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**F.No.6/20/2020-DGTR
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF TRADE REMEDIES)
JEEVAN TARA BUILDING, 4TH FLOOR
5, PARLIAMENT STREET, NEW DELHI-110001**

Dated: 26th July 2021

FINAL FINDINGS

(Case No: OI 17/2020)

Subject: Anti-Dumping Investigation concerning imports of “Rubber Chemical PX-13” from China PR, Korea RP and USA.

A. BACKGROUND OF THE CASE

F. No. 6/20/2020-DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as “the Rules”) thereof.

1. M/s NOCIL Limited (hereinafter referred as “Applicant”) has filed an application, through TPM Consultants, before the Designated Authority in accordance with the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred as the “Anti-Dumping Rules” or “Rules”) for initiation of anti-dumping investigation concerning the imports of Rubber Chemical PX-13 (hereinafter also referred to as the “product under consideration” or the “subject goods”) from China PR, Korea RP and United States of America (hereinafter also referred to as the “subject countries”).
2. The Authority, on the basis of a prima facie evidence submitted by the Applicant, issued a public notice vide Notification No. 06/20/2020-DGTR dated 27th May, 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Anti-Dumping Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

3. The Authority having regard to the Act and the Rules, considered it appropriate to recommend interim duties and issued preliminary findings vide Notification No. **6/20/2020-DGTR** dated 11th November, 2020, recommending the imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from subject countries. However, vide Office Memorandum No. 354/158/2020-TRU dated 6th January, 2021, the Central Government decided not to impose the provisional ADD.

B. PROCEDURE

4. The procedure described below has been followed with regard to the investigation:
 - a. The Authority notified the Embassies of the subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
 - b. The Authority issued a public notice dated 27th May, 2020 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning import of subject goods from subject countries.
 - c. The Authority sent a copy of the initiation notification dated 27th May, 2020, to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers, importer/user Associations and other interested parties, as per the addresses made available by the Applicant. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
 - d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Anti-Dumping Rules.
 - e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to it along with the names and addresses of the known producers/exporters from the subject countries.
 - f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties to file their response as well as submissions. Vide communication dated 30th June, 2020, the time was extended upto 24th July 2020. Vide communication dated 23rd July, 2020, the time was extended upto 7th August, 2020.
 - g. The following Government provided written submissions:
 - i. Government of Korea
 - h. The Authority sent questionnaires to the following known producers/ exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 - i. M/s. China Sunsine Chemical Holdings Ltd.

- ii. M/s. Sennics Co., Ltd. – Sinochem International (Jiangsu Sinorgchem Technology Co., Ltd.)
 - iii. M/s. Shandong Yanggu Huatai Chemical Co. Ltd.
 - iv. M/s. Changde Dingyuan Chemical Industrial Limited
 - v. M/s. Dongying Bo Chen Chemical Co. Ltd.
 - vi. M/s. Jinan Runguan Chemical Co. Ltd.
 - vii. M/s. Nanjing Chemical Plant (NCP)
 - viii. M/s. Zhejiang Yongjia Chemical Plant
 - ix. M/s. Henan Kailun Chemical Co., Ltd.
 - x. M/s. Rongcheng Chemical General Factory Co. Ltd.
 - xi. M/s. Dalian Richon Chem Co., Ltd.
 - xii. M/s. Zhenjiang No. 2 Chemical Factory
 - xiii. M/s. Hebei Haufeng Chemical Group
 - xiv. M/s. Shenzhen Huaren Industrial Co.
 - xv. M/s. Yixing Dongfang Fince Chemicals
 - xvi. M/s. Zhejina Yueging Ultrafine Powders & Chemicals Co. Ltd.
 - xvii. M/s. Lion Industries Ltd.
 - xviii. M/s. Linkwell Rubber Chemicals Co. Ltd.
 - xix. M/s. Kemai Chemical Co. Ltd.
 - xx. M/s. Hebi Huaxia Auxiliary Co., Ltd.
 - xxi. M/s. Qingdao Zhongjian Rubber Chemicals Co. Ltd.
 - xxii. M/s. Northeast Auxiliary Chemical Industry Co. Ltd.
 - xxiii. M/s. Puyang Willing Chemicals Co. Ltd.
 - xxiv. M/s. Zhejiang Huangyan Zhedong Rubber Auxiliary Co. Ltd.
 - xxv. M/s. Dongying Wantong Rubber Auxiliary Co. Ltd.
 - xxvi. The Organic Chemical Industry Limited, Company of Tongling Chemical Industry Group
 - xxvii. M/s. Shangyu Lixing Chemical Co. Ltd.
 - xxviii. M/s. Tianjin East Richon Rubber Additives Co. Ltd.
 - xxix. M/s. Donglong Industry Limited, Company of Jiangsu
 - xxx. M/s. Jincheng Sky Success Chemical Industry Co. Ltd.
 - xxxi. M/s. Hebei Hanxing Chemical Co. Ltd.
 - xxxii. M/s. Jingcheng Tiancheng Chemical Co.
 - xxxiii. M/s. Hebi Uhoo Rubber Chemicals co. Ltd.
 - xxxiv. M/s. Kumho Petrochemicals Co. Ltd.
 - xxxv. M/s. Daewoo International Corporation
 - xxxvi. M/s. Lanxess Corporation USA
- i. In response to the above notification, following exporters/ producers and their related exporters/traders have responded and submitted exporter's questionnaire responses and/or legal submissions:
- i. M/s. Lanxess Corporation USA (Lanxess)
 - ii. M/s. Kumho Petrochemical Co. Ltd. Korea RP (Kumho)
 - iii. M/s. Sennics Co., Ltd. Shandong, China PR
 - iv. M/s. Sennics Co., Ltd. Tai'an, China PR

- v. M/s. Sennics Singapore Pte. Ltd.
- vi. M/s. Sennics Inc., USA
- vii. M/s. Sennics Co., Ltd., China PR
- viii. M/s. Posco International Cooperation, Korea (Posco)
- j. The Authority sent questionnaires to the following known importers and users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
 - i. M/s. Lanxess India P Ltd
 - ii. M/s. PMC Rubbchem P Ltd.
 - iii. M/s. Appollo Tyres Limited
 - iv. M/s. ATC Tires Private Limited
 - v. M/s. Birla Tyre
 - vi. M/s. Balkrishna Industries Limited
 - vii. M/s. Bridgestone India Private Limited
 - viii. M/s. J.K. Fenner (India) Limited
 - ix. M/s. CEAT Ltd.
 - x. M/s. Ralson Limited
 - xi. M/s. MRF Ltd.
 - xii. M/s. JK Tyres & Industries Limited
 - xiii. M/s. TVS Srichakra
 - xiv. M/s. Goodyear India Ltd.
 - xv. M/s. Malhotra Rubbers Ltd.
 - xvi. M/s. Metro Tyres Limited
 - xvii. M/s. Speedways Rubber Company
- k. In response to the above notification, following importers or users have responded and submitted importer/user questionnaire responses and/or legal submissions:
 - i. M/s Lanxess India Pvt. Ltd.
 - ii. M/s Rishiroop Limited
 - iii. M/s Apollo Tyres Limited
 - iv. M/s CEAT Limited
 - v. M/s JK Tyre & Industries Limited
 - vi. M/s MRF Limited
- l. The Authority sent a copy of the initiation notification dated 27th May, 2020 to the following known Associations of the subject goods in India.
 - i. Automotive Tyre Manufacturers' Association (ATMA)
- m. In response to the above notification, following Associations have responded to the initiation notification and filed legal submissions:
 - i. Automotive Tyre Manufacturers' Association (ATMA)
 - ii. All India Rubber Industries Association (AIRIA)
- n. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held through video conferencing on 4th March, 2021. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their

- non-confidential submissions with other interested parties and were advised to offer their rebuttals.
- o. A list of all interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing global pandemic.
 - p. The period of investigation (POI) for the purpose of present investigation is 1st April 2019 to 31st March 2020 (12 months). The injury examination period has been considered as the period from 1st April 2016 - 31st March 2017, 1st April 2017 – 31st March 18, 1st April 2018 – 31st March 2019, and the period of investigation.
 - q. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide transaction-wise details of imports of subject goods for the past three years and the period of investigation, which has been received by the Authority. The Authority has relied upon DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
 - r. Further information was sought from the Applicant to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the present investigation.
 - s. The non-injurious price (hereinafter referred to as 'NIP') based on the cost of production and reasonable profits the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules, has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
 - t. The submissions made by the interested parties, arguments raised and information provided by various interested parties during the course of investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this Final Finding.
 - u. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this Final Finding, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant and possible.
 - v. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - w. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 15th July, 2021, and comments received thereon, considered relevant by the Authority, have been addressed in these Final Findings. The Authority notes that

most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.

- x. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this Final Finding on the basis of facts available.
- y. ‘***’ in this Final Finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- z. The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

“The product under consideration is “Rubber Chemicals PX-13” (hereinafter also referred to as PX-13) also known as 6PPD, Antioxidant 6PPD, Kumanox 13, Santoflex 6PPD, Sirantox 6PPD, Vulkanox 4020, Antioxidant 4020, Dussantox 6PPD, Antage 6C, N-1,3-Dimethylbutyl)-N’-Phenyl-P-Phenylenediamine, etc.

PX-13 is an alkyl-aryl-PPD antidegradant most widely used in the tyre and non-tyre sector of the rubber industry. PX-13 offers excellent resistance to rubber vulcanizates against degradative forces such as ozone (static as well as dynamic), flex-cracking and fatigue, oxidative heat ageing, metal-ion catalyzed oxidative ageing, UV light and weathering. It is used as antioxidants in treating natural rubber, synthetic rubber (SBR, Butadiene Rubber, Nitrile Rubber, Carboxylated Rubber) and other synthetic rubber-based compounds used for manufacture of various rubber products to achieve the desired life cycle of the rubber product. PX-13 is manufactured by reductive alkylation of 4ADPA and MIBK.

The product is classified under the Chapter 38 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) under the tariff custom classification 3812. However, there are also imports for the product under consideration under the Chapter 29 of the First Schedule. The customs classification is only indicative and is not binding on the scope of the product under consideration.”

C.1. Submissions of the domestic industry

6. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
- i. The product under consideration in the Application is “Rubber Chemical PX-13”. PX-13, also known as 6PPD, Antioxidant 6PPD, Kumanox 13, Santoflex 6PPD, Sirantox 6PPD, Vulkanox 4020, Antioxidant 4020, Dussantox 6PPD, Antage 6C, N-1,3-Dimethylbutyl)-N’-Phenyl-P-Phenylenediamine, etc.

- ii. PX-13 is an alkyl-aryl-PPD anti degradant most widely used in the tyre and non-tyre sector of the rubber industry. PX-13 offers excellent resistance to rubber vulcanizates against degradative forces such as ozone (static as well as dynamic), flex-cracking and fatigue, oxidative heat ageing, metal-ion catalyzed oxidative ageing, UV light and weathering. PX-13 pastilles are easy to handle on all types of weighing systems and quickly disperse in rubber compounds even at lower processing temperatures.
- iii. The product is classified under the Chapter 29 and 38 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). The PUC is being imported under the 8-digit HS codes, 29215130, 29215190, 38121000, 38123030, 38123910, 38123990 and 38123100. The duties have always been recommended by the Authority at 4-digit levels in previous findings of Rubber Chemicals.
- iv. There is no difference in the subject goods produced by the domestic industry and exported from subject countries and are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods.
- v. The Applicant has produced like article to the imported products.

C.2. Submissions of other interested parties

7. Following submission have been made by the exporters/other interested parties with regard to the product under consideration and like article.
 - i. The liquid/melt form is not like article and hence should be excluded from the scope of subject goods.
 - ii. The company has exported liquid form to India, whereas has sold both liquid and solid form in India.
 - iii. The liquid form exported to India was entirely sold to affiliated company who processed it further and sold solid form to eventual consumers in India.

C.3. Examination by the Authority

8. The product under consideration is "Rubber Chemicals PX-13" also known as 6PPD, Antioxidant 6PPD, Kumanox 13, Santoflex 6PPD, Sirantox 6PPD, Vulkanox 4020, Antioxidant 4020, Dussantox 6PPD, Antage 6C, N-1,3-Dimethylbutyl)-N'-Phenyl-P-Phenylenediamine.
9. PX-13 is an alkyl-aryl-PPD anti degradant most widely used in the tyre and nontyre sector of the rubber industry. PX-13 offers excellent resistance to rubber vulcanizates against degradative forces such as ozone (static as well as dynamic), flexcracking and fatigue, oxidative heat ageing, metal-ion catalyzed oxidative ageing, UV light and weathering. It is used as antioxidants in treating natural rubber, synthetic rubber (SBR, Butadiene Rubber, Nitrile Rubber, Carboxylated Rubber) and other synthetic rubber-based compounds used for manufacture of various rubber products to achieve the desired

life cycle of the rubber product. PX-13 is manufactured by reductive alkylation of 4ADPA and MIBK.

10. The product is classified under the Chapter 38 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) under the tariff custom classification 3812. However, the product under consideration has also been imported under Chapter 29 of the First Schedule. The customs classification has been considered only indicative and not binding on the scope of the product under consideration. Imports of the product under consideration wherever reported have been considered for the purpose of present determination.
11. As regards exclusion of liquid/melt form, the Authority notes that the importer has imported liquid form from its affiliated company in USA, and the affiliated exporter/producer in USA has sold both liquid and solid form in domestic market. The importer in India is a producer of PX-13. The company has processed the imported liquid PX-13 into solid and has thereafter sold to the eventual consumers, along with PX-13 produced by the company. Thus, as far as consumer of the product under consideration are concerned, they have bought solid form of PX-13. Such being the case, the liquid and solid form cannot be treated as two different articles and liquid form cannot be excluded from the scope of the product under consideration.
12. It is seen from the information available on record that the product produced by the domestic industry is like article to the goods imported from the subject countries. The product produced by the domestic industry and imported from subject countries is comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably.

D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

D.1 Submissions of the domestic industry

13. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing:
 - a. The Applicant NOCIL Limited account for a 'major proportion' of Indian production of subject goods in India. The applicant accounts for 70.13% of the total Indian production for the subject goods in India.
 - b. The Applicant has not imported the subject goods in the period of investigation from the subject countries.
 - c. The Applicant is not related to any exporters in the subject countries or importers of the subject goods in India.
 - d. Lanxess India cannot be considered as eligible domestic industry and its production cannot be considered to calculate applicant's share in Indian production as it is importing the subject goods from its affiliate i.e., Lanxess Corporation, USA and merely converts the form of the imported goods without engaging in manufacturing.

Reference has been made to findings in SDH transmission equipment, CPVC resin wherein the Authority held that every domestic producer cannot be recognized as domestic industry.

- e. Lanxess wanted to ensure that material continues to be available to the company at dumped prices.

D.2. Submissions of other interested parties

14. The other interested parties have made the following submissions with regard to the scope of domestic industry and standing:
 - a. Lanxess cannot not be excluded from the scope of the domestic industry merely on a ground that it has imported the PUC from a subject country, without determining the status of the quantum of imports made by Lanxess
 - b. The fact that Lanxess is importing 4ADPA cannot change its status as a domestic manufacturer of the product under consideration.
 - c. NOCIL on its own will not be able to fulfil the requirement of 'major proportion' under the Indian AD rules. Request to re-assess NOCIL's standing as the domestic industry including Lanxess' production in the total Indian production and whether it constitutes major proportion in the total Indian production.
 - d. Lanxess is one of the major domestic producers and has imported subject goods in liquid form and converted to flakes to supplement its production. Imported goods have not been sold in liquid form in POI.
 - e. Lanxess India approached DGTR requiring anti-dumping duties on imports from China and Korea, which did not satisfy standing and was opposed by NOCIL.
 - f. The domestic industry has failed to consider the discretion available with the authority to include a domestic producer regardless of the imports made by them.
 - g. Domestic industry has not made any substantiated claims to show that Lanxess is importing a significantly large quantity of product under consideration, thereby making it ineligible to be considered domestic industry or that is thrust has moved from production to imports.
 - h. The Authority has considered domestic producer who has imported or is related to an exporter or imports as eligible domestic industry in investigations concerning imports of Pigments, Caprolactam. In anti-subsidy investigations concerning imports of Atrazine Technical and continuous cast copper wire rods, domestic producers who had imported raw material constituting significant portion of total cost as domestic industry.
 - i. Lanxess cannot be excluded for the purposes of injury analysis irrespective of whether it is an eligible domestic producer or not.
 - j. The claim to not treat Lanxess India as domestic industry should be closely examined and if facts establish eligibility, major proportion test must be conducted.

D.3. Examination by the Authority

15. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

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

16. The Application has been filed by M/s NOCIL Limited. The Applicants has certified that they have neither imported the PUC from the subject countries in the POI nor they are related to any exporter or producer of PUC in the subject countries or any importer of the PUC in India.
17. The product under consideration is produced in India by following companies:
 - i. Lanxess India P Ltd
 - ii. PMC Rubbchem P Ltd
18. It is seen from the information provided by the Lanxess that the company has imported significant volumes of the product under consideration from USA. It is also noted that the company is related to exporter and is itself an importer, and the volume of such imports is quite significant (entirety of the imports from US are by this company). The Authority has considered Lanxess as a domestic producer, but not domestic industry within the meaning of Rule 2(b). As regards submissions made by interested parties concerning eligibility of Lanxess, India, the Authority notes that ineligibility of Lanxess India is not on account of import of 4-ADPA. The same is on account of imports of PX-13 and its relationship with the exporter from USA.
19. The Production of applicant accounts of *** % in gross Indian production (including Lanxess) and *** % after excluding production of Lanxess.
20. Considering the information on record, the Applicant accounts for a major proportion of the Indian production. Accordingly, the Authority holds that the Applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules. Further, the Authority considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rule.

E. CONFIDENTIALITY

E.1. Submissions by the domestic industry

21. The following submissions have been made by the domestic industry with regard to confidentiality:
 - i. The exporters have claimed excessive confidentiality in their questionnaire responses regarding sales channels, corporate structure, list of products sold, etc.

- ii. The exporters have claimed information that is freely available in the public domain as confidential.
- iii. The users/importers have claimed excessive confidentiality of questionnaire responses and have not provided a reasonable summary of the information claimed confidential.
- iv. The responses filed by users/importers are incomplete. Further, information in the public domain have been claimed confidential.
- v. The petition filed by the domestic industry is as per Rule 7 of the Rules, Trade Notice No. 1/2013 and Trade Notice 10/2018.
- vi. As regards confidentiality of costing information, it is a business proprietary information not amenable to summarization. The exporters themselves have claimed costing information confidential and different standards show be applied for all parties. Reference was made to Anwar Jute Spinning Mills Ltd. v. Union of India/Designated Authority wherein it was stated that cost of production and related data of the domestic industry are confidential in nature. The domestic industry also relied on Nitro Chemical Industry Limited v. Designated Authority.
- vii. The petitioner has not claimed confidentiality of Annual Reports and is freely available on the website.

E.2. Submissions of the other interested parties

- 22. The following submission have been made by other interested parties with regard to confidentiality:
 - i. The domestic industry has failed to appropriately analyse the parameters under the Trade Notice 10/2018, it has also failed to provide the actual figures of some specified parameters in violation of the Trade Notice 10/2018. The domestic industry should be directed to refile the trend, performance parameters and data considering the actuals for March 2020, which is now available.
 - ii. The non-confidential version of the petition does not allow for a reasonable understanding and violates requirements in Rule 7 of the Rules and Trade Notice No. 1/2013 dated 9th December, 2013.
 - iii. Section VI (Costing Information) has not been furnished at all, and no justification has been provided. Significant data has not been properly indexed or provided in the NCV. Petitioners should be directed to provide these documents and a summary/indexed data of the same.
 - iv. The petitioner has claimed excessive confidentiality of Annual reports, which is already available in the public domain. Trade Notice 1/2013 states that the petitioner should mandatorily provide annual reports and balance sheets.
 - v. The users have provided sufficient information in the questionnaire response. Information claimed confidential are business sensitive and not amenable to summarization.
 - vi. Investigation should not be trivialized by raising issues regarding reasonable confidentiality.

- vii. Equity acquisition in Shandong HuaHong Chemical Co., Ltd. does not mean there is structure change in Sennics Co, Ltd. as they are two different companies. Sinochem International itself is not involved with the PUC.

E.3. Examination by the Authority

23. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

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

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

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

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”

25. As regards the argument of excessive confidentiality claims, the Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claim on confidentiality. The Authority considers that an information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, should be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it.

26. As regards the argument of information on period of investigation, it is noted that following the initiation of investigation, the updated copy of application for the POI was

filed by the petitioner, and the same was duly has been circulated to all interested parties. It may be recalled that the Application filed by the domestic industry for initiation of investigation was based on information for the period April 2019 to February 2020 as the investigation period, since the accounts of March 2020 were yet to be finalized. The Authority has considered the information filed by the interested parties for period of investigation i.e. April 2019 to March, 2020 in this Final Finding.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the domestic industry

27. The following miscellaneous submissions have been made by the domestic industry:
- i. The user association, namely All India Rubber Industries Association (AIRIA) has registered itself but none of its members or the association itself has filed any comments to the petition or other information within time limits prescribed by the Authority.
 - ii. The information filed by Kumho Petrochemicals is false and misleading. The exporter has claimed same cost for domestic and exports. There is no consistency between cost-price and profits.
 - iii. Lanxess has filed a deficient response and the same should not be accepted. The exporter did not file a complete response despite being given 72 days after initiation and failed to rectify the deficiency even after it was noted by the Authority in the preliminary findings.
 - iv. As regards excessive duty protection, there is no excessive protection to the domestic industry and anti-dumping duty is to only prevent unfair trade measure. The Authority imposes duty only when all legal requirements are met. The exporters are habitually exporting at unfair prices and the domestic industry cannot be barred from approaching the Authority.
 - v. The Applicant filed the present application on 28th April, 2020. The application filed on 24th January 2020 was withdrawn by the Applicant and the same was accepted by the Authority.
 - vi. The arguments of the interested parties regarding the argument that the grounds for rejection that existed in 2017-18 also exists in the period of investigation is without basis. The present investigation is a fresh investigation and the domestic industry is required to only establish material injury. The Authority has held that the imports are causing material injury and posing a threat of material injury.
 - vii. Seeking relief from the courts is a legal right of the domestic industry. As regards Delhi High Court order, the same has no relevance in the present investigation.
 - viii. The requirements of Rule 5 have been adequately met by the domestic industry. The quantity and quality of evidence improves as an investigation progresses. Information sufficient for the purpose of initiation may not be sufficient for the purpose of determination, and information required for determination need not be insisted upon at the time of initiation. The respondents omitted to quote the finding of the WTO Panel in Mexico-Steel Pipes and Tubes while referring to the case wherein it was noted that it is not necessary to have irrefutable proof during initiation.

- ix. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.
- x. The impact of the possible anti-dumping duty on the user industry is grossly insignificant.
- xi. The duties were terminated with Delhi High Court Order and therefore the petition is filed as per Article 2.19 of CEPA.

F.2. Submissions by other interested parties

28. The following miscellaneous submissions have been made by other interested parties:
- i. NOCIL has been under duty protection with respect to PX-13 for more than 10 years. Duties have also been imposed on Accelerator chemicals and other ancillary products such as Oxo-Alcohols, acyclic alcohols and isopropyl alcohol.
 - ii. There exists a discrepancy in the date of filing of the petition by the domestic industry.
 - iii. In a previous safeguard investigation in 2011, NOCIL had argued that it is seeking duty protection so that it can increase its capacity to be able to cater to the domestic demand and also to decrease its costs. Reference has been provided to Final Findings in Safeguard investigation concerning imports of PX-13 or 6PPD (Rubber Chemicals) into India, dated 06th June 2011. Thereafter, in the review investigation of the safeguard duty that had been imposed in 2011, the DI had failed to follow through its adjustment plan to increase its capacity, pursuant to which the Director General of Safeguards terminated the safeguard duty on the PUC in 2014. Reference has been provided to Final Findings in Review of Safeguard duty imposed on PX-13 or 6PPD (Rubber Chemicals) into India dated 24th April 2014.
 - iv. The factors and circumstances considered by DGTR while rejecting the SSR application filed by the domestic industry in 2018, wherein it was observed that there was no information on record to show that there was injury or likelihood of injury to the domestic industry also currently exists.
 - v. The return during the POI in the present investigation falls within the range of the historical returns. Thus, it cannot be said the current imports of PUC from subject countries has resulted in declining returns. Moreover, there are other factors which have played a significant part in declining performance of the DI which are not related to the PUC imported from subject countries.
 - vi. Petitioner used multiple forums to get anti-dumping duties imposed by going to the extent of almost forcing the Authority to initiate the second sunset review when the underlying anti-dumping notification had already been quashed by the High Court of Delhi dated 31.05.2018. Submissions by the petitioner should be examined with highest scrutiny to ensure that favourable recommendations are not obtained by deceit.

- vii. The present initiation is bad in law and should be terminated. Standard of review applied by Authority does not meet standards laid down under law. The allegations in the petition are largely based on estimates and assumptions, and petitioner failed to draw a logical conclusion. Reference was made to US-Softwood Lumber from Canada, Guatemala – Cement II and Mexico – Steel Pipes and Tubes.
- viii. The factors considered by Ministry of Finance while not imposing provisional ADD should also be taken note of. ADD will adversely affect the economies of MSME sectors, End users, Tyre industries etc. The unemployment rate at present is the highest in India and MSME sector is the main employment generator.
- ix. Initiation of a new investigation prior to one year is not proper, in reference to Article 2.19 of CEPA.
- x. The preliminary findings are non est in the eye of the law as Central Government did not accept the conclusion and findings made by the Authority, and the DI has not given any new arguments or evidence in their written submissions.
- xi. The totality of circumstances should be considered and the present investigation should be terminated.
- xii. The response filed by Lanxess is full and complete. Further, no deficiency memo was issued by the Authority regarding the minor deficiencies mentioned in the preliminary findings.
- xiii. Domestic industry has been unfairly protected due to the rejection of actual raw material price of Kumho in determining normal value, leading to inflated dumping margins has also been a huge burden on the user industry.
- xiv. A user association is an interested party and has the right to participate in the investigation. Rishirop Limited is a member of the association and has responded.

F.3. Examination by the Authority

29. As regards excessive protection to the domestic industry, the Authority notes that the recommendation for imposition of duty is made only when the requisite legal requirements are met. Further, there is no bar on the number of times a duty can be imposed or extended on a given product.
30. As regards the submission that the petition does not have prima facie evidence to justify initiation, the Authority notes that the Application contained all information relevant for the purpose of initiation of investigation. The Authority, only after satisfaction that application contained sufficient prima facie evidence to justify initiation of investigation decided to initiate the present investigation.
31. As regards the contention that the facts and circumstances that existed in 2018 still exists, the Authority notes that the present investigation only concerns the period of investigation and the factors existing during the current period has been sufficiently considered. The factors that existed in 2018 holds no relevance in the present investigation.
32. As regards the contention that the present initiation was prior to the completion of one year, the Authority notes that the duties against the subject countries were terminated by