the prices of the domestic industry. As the domestic industry set its prices considering the import prices, its selling price has remained low in view of price undercutting by the imports.
 - c. The domestic industry has suffered price suppression. Since the domestic industry sets its prices in line with the import price, the price suppression suffered by the domestic industry is because of dumped imports present in the market.

- d. The domestic industry suffered price suppression. Consequently, performance of the domestic industry deteriorated in terms of profitability, cash profits and ROCE as a result of dumped imports in the market.
139. With regard to the contention that prices in the market has been set by the countries under separate investigations through sunset review, the authority notes that comparison of month by month prices from Europe and sunset countries imports shows that import prices from European Union were also at dumped prices and were undercutting the prices of the domestic industry in the market. The dumping margin, injury margin have been found significant in the present case in respect of EU and Mexico as well.
140. It has been contended that injury to the domestic industry is self-inflicted. The Authority, however, notes that the factors listed by the interested parties in this regard does not establish that the claimed injury to the domestic industry is self-inflicted. It is noted in this regard that there is material deterioration in the performance of the domestic industry in respect of profits, return on investment and cash flow. Imports are undercutting the domestic prices and the margin of dumping as well as injury margin are quite significant.
141. With regard to the contention that the increase in the cost of production of the domestic industry is causing injury to the domestic industry, the authority notes that the petitioners have contended that the increase in the cost of production is due to global increase in input prices. The interested parties have not established that such increase in the costs were peculiar only to domestic producers and were not universal.
142. As regards limited availability of Vinyl Feedstock, the authority notes that the same does not break causal link between dumped imports and injury to the domestic industry. Such limited availability of Vinyl Feedstock was not restricted to Indian producers alone.
143. The Authority has determined non-injurious price for the domestic industry taking into consideration the cost of production of the domestic industry in terms of the principles outlined in Annexure III to the Antidumping rules. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. In line with the determination of dumping margins, the injury margin has also been determined for the related companies together taking them as one entity. Further, separate NIP has been determined for each of the months of the POI. With regard to the submissions made by the domestic industry regarding determination of injury margin, landed price and NIP, the Authority notes that the landed value has been determined as per its consistent practice i.e. the landed price has been determined as the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975. Therefore, the request of the domestic industry in this regard is not agreed to.
144. The domestic industry has stated that while the exporters extend credit for periods ranging from 2 to 6 months, the domestic industry is selling the goods mostly on cash and carry basis and therefore, in order to have fair comparison, the NIP should

include the cost of credit on a notional basis for the difference in the credit period extended to the customers by the exporters and the domestic industry. In this connection, the Authority notes that NIP has been determined in terms of the principles outlined in Annexure III to the AD Rules which mandates the Authority to provide reasonable return on Capital employed. The working capital which is one of the components of capital employed has been determined on the basis of the audited accounts of the domestic producers. The domestic industry has further stated that working capital should be determined without considering the suppliers credit availed by them for purchase of raw materials since the same is nothing but a loan. In this connection, the Authority holds that the suppliers credit availed by the domestic producers has been shown as ‘current liabilities’ in their audited accounts and accordingly the same has been considered as current liabilities for determination of working capital and capital employed. Further, the interest cost if any charged by the supplier of raw materials and the exchange loss if any have been considered as part of raw-material cost as claimed by the domestic industry. The Authority, therefore, has not accepted the request of domestic industry to rework the injury margin.

145. With regard to arguments made by interested parties about determination of landed price taking into account credit costs incurred by the exporters, it is stated that as per consistent practice followed by the Authority, the landed price has been determined as the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.
146. The injury margins have been worked out as follows:

Table showing Injury Margin

Determination of Injury Margin (IM) for Ineos group of companies (EU) and Mexichem Resinas Vinílicas, S.A. de C.V (Mexico) and residual producers and exporters from EU and Mexico.							
Country/ Territory	Producer	Exporter	IM US\$/M T	IM (%)	Group IM US\$/ MT	Group IM (%)	Injur y Marg in range (%)
EU	M/s INEOS Vinyls Desutschla nd GmbH, Germany	M/s INEOS Vinyls Sales GmbH, Germany	***	***	***	***	0-10
	M/s INEOS Sverige	M/s INEOS	***	***			

	AB, Sweden	Sverige AB, Sweden					
	M/s INEOS Chlor Vinyls Limited, Belgium	M/s INEOS Chlor Vinyls Limited, Belgium	***	***			
	*INEOS Newton Aycliffe Ltd, UK	*INEOS Newton Aycliffe Ltd, UK	***	***			
	Others	Others	***	***	Not Appli cable	Not Applica ble	15-25
Mexico	Mexichem Resinas Vinílicas, S.A. de C.V.	Mexichem Resinas Vinílicas, S.A. de C.V.	***	***	Not Appli cable	Not Applica ble	5-15
	Others	Others	***	***	Not Appli cable	Not Applica ble	10-20

*Prior to 01.05.2013 the operations of M/s INEOS ChlorVinyls Ltd. were carried out by M/s INEOS Newton Aycliffe Limited which transferred its business to M/s INEOS ChlorVinyls Ltd (U.K.) with effect from 01.05.2013.

147. The level of injury margins as determined is considered significant.

E. Conclusion on Injury and causation

148. The Authority notes that the domestic industry has suffered material injury as a result of dumping from the subject countries. There has been an increase in the volume of dumped imports from subject countries throughout the injury period in absolute terms and in relation to consumption in India. The dumped imports were undercutting the prices of the domestic industry in the market. It is also determined that the dumped imports have had significant adverse price effect in terms of price suppression. Further, the dumping margins for the subject countries have been determined and are considered significant.

149. It is noted that dumped imports of subject goods from subject countries have adversely impacted profitability, cash profits and return on investments. Therefore, the Authority concludes that the domestic industry has suffered material injury as a result of dumped imports from the subject countries.

150. The Authority, therefore, holds that material injury to the domestic industry has been caused by the dumped imports of subject goods from the subject countries.

F. Indian Industry's Interest & Other Issues

151. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to reestablish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way; and therefore, would not affect the availability of the product to the consumers.
152. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

G. Conclusions and Recommendations

153. After examining the submissions made and issues raised, and considering the facts available on record, the Authority concludes that:
- (a) The product under consideration has been exported to India from the subject countries below its associated normal values.
 - (b) The domestic industry has suffered material injury on account of subject imports from subject countries.
 - (c) The material injury has been caused by the dumped imports of subject goods from the subject countries.

154. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the Anti-dumping Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti dumping duty is necessary to offset dumping and injury. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports of product under consideration has been compared with the non-injurious price of the domestic like product produced by domestic industry determined for the period of investigation.
155. Accordingly, anti-dumping duty equal to amount indicated in the column 8 of the table below, is recommended to be imposed from the date of notification to be issued in this regard by the Central government on all imports of subject goods originating in or exported from subject countries.

Duty Table

SN	Sub heading or Tariff Item	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Currency	Unit
1	2	3	4	5	6	7	8	9	10
1	3904	Homopolymer of vinyl chloride monomer (suspension grade)**	European Union	European Union	M/s INEOS Vinyls Desutsc hland GmbH, Germany	M/s INEOS Vinyls Sales GmbH, Germany	39.65	US \$	MT
2	3904	Do	European Union	European Union	M/s INEOS Sverige AB, Sweden	M/s INEOS Sverige AB, Sweden	39.65	US \$	MT

3	3904	Do	European Union	European Union	M/s INEOS ChlorVinyls Belgium NV	M/s INEOS ChlorVinyls Belgium NV	39.65	US \$	M T
4	3904	Do	European Union	European Union	* M/s INEOS ChlorVinyls Ltd, UK	* M/s INEOS ChlorVinyls Ltd, UK	39.65	US \$	M T
5	3904	Do	European Union	European Union	Any other combination except SN 1 to 4	Any other combination except SN 1 to 4	189.99	US \$	M T
6	3904	Do	European Union	Any country other than European Union	Any	Any	189.99	US \$	M T
7	3904	Do	Any country other than Mexico and European Union	European Union	Any	Any	189.99	US \$	M T
8	3904	Do	Mexico	Mexico	Mexichem Resinas Vinílicas, S.A. de C.V.	Mexichem Resinas Vinílicas, S.A. de C.V.	88.10	US \$	M T

9	3904	Do	Mexico	Mexico	Any other combination except SN 8	Any other combination except SN 8	163.05	US \$	M T
10	3904	Do	Mexico	Any country other than Mexico	Any	Any	163.05	US \$	M T
11	3904	Do	Any country other than Mexico and European Union	Mexico	Any	Any	163.05	US \$	M T

**Prior to 01.05.2013 the operations of M/s INEOS ChlorVinyls Ltd. were carried out by M/s INEOS Newton Aycliffe Limited which transferred its business to M/s INEOS ChlorVinyls Ltd (U.K.) with effect from 01.05.2013.*

*** The product under consideration is homopolymer of vinyl chloride monomer (suspension grade) where various polymer chains are not linked to each other. It, however, excludes the specialty PVC suspension resins such as cross-linked PVC, chlorinated PVC (CPVC), vinyl chloride – vinyl acetate copolymer (VC-VAc), PVC paste resin and PVC blending resin.*

156. An appeal against the order of the Central Government arising out of this finding shall lie before the Customs Excise and Service Tax Appellate tribunal, in accordance with the Act.

(J S Deepak)
Designated Authority