

**TO BE PUBLISHED IN PART 1 SECTION-1 OF
GAZATTE OF INDIA- EXTRAORDINARY**

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

Dated the 28th November, 2017

FINAL FINDINGS

Subject: Anti-dumping investigation concerning imports of Normal Butanol or “N-Butyl Alcohol” originating in or exported from Saudi Arabia

No. 14/20/2016-DGAD: Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD Rules).

A. PROCEDURE

1. 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 The Andhra Petrochemicals Ltd. (‘APL’) (hereinafter referred to as the “petitioner”) as domestic industry of the subject goods, alleging dumping of Normal Butanol or “N-Butyl Alcohol” (hereinafter also referred to as “subject goods” or “NBA”) originating in or exported from Saudi Arabia (hereinafter referred to as the “subject country”) and resultant injury to domestic industry and requesting recommendations for imposition of anti-dumping duty on imports of the product under consideration from the subject country.
 - b) The Authority, on the basis of prima facie sufficient evidence submitted by the petitioner to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject country.
 - c) The Authority notified the Embassy of the subject country in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.

- d) The Authority issued a public notice dated 2nd September, 2016 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods from the subject country.
- e) The Authority forwarded a copy of the public notice to all known exporters (whose details were made available by the Petitioner) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- f) The Authority forwarded a copy of the public notice to all the known importers of the subject goods in India and industry associations and advised them to make their views in writing within forty days from the date of the letter.
- g) The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassy of the subject country 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.
- h) The Authority sent questionnaires to elicit relevant information to the following known exporter in the subject country in accordance with Rule 6(4) of the AD Rules:

Saudi Arabia Basic Industries Corporation (SABIC)
P.O. Box: 59090,
Riyadh- 11525, Saudi Arabia

- i) In response to the initiation notification, the following exporters/producers from the subject country have responded:
 - i. Saudi Butanol Company (SABUCO)
 - ii. Saudi Acrylic Acid Company (SAAC)
 - iii. Sadara Chemical Company (SADARA)
 - iv. Petrochem Middle East FZE (PETROCHEM)
 - v. National Industrialization Petrochemical Marketing Co (TASNEE MARKETING)
 - vi. Toyota Tsusho Corporation (TOYOTA)
- j) Further, comments and submissions with regard to the present investigation have been made by Sadara Chemical Company and Saudi Butanol Company.
- k) Questionnaire was sent to the following known importers/users/associations of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

K L J Group of Cos. H/O: KLJ House, 63, Rama Marg, Najafgarh Road, New - Delhi- 110015	PCL Group 703, 7th Floor, DLF Tower - B, District Centre Jasola, New Delhi - 110044
API Inds. Corporation NK Polymers & additives Mfg Co. 36/2 Ringanwada, Near Somnath Indl. Estate, Daman - 396201 (UT)	Rachna Plasticizers Plot No: 116 & 117, Piparia Indl. Estate UT of D & NH, Silvassa, Vapi - Gujarat
Visen Industries Ltd. 102/A, Virwani Industrial Estate Goregaon (E) Mumbai- 4000 063	Micro Inks Ltd. Plot No: 2801/3A & 3, 2082/B, 2083/2, 2084 &2085-25, Survey No: 285/1, GIDC 3rd Phase, Vapi, Valsad, Gujarat
Alkyl Amines Chemicals Ltd.	Lalitha Chem Inds. Pvt. Ltd.

Plot No. 67, MIDC Patal Ganga Indl- Area Village : Kaire, Tal : Khalapur Dist - Raigad	Unit No: 2, Plot No: 32B, Nanji Indl. Area, Survey No:200/1/2, Village : Kharadi, Pune
Deepak Nitrite Ltd. Enterprise Centre, 301, III Floor Besides Hotel Orchid, Vileparle (E) Mumbai- 4000099	Payal Polyplast Pvt. Ltd. E-24, Netaji Subhash Marg Darya Gunj New Delhi - 110002
Dorf Ketel Speciality Pvt. Ltd. Intec. Polymer - Division 1 Dorf Ketel Tower, D'Monte Lane, Orlm Malad (W), Mumbai- 400 064	Anushakti Chemical & Drugs Ltd. 71, Udyog Kshetra, 2nd Floor Mulund Goregaon Link Road, Mulund (W), Mumbai- 400080
C J Shah & Co. 105, Bajaj Bhavan, 10th Floor, Nariman Point, Mumbai- 400021	Ramniklal S. Gosalia & Co. National House, 608, B.J. Marg, Jacob Circle, Mumbai- 400011
Haresh Petrochem Pvt. Ltd. 404/405, Acme Plaza, Andheri Kurla Road, Opp. Sangam Theatre, Andheri (E), Mumbai-400059	Hazel Mercantile Ltd. 3/10, Kapadia Chambers 599, J.S.S. Road, Marine Lines, Mumbai- 4000 02
Kundan Rice Mills Ltd. D-16, City Chambers, Prashant Vihar, Delhi - 110085	Hazel Mercantile Ltd. 3/10, Kapadia Chambers 599, J.S.S. Road, Marine Lines, Mumbai- 4000 02
Asian Solvochem Pvt. Ltd. Windsor, 2nd Floor, CST Road, Kalina, Santacruz (E), Mumbai- 400098	KLJ Resources Ltd. 76, Juhu Shopping centre, 2nd Floor Gulmohar Cross, 9th Road, Juhu Scheme Mumbai- 400049
Petrochem Middle East (India) Pvt. Ltd. 201, Business Square, B-Wing, Andheri Kurla Road, Opp: Apple- Heritage, Andheri (E), Mumbai- 400093	Pon Pure Chem (P) Ltd. No: 32, H- Block, 15th Main Road, Anna Nagar, Chennai- 600 040
Yog International Pvt. Ltd. Khasra No. 36/8 Mundka Village, Delhi- 110041	Daga Global Chemicals Ltd. 302, Sakar -III, Opp old high court Navrangapura, Ahmedabad- 380009
Apra Enterprises Plot No:176, 2nd Floor, Dr.Keni House Sion (W), Mumbai- 400022	Overseas Polymer Pvt. Ltd. Vinmar House, A-41 MIDC Road No.2 Andheri (E), Mumbai- 400 093
Ketul Chem Pvt. Ltd. Western Edge-1, Kanakia Spaces, Unit No:403, Above Metro shopping Mall, Borivali (E), Mumbai- 400 066	Balmukund Chemicals Pvt. Ltd. Plot No: 4765, GIDC Estate Nr Ficom Char Rasta, Ankleshwar -393002
Paras Dyes & Chemicals B-82, Defence Colony, New Delhi-110024	Jagriti Plastics Ltd 107, M.G. House , Community Centre, Wazirpur Indl. Area, Delhi-110052
Surabhi Enterprises Pvt. Ltd. Head Office 4/1 Camac Street, Ground Floor, Kolkata - 700 016	Sanjay Chemicals (India) Pvt. Ltd. 5th Floor, Kanmoor House 281/287 Narshi Natha Street Masjid, Mumbai - 400 009 (Maharashtra)
Supreme India International C-11, Jeevan Jyot, 18/20, Cawasji Patel Street, Fort, Mumbai - 400 001	Buneesha Chem Pvt. Ltd. 203 / 204, Shiv Chambers, Plot No.21, A-Wing, Sector - 11, Next to MTNL Bldg. CBD Belapur (E), Navi Mumbai
Ankita Chemical Corporation No. 7, Sarwan Bhawan, Nai Gaum Cross Road,	Ketul Chem Pvt. Ltd. 403, WESTERN EDGE, METRO STORE,

Dadar East, Mumbai - 400 014	BORIVALI (E), Mumbai – 400092
Nutan Chemicals J - 37, M. I. D. C., Bhosari, Pune - 411026, Maharashtra, India	Triveni Aromatics And Perfumery Pvt. Ltd. 136, Pancharatna Char Rasta, G. I. D. C., Vapi - 386195, Gujarat
A.B. Enterprises 202, Shradanand Building 272/ 274, Samuel Street, Mumbai - 400 003	Plasticchem Inds. Corporation A - 2001, Runwal Pride, 20th Floor, L. B. S. Road, Mulund West, Mumbai - 400 080
Tulsi Chemicals 3, Old No.2, Raja Annamalai Road 1st Floor, Puraswalkam Chennai - 600 084	Dev Chemicals 1-89, Adhyapak Nagar Nangloi Delhi - 110 041
Nayakem Organics (P) Ltd. 242, A to Z industrial estate G Kadam Marg, Lower Parel Mumbai- 400013	Agrichem 20, Jai Vishvambhari CHS, 153A, M.G. Road, Kandivali (W) Mumbai- 400067
Prathamesh Dyechem Pvt. Ltd. D-6, M.I.D.C. Phase-II Dombivali (E)	Dai-Ichi Karkaria Ltd. Liberty Building Sir, Vithaldas Thackeray Marg, Mumbai-20
Key Organics Pvt. Ltd. 209, Standford plaza, Plot no. B-65 off.Andheri Malad New link Road, Andheri(W) Mumbai-53	Premier Solvents Pvt. Ltd. 11, Siddhigiri CHS, 2nd Floor S.V.Road Near UTI. Borivali (W) Mumbai- 400092
Esters & Solvents, W- 180, TTC Industrial Area Pawane, Thane-Belapur Road Thane- 400613	Fine Organics Inds. Pvt. Ltd. Fine House, Anandji street Off. M.G. Road, Ghatkoper(E) Mumbai- 4000077
Pidilite Industries Ltd. Ramkrishna Mandir Road P.B.No. 17411 Andheri (E) Mumbai- 400059	Isro Product C' Wing East West Estate Unitop House, Safed Pool Andheri Kurla Road, Andheri (E) Mumbai- 4000072
Galaxy Surfactants Ltd. C-49/2, TTC Industrial Area Pawane Village, Navi Mumbai Vashi- 400703	Lubrizol India Pvt. Ltd. 9/3, Thane- Belapur Road Turbhe, Navi- Mumbai- 400705
Esdee Paints Ltd. Near Power House, Dhokroli Naka Kolshet Road Thane- 400607	Coatwell Paints 6/19, Tardeo Air Conditional Market, Tardeo Road, Mumbai- 400034
Kansai Nerolac Paints Ltd. Nerolac House, Ganpatrao Kadam Marg, Lower Parel, Mumbai- 400013	Bharat Resins Ltd. 43, Dabhel Industrial Co.op Society Ltd. Dabhel, Daman- 396210
Synthetics & Polymer Inds/ Bluebell polymers. D-101, Koteshwar Palace, opp Garware House Kole Dongri Lane No.4, Andheri (E) Mumbai- 400069	Krishna Antioxidants Pvt. Ltd. 107/108, Raheja Plaza, Shah Industrial Estate, Opp. Yashraj Studios, Off Link Road Andheri (W) Mumbai- 400053
Auchtel Product Ltd. 142/C Victor House, N.M Joshi Marg, Lower Parel Mumbai- 400077	Cadila Pharmaceuticals Ltd. Cadila Corporate Campus Sarkhej-Dholka Road, Bhat Ahmedabad- 382210
Aarti Drugs Ltd. Mahendra Inds. Estate	Atul Limited Atul 396020,

Ground Floor, Plot No. 109-D Road No. 29, Sion (E) Mumbai- 400022	Gujarat
Fineotex Chemicals Industries 42/43, Manorama Chambers, Above Hyundai Santro car Showroom, S.V.Road Bandra (W) Mumbai- 400050	Dhirajlal & Co. 300/3, Jayjee Dadajee Road, Nana Chowk, Mumbai- 400007
Narkhede Chemicals Plot No.C-462, MIDC, TTC Indl. Area, Pawane Navi Mumbai- 400705	Retort Chemicals (P) Ltd. 4/P. Arihant, Opp Anupam Cinema Goregaon (E) Mumbai- 400063
Shalimar Paints Ltd. C-Wing 5th Floor Oberoi Garden Estate Chandivali (E), Mumbai- 400072	Advanced Microdevices (P) Ltd. 21 Industrial Area Ambala Cantt - 133 006
Shree Organics Plot No. 75, Kalyan Nagar Opp. VKI Road No.4 JAIPUR (RAJ)	Divi's Laboratories Ltd. Divi Towers, 7-1-77/E/1/303 Dharam Karan Road, Ameerpet Hyderabad - 500 016
Dr. Reddy's Laboratories Ltd. API SCM Team 8-2-120/76/1/B, 2nd Floor Ashoka Chambers, Road No.2 Banjara Hills, HYDERABAD - 500 034	Mylan Laboratories Limited Plot No 564/A/22 Road No 92, Jubilee Hills, Hyderabad - 500034, India
Hetero Drugs Limited Hetero Corporate, 7-2-A2 Industrial Estate, Sanath Nagar HYDERABAD - 500 082	Hyderabad Chemicals Limited A-24/25, APIE, Balanagar HYDERABAD - 500 037
Sreepathi Pharmaceuticals Limited Plot No.22 B, Road No.2 Jubilee Hills, HYDERABAD - 500 033	Suven Life Sceinces Ltd. Serene Chambers, Road # 5 Avenue-7, Banjara Hills HYDERABAD - 500 034
M/s Sri Krishna Pharmaceuticals Ltd. C-4, Industrial Area, Uppal Hyderabad – 500 039	Aurobindo Pharmaceuticals Ltd. Plot No. 2, Maitrivihar, Ameerpet, Hyderabad - 500 038
Vivimed Labs. Ltd. 2nd Floor, Veerang Towers, Habsiguda Hyderabad - 500 007	Salicylates & Chemicals Pvt. Ltd. A-25, Road No.18, IDA, Nacharam Hyderabad - 500 076
Laurus Labs Pvt. Ltd. 2nd Floor, Serene Chambers Road No.7, Banjara Hills Hyderabad - 500 034	Ch. Yegnaiah & Sons 1-A, Rashtrapathi Road Secunderabad - 500 003
Akross Synthetics Pvt. Ltd. B4/1, Site 'B' Sudeshpur Inds. Area Greater Noida - 201 306	Bansal Trading Company 605, NDM-1, Netaji Subhash Place Pitampura, New Delhi - 110 034
Payal Group E-24, Netaji Subhash Marg Daryaganj, New Delhi - 110002	Indian Plasticizers Manufacturers Association KLJ House, 63, Rama Marg, Nazafgarh Road, New Delhi 110015

- I) None of the importers/users of the subject goods have responded in the form of questionnaire responses or provided comments to the initiation of the investigation.

- 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. The public file was inspected by interested parties, copies of the documents if requested from the public file, were provided.
- n) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. The Authority 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, which was made available through public file.
- o) Further information was sought from the petitioner and other interested parties to the extent deemed necessary. Verification of domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- p) A spot verification was also conducted at the premises of the following producers/exporters:
 - (i) Saudi Butanol Company (SABUCO)
 - (ii) Saudi Acrylic Acid Company (SAAC)
 - (iii) Sadara Chemical Company (SADARA)
 - (iv) National Industrialization Petrochemical Marketing Co (TASNEE)
- q) The above producers/exporters were issued a report of the verification conducted. Comments offered by the exporters have further been taken into account in this finding.
- r) The Non-injurious Price (hereinafter referred to as 'NIP') considering the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out to evaluate the extent of injury margin as applicable.
- s) Investigation was carried out for the period starting from 1st April 2015 to 31st March 2016 (12 months) (hereinafter referred to as the 'period of investigation' or the 'POI'). The examination of trends, in the context of injury analysis covered the period covering 2012-13, 2013-14, 2014-15 and the POI.
- t) In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a oral hearing held on 23rd June 2017. A 2nd oral hearing was held on 24th October, 2017. The parties, who presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- u) Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs.65.91 as per customs data.
- v) The Authority issued a disclosure statement under Rule 16 on 14th November, 2017 and provided an opportunity to give comments to the disclosure statement till 21st November, 2017.
- w) In this final findings, *** represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

2. The product under consideration in the present investigation is “Normal Butanol” or “N-Butyl Alcohol”. Normal Butanol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. Normal Butanol is a primary alcohol with a 4-carbon structure and molecular formula C₄H₉OH. Normal Butanol is an excellent solvent for acid-curable lacquers and baking finishes derived from urea, melamine or phenolic resins. A large part of Normal Butanol is converted into derivatives for use as solvents in coating industries. This product is classified under Customs Tariff heading No. 29051300.
3. The applicant has claimed that the subject goods, which are exported from subject country into India, are identical to the goods produced by the domestic industry. Normal Butanol produced by the domestic industry and imported from the subject country are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable and hence, should be treated as ‘like article’ under the AD Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicant in India are being treated as ‘Like Article’ to the subject goods being imported from the subject country.

B.1 Views of the Domestic Industry

4. The domestic industry has made the following submissions with regard to the product under consideration: -
 - a) The product under consideration in the present petition is n-Butanol also known as n-butyl alcohol or normal butanol. Normal butanol is a primary alcohol with a 4-carbon structure and molecular formula C₄H₉OH. It is a clear, mobile, neutral liquid with a characteristic odor. It is miscible with all common solvents but it is only sparingly soluble in water. NBA occurs naturally as a minor product of the fermentation of sugars and other carbohydrates, and is present in many foods and beverages.
 - b) Normal butanol is an excellent solvent for acid-curable lacquers and baking finishes derived from urea, melamine or phenolic resins. A large part of N-Butanol is converted into derivatives for use as solvents in coating industries.

B.2 Views of Exporters, Importers, Consumers and other Interested Parties

5. None of the interested parties have raised any issues with regard to the product under consideration.

B.3 Examination by the Authority

6. The product under consideration in the present investigation is "Normal Butanol". Normal Butanol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. Normal Butanol is a primary alcohol with a 4-carbon structure and molecular formula C₄H₉OH.
7. Normal Butanol is an excellent solvent for acid-curable lacquers and baking finishes derived from urea, melamine or phenolic resins. A large part of Normal Butanol is converted into derivatives for use as solvent in coating industries and printing inks. Normal Butanol also finds application as extractant in production of drugs and natural substances, additive in polishes and cleaners, solubilizer in the textile industry, additive in deicing fluids, anti-icing additive in gasoline, humectant for cellulose nitrate, feedstock in the production of glycol ethers and flotation aids (Butyl Xanthate) and as starting material for the production of Butyl mono Carboxylates, Butyl Acetate, Butyl butyrate.
8. The product is classified under Customs Tariff heading No. 29051300. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.
9. Rule 2(d) relating to the definition of "like article" specifies that "like article" means an article which is identical or alike in all respects to the article under investigation, or in the absence of such an article, another article having characteristics closely resembling those of the article under investigation.
10. The petitioner has claimed that the subject goods, which are exported from the subject country into India, are identical to the goods produced by the domestic industry. Normal Butanol produced by the domestic industry and imported from subject country are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable and hence, should be treated as 'like article' under the AD Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the petitioner in India are being treated as 'Like Article' to the subject goods being imported from the subject country.
11. The Authority notes that none of the other interested parties has made any submissions on the issue of like article. The Authority concludes that Normal Butanol manufactured by the petitioner constitutes like article to the subject goods being imported into India from the subject country.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

12. Rule 2 (b) of the AD 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"

C.1 Views of the Domestic Industry

13. The domestic industry has made the following submissions with regard to the 'domestic industry': -

- a) The petition has been filed by M/s The Andhra Petrochemicals Limited as domestic industry.
- b) The Petitioner is the sole producer of the subject goods in India.
- c) Petitioner has neither imported the subject goods nor is related (either directly or indirectly) to any exporter or importer of product under consideration in the subject country.
- d) The petitioner is eligible to constitute domestic industry as per Rule 2(b).

C.2 Views of Exporters, Importers, Consumers and other Interested Parties

14. None of the interested parties have raised any issues with regard to the scope and standing of the domestic industry.

C.3 Examination by the Authority

15. The Authority notes that the application was filed by M/s The Andhra Petrochemicals Limited as domestic industry. The Petitioner is the sole producer of the subject goods in India. The petitioner has not imported the subject goods during the POI. Further, the petitioner is not related (either directly or indirectly) to any of the exporters from the subject country or the importers in India of the product under consideration.

16. After due examination of the information on record and considering the legal provisions, the Authority holds that the petitioner satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. The petitioner is, therefore, held to constitute domestic industry and has standing to file the petition.

D. DUMPING MARGIN

I. NORMAL VALUE

17. 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 subsection (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.

D.1 Views of the Domestic Industry

18. The following are the submissions made by the petitioner in respect of normal value:

- (a) The following can form the basis for determination of normal value in the exporting country:
 - (i) The price of the like article in the domestic market of the exporting country in the ordinary course of trade,
 - (ii) Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country,
 - (iii) The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling & general costs and for profits.
- (b) Efforts were made to get information/evidence of price of subject goods in the domestic market of the subject country. Efforts were also made to get price lists or quotations of producers of subject goods in the subject country. However, the petitioner has not been able to get any reliable information of prices prevailing in the domestic market of the subject country.
- (c) There is no difference in the Oxo Technology used by SABUCO and the Andhra Petrochemicals Limited. Hence, there would not be any difference in the production process of Butanol produced by SABUCO and the domestic industry. Therefore, petitioner has claimed determination of normal value using constructed value approach. The petitioner has adopted international prices of raw material and petitioner's power prices to construct the cost of intermediates – Syngas and Butraldehyde and the final product – Normal Butanol. The petitioner has claimed their conversion cost and consumption factors for raw material and utility to be adopted.
- (d) Post-initiation, questionnaire response has been filed by Producer Company, Saudi Butanol Company [SABUCO] and Exporter Companies, Saudi Acrylic Acid Company [SAAC], Sadara Chemical Company [SADARA], Petrochem Middle East FZE, National Industrialization Petrochemical Marketing Company (TASNEE) and Toyota Tsusho Corporation.
- (e) However, no response has been filed by Saudi Kayan (SK). The three joint venture companies have equal rights to control operations of SABUCO on day-to-day basis.

Even though SK may not have exported to India, it has a role as important as SAAC and SADARA in exercising control over the operations of SABUCO such as supplying its share of Propylene to SABUCO and off-take in Butanol, and is therefore, deemed to be related to SAAC and SADARA.

- (f) Failure to file response by one of the joint venture companies should lead to rejection of the entire group's response. Further, there is no clarification regarding the role of SK in the written submissions of the interested parties.
- (g) The representative of the interested parties has blatantly denied existence of any relationship among the three joint ventures in the hearing and evaded all questions raised by the Authority in this regard. The exporter has preferred not to respond to any of the queries raised by the Designated Authority and the domestic industry at the time of oral hearing and in their written submissions, thereby, completely frustrating the very purpose of the oral hearing.
- (h) The export sales of Saudi Kayan are – ZERO, as stated by the representative of the exporter.
- (i) There is no provision in the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement) which specifies the precise duration of the period of data collection.
- (j) The period of investigation fixed by the Authority in the present investigation is April 2015 to March 2016 as per the normal practice of the Authority.
- (k) There are a number of investigations where more than one country has been involved and imports from one of these subject countries have occurred only in the POI and sometimes only towards the end of the investigation period.
- (l) There is no requirement that dumping should have occurred throughout the investigation period.
- (m) The exporter, Saudi Kayan, is entitled to new shipper review, being a producer who has not exported the product to India during the investigation period.
- (n) Excessive confidentiality has been claimed by these producer/exporters.
- (o) Legal and operational structure of the respondents is not adequately explained and vital facts are suppressed.
- (p) Suppression of vital facts by these companies justifies rejection of their questionnaire response.
- (q) The three joint venture promoter companies should be deemed to be related to each other and there is vital suppression of facts in this regard.
- (r) Domestic sales by these companies may constitute sales to related party for production of downstream product, thus leading to absence of viable domestic sales.
- (s) The situation faced by the respondents constitutes existence of particular market situation justifying rejection of domestic sales prices.
- (t) The complex web of operations implies that the cost of production claimed is highly unreliable.
- (u) The cost of production claimed is highly understated due to significant support by parent companies through complex web of operations and inputs from the related entities.
- (v) The producer-exporters have claimed that SABUCO should not be treated as producer and instead SAAC, SK and Sadara should be treated as producers. The claim is highly disputed.

- (w) The producer-exporters were unwilling to even specify the date on which they commenced production and if the production commenced in March, 2016, how they could have started supplying from Jan., 2016. This shows absence of truthful disclosures justifying rejection of questionnaire response.
- (x) The production activities are being carried out by SABUCO only; however SAAC and Sadara (the two joint venture companies) have also claimed start-up cost adjustment.
- (y) The “Tolling Agreement” between SABUCO and its three joint venture promoters may be thoroughly examined.
- (z) The three joint venture companies are owned by large companies such as SABIC, degree of relationship with subsidiaries is not disclosed to reveal information such as sourcing of inputs and services.
- (aa) Sadara has claimed to have purchased propylene from related as well as from unrelated company. The prices of propylene from the related supplier may be checked to ensure that the propylene was sourced at arm’s length price.
- (bb) SAAC has not even stated whether they have obtained propylene from related or unrelated supplier.
- (cc) SABUCO has given credit of Iso Butanol in the cost of production of Normal Butanol. The Authority may kindly verify the credit for by-product claimed by the exporter.
- (dd) Actual date of start of trial production by SABUCO may be verified.
- (ee) SABUCO has stated that only Propylene is being supplied by promoter companies. The statement is clearly a false and misleading claim. There is vital suppression of the facts in the response regarding valuation of other facilities for operations.
- (ff) Whether SABUCO has recovered all expenses of tolling with profit from the joint venture parties by means of tolling charges.
- (gg) Whether various inputs received from other related companies are at arm’s length price. Sadara has claimed to have purchased propylene from related as well as from unrelated company. The prices of propylene from the related supplier may be checked to ensure that the propylene was sourced at arm’s length price.
- (hh) Domestic sales by these companies may constitute sales to related party for production of downstream product, thus leading to absence of viable domestic sales.
- (ii) Shale Gas is used by SABUCO, valuation of which is questionable.
- (jj) SABUCO has been set up in TASNEE Commercial Complex. The declared addressed of SABUCO is a Post Box number and not a postal address.

D.2 Views of Exporters, Importers, Consumers and other Interested Parties

19. Following submissions have been made by other interested parties with regard to normal value, export price and dumping margin:

- (a) The methodology followed by the Petitioner to determine dumping margin violates the provisions laid down in Article 5.2 and Rule 5(2). The Authority should reject the methodology followed by the Petitioner and determine dumping margin on the basis of information provided in EQR of the exporters.

- (b) Excess of confidentiality has been claimed with regard to CNV methodology and adjustments to export price.
- (c) Initiation notice contends that international prices of raw materials were used for construction of normal value, whereas the Petitioner contends that raw material prices of the Petitioner were used.
- (d) M/s Saudi Butanol Company (“SABUCO”) has submitted as under:
- (i) SABUCO is a joint venture company formed by Sadara Chemical Company, Saudi Acrylic Acid Co., and Saudi Kayan Petrochemical Co. SABUCO converts propylene into Normal Butanol and Iso Butanol on tolling basis for the three joint venture companies. The three companies then proceed to sell the subject goods in the domestic market as well as through exports in markets abroad.
 - (ii) The key raw materials for manufacturing the product are propylene and syngas/oxogas.
 - (iii) The Saudi Butanol Company has started commercial production of subject goods on 1st March, 2016 and requested for adjustment of start-up cost.
 - (iv) By product generated during the process is Butanol off gas. The amount realized from the sales of Butanol off gas is taken as a credit while determining the production cost of the product concerned.
- (e) SADARA has submitted as under:
- (i) Sadara Chemical Company is one of the three companies that entered a joint venture agreement in order to form Saudi Butanol Company.
 - (ii) Sadara Chemical Company along with the other two joint venture companies, supplies propylene to SABUCO for conversion into NBA and Iso butanol on tolling basis.
 - (iii) Sadara Chemical Company exports the subject goods to India through Petrochem Middle East FZE.
- (f) M/s Saudi Acrylic Acid Co. (SAAC) has submitted as under: -
- (i) Saudi Acrylic Acid Co. is one of the three companies that entered a joint venture agreement in order to form Saudi Butanol Company.
 - (ii) Saudi Acrylic Acid Co., along with the other two joint venture companies, supply Sabuco with propylene and Sabuco produces Butanol for each of them on a tolling basis.
 - (iii) Saudi Acrylic Acid Co. then sells the Butanol in the domestic and export markets.
 - (iv) Saudi Acrylic Acid Co. exports the subject goods to India through National Industrialization Petrochemical Marketing Co., who in turn export directly or through Petrochem Middle East FZE and Toyota Tsusho Corporation to Indian customers.
- (g) Petrochem Middle East FZE has submitted as under: -
- (i) Petrochem Middle East FZE is free zone enterprise located in the Jebel Ali Free

- Zone Authority, Dubai, Saudi Arabia.
- (ii) Petrochem Middle East FZE acts as an exporter for both Saudi Acrylic Acid Co. and Sadara Chemical Company for the Butanol procured by them from SABUCO.
- (h) Petrochem Middle East FZE has submitted as under: -
Petrochem Middle East FZE is free zone enterprise located in the Jebel Ali Free Zone Authority, Dubai, Saudi Arabia. Petrochem Middle East FZE acts as an exporter for both Saudi Acrylic Acid Co. and Sadara Chemical Company for the Butanol procured by them from SABUCO.
- (i) National Industrialization Petrochemical Marketing Co. (Tasnee Marketing) has submitted as under: -
- (i) Tasnee Marketing is a limited liability company registered in Riyadh, Kingdom of Saudi Arabia.
 - (ii) Tasnee Marketing acts as a marketing company as well as an exporter for Saudi Acrylic Acid Co.
 - (iii) It directly exports the subject goods procured from Saudi Acrylic Acid Co., or it transfers such goods to other trading companies who in turn export the same to India.
- (j) Toyota Tsusho Corporation has submitted that it acts as an exporter for Saudi Acrylic Acid Co. by procuring the goods through Tasnee Marketing.
- (k) Embassy of Saudi Arabia has submitted the following:
- (i) The POI for the purpose of present investigation is April 2015 to March 2016. It is an admitted fact that there were no imports from Saudi Arabia before the POI and also during the first nine months of the POI. Imports from Saudi Arabia took place only during last three months of the POI to an extent of 8,791 MT.
 - (ii) The commercial production of normal butanol started in Saudi Arabia on 1st March, 2016. Some exports of trial production product took place from Saudi Arabia to India during January 2016 and February 2016. As imports from Saudi Arabia took place only during three months of January 2016-March 2016, the POI being considered by the Designated Authority has in fact been reduced to three months even though technically It is being shown as one year period. If the Designated Authority continues the Subject investigation and determines existence of dumping, injury and causal link, it will imply that the Designated Authority is only considering a short period of three months as the POI for its analysis and not one year as stated in the notice of initiation.
 - (iii) Import data of three months is insufficient for assessment of dumping, injury & Causal link. Even though the Anti-dumping Agreement does not expressly provide any specific period as the minimum duration for period of investigation, recommendation by the WTO Committee on Anti-dumping practices provides that:

The period of data collection for dumping investigations normally should be twelve months, and in any case no less than six months, ending as close to the date of initiation as is practicable.”

Thus, the committee considers that the POI should be such that it shall have at – least six months of import data for assessment of dumping, injury and causal link.

Import data for a period of at least six months is necessary because it will not be possible to reach a decisive and reliable conclusion regarding dumping on the basis of a shorter period of one, two or three months. Article 2.2.1 of the WTO Anti-dumping Agreement and Annexure I, para. 2(i) of the Indian Anti-dumping Rules also provide for minimum six months of data concerning domestic sales made by the exporter, which is essential for determining normal value. Therefore, it is logical that import transactions should also occur for a minimum period of six months to allow appropriate comparison.

Secondly, import volume from a subject country is also the starting point and the most crucial information for the purpose of injury determination. A short period of three months cannot provide accurate and unbiased picture of (a) volume and price effect of imports on prices in the domestic market and (b) its impact on domestic producers of such products.

Thirdly, a short period of three months will also not result in an objective assessment of causal link. It is not possible to establish that injury caused to the domestic industry throughout the injury investigation period of 4 years and particularly during the POI is due to imports during three months of January to March 2016.

(iv) No legal and equitable determination by the Designated Authority regarding existence of dumping, injury and causal link can be made with the import data of only three months. The initiation of the subject investigation and selection of POI by the Designated Authority is clearly pre-mature. Thus, Kingdom of Saudi Arabia requests the Designated Authority to terminate the present investigation against Saudi Arabia.

(l) M/s Saudi kayan Petrochemical Company (Saudi Kayan) has submitted the following:

- (i) Saudi Kayan along with Saudi Acrylic Acid Co (“SAAC”) and Sadara Chemical Co (“Sadara”) have setup a joint venture company, M/s Saudi Butanol Company (“SABUCO”), each with one-third shareholding. Saudi Kayan, Sadara and SAAC supply propylene to SABUCO and it converts propylene into Normal Butanol and iso Butanol on tolling basis for the three producers.
- (ii) Saudi Kayan has not exported the subject goods to India during the period of investigation (i.e. 1st April 2015 to 31st March 2016). Also, Saudi Kayan is not

related to any of the exporters or producers in Saudi Arabia who have exported the subject goods to India during the period of investigation.

(iii) In term of Rule 22 of the Anti-Dumping Duty Rules 1995, Saudi Kayan would like to reserve its right to apply for a New Shipper Review in case the Authority recommends for imposition of Anti-dumping duty in the subject investigation.

(m) M/s Lakshmi Kumaran & Sridharan Attorneys representing producers/exporters from Saudi Arabia viz. Saudi Butanol Company, Saudi Acrylic Acid Company, Sadara Chemical Company, National Petrochemical Industrialization Marketing Company, Toyota Tsusho Corporation, Petrochem Middle East FZE has additionally submitted the following:

- The selection of POI is inappropriate. Imports from the subject country were made into India only in the last 3 months of the POI. In fact, POI considered by the Authority is of 3 months only even though technically it is named as one year. WTO Committee on Anti-dumping Practices recommends that the period of data collection for dumping investigations normally should be twelve months, and in any case no less than six months, ending as close to the date of initiation as is practicable. Import data of three months is insufficient for assessment of dumping. Import data of a shorter period will not give decisive and reliable conclusion regarding dumping. Injury caused by other known factors must not be attributed to dumped imports. No legal and equitable determination regarding existence of dumping, injury and causal link can be made with the import data of only 3 months. Selection of POI by the Authority is premature. Present investigation should be terminated.
- The methodology followed by the Petitioner to determine dumping margin violates the provisions laid down in Article 5.2 and Rule 5(2). The Authority should reject the methodology followed by the Petitioner and determine dumping margin on the basis of information provided in the exporter questionnaire responses of the exporters.

A. Domestic Industry has raised the following apprehensions which have been responded thereafter

- (i) Suppression of vital facts by these companies justifies rejection of their questionnaire response;
- (ii) Existence of particular market situation implies rejection of domestic sales price;
- (iii) The cost of production is highly understated due to significant support by parent companies through complex web of operations and inputs from related companies;
- (iv) Producer-exporters claimed that SABUCO should not be treated as producers and instead SAAC, SK and Sadara should be treated as producers. Claim is highly disputed;
- (v) The producer-exporters are unwilling to even specify the date on which they commenced production and if the production commenced in the March 2016, how they could have started supplying from Jan 2016;

- (vi) The production activities are being carried out by SABUCO only; however SAAC and Sadara have also claimed start-up cost adjustment;
- (vii) The Authority may also carefully examine the “Tolling Agreement” between SABUCO and its three joint venture companies;
- (viii) Sadara, in response to the questions pertaining to purchase and consumption for all materials/inputs used, responded that propylene has been purchased from related as well as from unrelated company. The petitioner requests the Designated Authority to kindly check the prices of propylene from the related supplier in order to ensure that the propylene was sourced at arm’s length price;
- (ix) SAAC, in response to the questions pertaining to purchase and consumption for all materials/inputs used responded “please refer to Appendix – 6”. In Appendix-6, all the information is being claimed as confidential. The company has not stated whether they have obtained propylene from related or unrelated supplier. The petitioner is not able to comprehend the difficulty that the exporters seemingly faced in replying to a very simple question;
- (x) SABUCO has given credit of Iso Butanol in the cost of production of Normal Butanol. The Authority may kindly verify the credit for by-product claimed by the exporter.

B. As regards the above apprehensions of Domestic Industry, the issue wise response as under:

- (i) Allegation is vague and unsubstantiated. Designated authority has not made any such observation regarding suppression of vital facts.
- (ii) There is no particular market situation in the present case. Also, it is not clear what particular market situation domestic industry is referring to. As noted, examination regarding ordinary course of trade with respect to domestic sales is to be carried out by the authority.
- (iii) Domestic industry does not have access to cost of production details. Producers, toll manufacturers, and traders have submitted complete responses. Designated authority has verified all the information Allegation of domestic industry is without any factual basis.
- (iv) Allegation is baseless. Explanation and precedents in this regard are provided in the subsequent part of the rejoinder submission.
- (v) Allegation is false and inconsequential. Commercial production commenced on 1st March 2016. Trial production started prior to 1st March 2016.
- (vi) As noted, SAAC and Sadara are producers. This is as per the consistent practice of the authority.
- (vii) The Respondents agree with the domestic industry. Tolling agreement should be carefully examined.
- (viii) Designated Authority has verified all the prices.
- (ix) Allegation is false. SAAC has provided all the necessary details. Domestic industry has confused claims of confidentiality and absence of response.

(x) Respondents agree that Designated Authority may kindly verify the credit.

- Responses filed by the Respondents cannot be rejected merely because Domestic industry is unable to understand the operations of the Respondents. The Respondents have been fully cooperating with the Designated Authority and have submitted questionnaire responses within the prescribed time-limit. It has also provided responses to queries of the Designated Authority and the Designated Authority has also conducted physical verification at the premises of the Respondents. Thus, there is no case of refusal to access information or absence of necessary information and therefore there is no basis for application of facts available.
- Domestic industry is incorrect in stating that there are doubts regarding actual producer of the product under consideration in Saudi Arabia. The operations of the Respondents are very simple. SAAC, Saudi Kayan ("SK") and Sadara have setup a joint venture company SABUCO. Each of the promoter company has one third shareholding in SABUCO. SAAC, SK and Sadara supply propylene to SABUCO and it converts propylene into Normal Butanol and Iso Butanol on tolling basis for SAAC, SK and Sadara. Processing charges are paid to SABUCO by the promoter companies. Ownership of propylene and Normal Butanol remains with SAAC, SK & Sadara. The ownership of Normal Butanol is never passed on to SABUCO. Sales of Normal Butanol are also made by these promoter companies only and not by SABUCO. It is clear from the above chain of production that SABUCO is a toll processor and Sadara, SAAC and SK are the producers of the subject goods. During the period of investigation, exports were made by Sadara to India through unrelated trader Petrochem Middle East. A toll processor cannot be regarded as a manufacturer or producer where it does not acquire ownership over the goods, and does not control the relevant exports or domestic sales. This is also reflected in the practice adopted by the Designated Authority in India. In the anti-dumping investigation on Bulk Drug Cefadroxil Monohydrate originating in or exported from the European Union, the facts regarding toll manufacturing in the exporting countries were similar. DSM Netherlands supplied 7-ADCA and enzymes to DSM Spain along with other raw materials/inputs required for manufacturing the subject goods. DSM Spain carried out the final manufacturing process to manufacture the subject goods in its plant at Spain. For carrying out the final manufacturing step, DSM Spain was paid a tolling fee. The subject goods were then sold by DSM Netherlands either in the domestic market within EU or export markets outside EU. Designated Authority considered DSM Netherlands to be the producer and exporter of subject goods. Authority accepted the response of DSM Netherlands and determined normal value and export price based on the data furnished in the questionnaire response. There is no reason why the authority should deviate from the established practice in this regard. Inability or unwillingness of the domestic industry to understand the simple fact situation regarding production and export of the product under consideration cannot be the ground for rejection of response. Moreover, Domestic industry cannot rely on the absence of response of SK as the ground for rejection of all information. It is not disputed that SK did not export

product under consideration to India during the period of investigation either directly or indirectly trader. Thus, there is no necessary information to be supplied by SK for the purpose of this investigation. Completeness of the information submitted by the producers and exporters from Saudi Arabia is not affected. Entire value chain of production and export for the product under investigation during the period of investigation is complete.

- Domestic industry has also generally claimed that all three promoter companies are related. Firstly, relationship between parties are relevant for the purpose of domestic industry definition and not per se relevant in case of exporters. Even assuming that these entities are related, there is no legal requirement for related entities to participate in the investigation if they are not part of the value chain for the product under consideration. Thus, domestic industry fails to refer to any legal provision where promoter companies of a joint venture in the exporting countries are considered to be related.
- Domestic industry has claimed that there may not be viable domestic sales due to the fact that domestic sales are made to related parties. It is submitted that domestic sales made by producers in Saudi Arabia are to be considered for assessment of normal value, if such sales are determined to be in the ordinary course of trade in accordance with Section 9A of the Customs Tariff Act, 1975 r/w Annexure I of the Anti-Dumping Rules, 1995. There is no additional condition attached to the acceptability of domestic sales.
- Normal value cannot be assessed based on economic parameters furnished by the domestic industry in the petition, which are based on its own cost and consumption ratios. Detailed submission regarding irrelevance of such information for the purpose of normal value assessment is already filed in the submissions made earlier and is not repeated herein.
- Domestic industry also requests the authority to rely on evidence furnished in the petition for calculation of export price. Such submission is unwarranted because respondents are co-operating in the present investigation and data provided by respondents should be considered for calculation of export price. If the domestic industry cannot provide any justifiable reason to discard the response submitted by the Respondents from Saudi Arabia, there can be no valid basis to contend that export price calculation should be made based on information furnished by the domestic industry in its petition. Thus, claim regarding substantial dumping margin, which is based on imaginary normal value and export price cannot be accepted.

Examination by the Authority

Determination of Normal Value

20. The Authority sent questionnaires to the known exporters/producers from the subject country, advising them to provide information in the form and manner prescribed. The following parties have filed Exporters Questionnaire Responses:

- a) Saudi Butanol Company
- b) Saudi Acrylic Acid Company
- c) Sadara Chemical Company
- d) National Petrochemical Industrialization Marketing Company
- e) Toyota Tsusho Corporation
- f) Petrochem Middle East FZE

General Methodology for working out Normal Value

21. The Authority in the instant case determined whether the total domestic sales of the subject goods by the producers/exporters in the subject country wherever applicable are representative when compared to the exports of the subject goods to India.

22. Thereafter, it has been examined whether their sales are under ordinary course of trade in terms of Para 2 of the Annexure I to the Anti-dumping Rules. Wherever the producers/exporters have provided transaction wise details of sales made in home market and same have been accepted by the Authority, the said information has been relied upon to determine the normal value of the subject goods sold in the home market.

23. For conducting ordinary course of trade test, the cost of production of the product concerned as determined for cooperative producers/exporters has been referenced and compared with domestic selling price to determine whether the domestic sales are in the ordinary course of trade or not. The authority noted transactions in the domestic market for the determination of the normal value for the cooperating producers/exporters where profit making transactions are more than 80% of volume the domestic selling price during PoI is referenced and in cases, where profitable transactions are less than 80% of volume, only profitable domestic sales have been taken into consideration for the determination of the normal value. In case, there are no profitable domestic sales, the normal value has been determined on the basis of cost of production and administrative, selling and general costs as verified for the cooperating producers duly adjusted and including a reasonable profit margin.

24. The Authority notes that Domestic industry has raised issues regarding relationships between the 3 producers/exporters, wrongly treating the 3 exporters as producers also and considering partial responses only of 2 exporters and non-filing of response by 3rd joint venture partner i.e. Saudi kayan chemical co. In this regard the Authority clarifies that the data of the producers/exporters has been considered as per the books of accounts/relevant financial and commercial documents as verified onsite and accordingly 'dumping margin' has been evaluated. The issue of relationship has

also been considered and wherever relationship exists, normal value has been referenced on the cost plus basis. The Authority has verified various relevant issues raised by Domestic Industry onsite/from producers/exporters records. The ownership of raw materials and the final goods i.e. the subject goods has been the basis of considering M/s SAAC, M/s Sadara and M/s Saudi Kayan as producer/exporter. M/s Sabuco undertakes the tolling/processing activities for these three producers/exporters as per the agreed arrangement.

25. The authority has noted as under with regard to the production of subject goods in Saudi Arabia:

- a. M/s. Saudi Acrylic Acid Co (“SAAC”), Saudi Kayan Petrochemical Co (“Saudi Kayan”) and Sadara Chemical Co (“SADARA”) have setup a joint venture company, M/s. Saudi Butanol Company (“SABUCO”), each with one-third shareholding.
- b. SAAC, Saudi Kayan and SADARA supply propylene to SABUCO and it converts propylene into Normal Butanol and iso Butanol on tolling basis for SAAC, Saudi Kayan and SADARA. SABUCO has started commercial production of subject goods as on 1st March 2016. The parties have claimed startup cost adjustment on the plea that the unit was under start-up phase during the POI.
- c. The ownership of propylene and well as normal butanol always remains with SAAC, Saudi Kayan and SADARA.
- d. SAAC, Saudi Kayan and SADARA are not related to each other. Their agreement with SABUCO on tolling is based on a commercial arrangement which does not render these 3 entities as related.
- e. SAAC and SADARA along with their related/unrelated exporters have participated in the subject investigation as they have exported the subject goods to India during the POI.
- f. Saudi Kayan has not participated in the subject investigation as they have not exported the subject goods to India during the POI.

Normal value of cooperating producer/exporters

Normal Value for M/s Sadara Chemical Company (“ SADARA”) , (Producer)

26. During the POI, SADARA has sold subject goods in the domestic market. All sales in the domestic market were made to non-affiliated parties during the POI. The domestic sales were in sufficient volumes when compared with exports to India. As all the domestic sales by SADARA were below the cost of production plus SGA, the normal value has been determined on the basis of cost of production and

administrative, selling and general costs as verified and including a reasonable profit margin of ***%.

27. Accordingly, normal value at ex-factory level for SADARA has been determined for subject goods as *** \$/MT as depicted in the Dumping Margin Table below.

Normal Value for M/s. Saudi Acrylic Acid Co. (“SAAC”), (Producer)

28. During the POI, SAAC has sold subject goods in the domestic market. All sales in the domestic market were made insufficient quantity when compared to exports India but were to a related party during the POI. As all the domestic sales by SAAC were further below the cost of production plus SGA, the normal value has been determined on the basis of cost of production and administrative, selling and general costs as verified and including a reasonable profit margin of ***%.

29. Accordingly, normal value at ex-factory level for SAAC has been determined for subject goods as *** \$/MT as depicted in the Dumping Margin Table below.

Normal Value for non-cooperating producers and exporters from subject country

30. The Authority notes that no other producer/exporter from Saudi Arabia has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Saudi Arabia, the Authority has determined normal value at ex-factory level for subject goods on the basis of best available information by referencing the highest normal value amongst the cooperating producers/exporters as depicted in the Dumping Margin Table below.

Export Price

Export Price for M/s. Saudi Acrylic Acid Co (“SAAC”) and National Industrialization Petrochemical Marketing Co (“Tasnee Marketing”), M/s. Toyota Tsusho Corporation and M/s. Petrochem Middle East FZE

31. SAAC, a producer of the subject goods in Saudi Arabia, has filed the questionnaire response along with its related trading company, Tasnee Marketing and unrelated traders, namely, M/s. Toyota Tsusho Corporation, Japan & M/s. Petrochem Middle East FZE, Dubai. These trading companies exported the subject goods to India manufactured by SAAC during the POI. All of these exporters/traders have filed their Questionnaire responses with the Authority.

32. The authority notes that SAAC has claimed adjustment on account of ocean freight, insurance and credit expenses and the same have been allowed. Accordingly, the weighted average export price has been determined for SAAC at ex-factory level for subject goods as *** \$/MT as depicted in the Dumping Margin Table below.

Export Price for M/s. Sadara Chemical Company (“SADARA”) and M/s. Petrochem Middle East FZE

33. SADARA, a producer of the subject goods in Saudi Arabia, has filed the questionnaire response along with its unrelated trader, namely M/s. Petrochem Middle East FZE, Dubai.
34. The authority notes that SADARA has claimed adjustment on account of credit expenses as all the sales were on ex-work basis and the same has been allowed. Accordingly, the export price has been determined for SADARA at ex-factory level for subject goods as *** \$/MT as depicted in the Dumping Margin Table below.

Export Price for non-cooperating producers and exporters from Saudi Arabia

35. The Authority notes that no other producer/exporter from Saudi Arabia has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Saudi Arabia, the Authority has determined the export price for subject goods on the basis of best available information by referencing the least ex-factory export price amongst the cooperating producers/exporters as depicted in the Dumping Margin Table below.

Dumping Margin

SN	Producer	Exporter	Normal Value	Ex-factory Export Price	Dumping Margin	Dumping Margin	Dumping Margin
			US\$/MT	US\$/MT	US\$/MT	%	Range
1	SADARA	Petrochem Middle East FZE	***	***	***	***	85 - 95
2	SAAC	Tasnee Marketing	***	***	***	***	35 - 45
3	SAAC	Tasnee Marketing- Petrochem Middle East FZE	***	***	***	***	35 - 45
4	SAAC	Tasnee Marketing – Toyoto Tsusho	***	***	***	***	35 - 45
5	Non-cooperative/ Residual producers/exporters other than (1) to (4) above		***	***	***	***	85 - 95

The Authority has examined the adequacy of duration of imports from subject country and commencement of commercial production only in March 2016 appropriately in Para 93 of this findings.

E. INJURY

E.1 Submissions made by the Domestic Industry

36. The domestic industry has submitted that: -

- a) Imports from the subject country started in January 2016 and the volume of such dumped imports in just three months was significant enough to cause material injury to the domestic industry.
- b) The petitioner has segregated the entire injury information within the POI into two parts – (i) April – December 2015 – when there were no imports from the subject country, and, (ii) January – March 2016 – when the imports from the subject country started.
- c) While still examining the injury to the domestic industry during the POI, the Authority may additionally consider the period January to March 2016, in particular, to examine the extent and degree of injury caused to the domestic industry by dumped imports from the subject country.
- d) Imports in the post POI period shows that the imports during the POI were not casual exports to India from a new plant, but a market opportunity seen by the subject exporters to dump the product.
- e) The capacities with SABUCO, the production sharing by the three promoter companies and the options with them for utilization of the production further shows that the imports in the POI were not casual, but were conscious decisions of these companies to grab the Indian market.
- f) There is significant difference between the prices offered by the domestic industry and the foreign producers. Thus, the domestic industry is unable to raise the prices above the costs as a result of dumping of the product in the Country.
- g) Even when the domestic industry has been offering sub-optimal prices, it was losing sales. Thus, decline in sales volumes is a direct consequence of dumped imports from the subject country.
- h) Despite sub-optimal prices offered by the domestic industry, the imports were undercutting the prices of the domestic industry and creating price pressure on the domestic industry.
- i) Imports are depressing the prices of the domestic industry and preventing the price increases that would have occurred in the absence of dumping.
- j) Performance of the domestic industry with respect to sales, production and capacity utilization had improved as investigations for imposition of anti-dumping duty on other sources were under process in the first nine months of the POI, i.e. April-December 2015. However, the performance in respect of the above parameters has significantly deteriorated in the last three months of the POI, i.e. January-March 2016 as fresh dumping from the subject country started. Further, the Authority had

notified positive findings recommending imposition of anti-dumping duty on imports from these sources on 19th February 2016.

- k) Performance of the domestic industry was adverse in terms of profits, return on investments and cash profit throughout the injury period. Situation has worsened with the commencement of dumped imports from the subject country in Jan-Mar 2016 period of the POI.
- l) Dumping margin is significant.
- m) The most important factor affecting the prices of the domestic industry is import price from subject country. Thus, the price depression is due to dumping of the product in the market.
- n) Growth of the domestic industry is adverse in terms of both, volume and price parameters.
- o) The domestic industry has suffered material injury as a result of dumping from the subject country.
- p) The injury margin is significant.
- q) Definitive anti-dumping duty is required to be imposed in accordance with the dumping margin and injury margin.
- r) The form of measure is required to be kept as fixed quantum in US\$.
- s) The purpose of segregation of POI in two parts is to show the effect of dumping of the subject goods on the performance of domestic industry and its causal link with injury.
- t) The impact of dumping of subject goods in just 3 months is so significantly felt, that, material injury has been caused to the domestic industry.
- u) Imports upto Dec., 2015 were from other sources dumping the product under consideration and where ADD was imposed after March, 2016. Imports from Saudi started in last quarter of the POI and were significant in no time. Shifting of dumping from one source to other source does not imply that causal link is broken.
- v) The issue concerning shut down because of fire in the plant of propylene supplier of petitioner in the previous period has already been examined by the Designated Authority.
- w) The cause of plant shut down in the present POI was suspension of production in view of un-remunerative prices in the market because of the presence of low priced dumped imports from the subject country.
- x) Domestic industry is not required to cater to 100% of the demand before seeking protection under the law. Further, there is no restriction on imports of the product in the country at fair prices.

E.2 Views of Exporters, Importers, Consumers and other Interested Parties

37. The other interested parties have submitted as follows: -

- a) The application neither fulfills the preconditions for initiation nor qualifies the test of adequacy and accuracy under Rule 5 as sufficient evidence establishing dumping, injury and casual link was not supplied.
- b) Confidentiality - Some of the information provided in the non-confidential version of the Petition is either misleading or insufficient to allow the interested parties to

comment meaningfully thereupon. The domestic industry must be directed to disclose the data at least in ranges to allow a meaningful understanding of that table.

- c) Price undercutting margins alleged in the petition should not be considered. Exports are made by Saudi Arabian producers to Indian traders, who incur expenses of storage and warehousing. These costs increase the landed value by 25 – 30%. Price undercutting should be based on comparison of domestic selling price with the resale price of traders in India.
- d) There is absence of causal link between the imports from Saudi Arabia and injury suffered by the domestic industry. Imports from Saudi Arabia increased from NIL in 2014-15 to 8,791 MT in the POI. The sales of domestic industry also increased by 7,117 MT over the same period.
- e) Imports from the other countries were coming into India at dumped prices and free of anti-dumping duty in the POI, which was imposed after the completion of POI. Imports from Saudi Arabia entered Indian market only for the last 3 months of the POI (Apr 15 to Mar 16) and the entire injury period.
- f) The injury suffered is self-inflicted by the domestic industry. The Annual Report of the petitioner shows that they have only one source of raw material supply and had to shut down plant because of fire accident in the plant of the supplier.
- g) Imposition of anti-dumping duties on imports from Saudi Arabia would go against the public interest. There is a demand supply gap. The domestic industry would be able to supply only 32% of demand in India even when producing at full capacity.
- h) There is absence of non-confidential versions of costing data.
- i) M/s Lakshmi Kumaran & Sridharan Attorneys representing producers/exporters from Saudi Arabia viz. Saudi Butanol Company, Saudi Acrylic Acid Company, Sadara Chemical Company, National Petrochemical Industrialization Marketing Company, Toyota Tsusho Corporation, Petrochem Middle East FZE has submitted the following:
 - Price undercutting margins alleged in the petition should not be considered. Exports are made by Saudi Arabian producers to Indian traders, who incur expenses of storage and warehousing. These costs increase the landed value by 25 – 30%. Price undercutting should be based on comparison of domestic selling price with the resale price of traders in India.
 - Imports from the other countries were coming into India at dumped prices and free of anti-dumping duty in the POI, which was imposed after the completion of POI. Imports from Saudi Arabia entered Indian market only for the last 3 months of the POI (Apr 15 to Mar 16) and the entire injury period.
 - The injury suffered is self-inflicted by the domestic industry. The Annual Report of the petitioner shows that they have only one source of raw material supply and had to shut down plant because of fire accident in the plant of the supplier.
 - Imposition of anti-dumping duties on imports from Saudi Arabia would go against the public interest. There is a demand supply gap. The domestic industry would be able to supply only 32% of demand in India even when producing at full capacity.

- Domestic industry has segregated POI in two periods (i) April to December 2015 and (ii) January to March 2016. Domestic industry does not dispute that there were no imports from the subject country in the first period i.e. for first 9 months of the POI. Domestic industry also admits that period of data collection in the present investigation is effectively of three months and not one year as identified by the Designated Authority. Domestic industry does not deny that the period of data collection for dumping investigations normally should be twelve months and in any case not less than six months. However, Domestic industry relies on the observation made by the Committee of Anti-dumping practices that investigating authority can take into account particular circumstances of a given investigation in setting the periods of data collection for both dumping and injury to ensure that they are appropriate in each case. Domestic industry claims that dumping, injury and causal link is to be determined based on the import data of three months.
- The claim of the domestic industry cannot be accepted; Firstly, Domestic industry fails to provide for 'particular circumstance' that would necessitate shorter period of investigation; Secondly, the Designated Authority as a matter of practice has followed the recommendation of Committee on Anti-dumping practice in all investigations in past. Domestic industry has failed to provide even one instance in India or in any other jurisdiction where assessment of dumping, injury and causal link is based on the data of three month period only; Thirdly, if the 'particular circumstance' in the present case would have required a shorter period of investigation for data collection, the Designated Authority would not have formally selected one year as the period of investigation in the notice of initiation. In other words, the Designated Authority has already decided that there is no 'particular circumstance' that would necessitate shorter period of investigation; Fourthly, the reliance by the Domestic industry on the observations made by the Panel in *Guatemala – Cement II* is incorrect. Observation of Panel is regarding duration of injury investigation period and not POI. In fact, Panel in *Guatemala – Cement II* allowed a shorter period of one year and not three months for determination of injury due to existence of particular circumstance.
- Merely because the Anti-dumping Agreement does not expressly mandate specific duration for POI does not mean that selection of a shorter time duration of one month, two months or three months as POI is permitted. Appellate Body in *EC-Tube or Pipe Fittings* clearly noted that a POI provides data collected over a sustained period of time, which period can allow the investigating authority to make a dumping determination that is less likely to be subject to market fluctuations or other vagaries that may distort a proper evaluation.
- If the Designated Authority will base its determination regarding dumping, injury and causal link based on a three month time period, it will set a wrong precedent. There would be no minimum duration for which import data has to be analyzed and determination will be based even in cases where imports are occurring for one month or two months. Moreover, it cannot be disputed that three month data cannot reasonably reflect the export behavior of the producers and exporters in Saudi Arabia. Anti-dumping duty recommendation is prospective in nature, which

is applicable for next five years. It is required that assessment of dumping, injury and causal link is based on the import data which is reflective of the export behavior of the producer and exporter in the exporting country. Thus, it is incorrect to contend that shorter period of three months is consistent with the provisions of WTO Anti-dumping Agreement and the Anti-dumping Rules. Consequently, entire claim of dumping, injury and causal link that is based on three months data is incorrect and unreliable.

- If the Designated Authority decides to continue the investigation despite the fact that there is import data of only three months, it is submitted that there can be no bifurcation of the period of investigation into nine months and three months for assessment of injury and causal link. Domestic industry cannot continue to subdivide the period of investigation once the same is fixed by the Designated Authority. Considering the period of investigation as a whole, there is complete absence of causal link between the imports originating in Saudi Arabia and the alleged injury. The production & domestic sales of the domestic industry increased in the same period when the imports from Saudi Arabia entered India, therefore signifying that imports from Saudi Arabia had no impact on the performance of the domestic industry. Similarly, production capacity remained stable and production, capacity utilization and market share increased. Below table is illustrative:

Production capacity of the domestic industry and total demand in India in MT

Particulars	Unit	2012-13	2013-14	2014-15	POI
Imports from Saudi Arabia	MT	0	0	0	8,791
Imports from EU, Malaysia, Singapore, South Africa & the USA	MT	31,929	42,016	55,243	50,606
Total Demand	MT	46,769	49,798	59,243	70,552
Production capacity	MT	22,500	22,500	22,500	22,500
Sales	MT	14,472	6,425	4,037	11,154
Production	MT	14,409	5,484	4,203	11,080
Capacity utilization	%	64.04%	24.37%	18.68%	49%
Market share	%	31%	13%	7%	16%

- Thus, the injury suffered by the domestic industry, if any, is attributable to imports of normal butanol exported from the EU, Malaysia, Singapore, South Africa and the USA which constituted 85% of the volume of imports and had a 72% share in the domestic demand. Further, the factors such as the shutdown of the production plant for 7 months, the fire accident of 23 August 2013, the lasting consequences of those two events and the shortage in the supply of raw materials have caused the alleged injury suffered by the domestic industry.

- Domestic industry is for the first time claiming that imports Saudi Arabia are causing threat of material injury based on post POI data. At the onset, it is submitted that Domestic industry cannot now claim that there is threat of material injury. Scope of investigation is determined by the initiation notice which did not provide for assessment of threat of Injury. The Domestic industry has never alleged threat of material injury at the time of filing of the petition or even during the public hearing. Present investigation is limited to the assessment of material injury as alleged in the petition and for which the Designated Authority determined that there was prima facie evidence in the notice of initiation. It is settled practice of the Designated Authority that post POI period is not considered for assessment of material injury in the original investigation. In the recently concluded Anti-dumping investigation concerning imports of Wire Rod of Alloy or Non-Alloy Steel originating in or exported from China PR, the Designated Authority observed that:

“With regard to the contention of the interested parties that post POI trends should be examined, the Authority notes that in an original investigation, post POI trends are not relevant. In case of reviews initiated in terms of Rule 23 of the AD Rules, would post POI trends become relevant because the Authority has to examine the likelihood of continuation or recurrence of dumping and injury if anti-dumping duty is withdrawn”

It is an established practice of the Designated Authority to determine material injury based on the data of the POI in the original investigation. In other words, post POI data is irrelevant in the original investigation.

- A. Domestic Industry has made following claims:
 - (i) The three joint venture promoter companies should be deemed to be related to each other;
 - (ii) Designated Authority should thoroughly verify the claim of Respondents that there is increase in the landed value by 25% to 30% due to expenses incurred by Indian traders/importers;
 - (iii) Commencement of imports from Saudi Arabia in last three months of the POI is leading to displacement of domestic sales in the last three months of the POI;
 - (iv) Evidence in the form of Annual Report demonstrating that injury suffered by the domestic industry was due to plant shut down of the supplier of raw material is for the year 2014-15 and not for the POI.
- B. The Producers/Exporters from Saudi Arabia offer rejoinder to the Domestic Industry’s claims as under:
 - (i) There is no legal provision which requires the authority to treat three promoter companies as related. Domestic industry has also not cited any legal provision. There is no case where the Designated Authority treated

- promoter companies as related because together they control a joint venture enterprise.
- (ii) Designated Authority can certainly verify the claim made by the Respondents.
 - (iii) There is no injury or displacement of domestic sales during the POI. Data of only last three months is insufficient for the purpose of assessment of material injury and causal link. Unbiased and objective investigating authority cannot base its assessment of material injury and causal link based on three months period.
 - (iv) The year 2014-15 is covered in the injury investigation period. Thus, Annual report demonstrating injury caused due to other factors during this period is also required to be analyzed. It is also required to be analysed if performance of the domestic industry was affected in the POI i.e. 2016-2017 due to difficulties experienced in the previous year.

E.3 Examination by the Authority

38. The Authority has taken note of submissions made by Domestic Industry and various interested parties. The Authority has examined injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.
39. With regard to the contention of violation of Rules in respect of adequacy and accuracy of information provided by the petitioner, the Authority notes that the investigations were initiated only on the basis of sufficient prima facie evidence of dumping, injury and causal link in accordance with Rule 5 of the AD Rules.
40. With regard to the contention on confidentiality, 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 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. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.
41. The AD 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.

42. 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.”

43. It is not necessary that all parameters of injury need to show deterioration, while the Authority considers all injury parameters comprehensively and objectively to conclude whether the domestic industry has suffered injury due to dumping or not.

44. The Authority has examined the injury parameters taking into account the facts and arguments made by the parties in their submissions. The Authority has also examined comments to this disclosure statement appropriately in para 93 of this findings.

45. The period of investigation (POI) for the purpose of present investigation was considered as April 2015 to March 2016 (12 months). However, imports from the subject country have occurred only in the last quarter of the POI, that is, January – March 2016.

I. Assessment of Demand

46. The demand of subject goods has been determined by adding domestic sales of domestic like product with imports of subject goods from all countries obtained from DGCI&S. The Authority notes that demand of subject goods increased significantly over the injury period as depicted in the table below.

Demand	Unit	2012-13	2013-14	2014-15	POI
Sales of Domestic Industry	MT	14,472	6,425	4,037	11,154
Imports – Subject Country	MT	0	0	0	8,791

Imports – Countries with AD Measures	MT	31,929	42,015	55,243	50,606
Imports – Other Countries	MT	205	750	0	0.32
Demand/consumption	MT	46,606	49,190	59,280	70,551
<i>Trend</i>		<i>100</i>	<i>106</i>	<i>127</i>	<i>151</i>

*POI: 2015-16

II. Volume Effect of Dumped Imports and Impact on Domestic Industry

a) Import Volumes and Share of Subject Country

47. With regard to the volume of the dumped imports, the Authority notes that there has been a significant increase in imports, in absolute terms from Saudi Arabia during POI, which has been during January 2016 to March 2016 as shown in table below:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Imports -					
Subject Country	MT	0	0	0	8,791
Countries with AD Measures	MT	31,929	42,015	55,243	50,606
Other Countries	MT	205	750	-	0.32
Total Imports	MT	32,134	42,765	55,243	59,397
Demand	MT	46,606	49,190	59,280	70,551
Production	MT	14,409	5,484	4,203	11,080
Subject imports in relation to -					
Total Imports	%	No imports from Subject country			15%
Consumption	%				12%
Production	%				79%

III. Price Effect of the Dumped Imports on the Domestic Industry

48. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

“With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall 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 increase which otherwise would have occurred to a significant degree.”

49. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

a) Price Undercutting

50. The Authority has compared landed price of imports from the subject country with net sales realization of the domestic industry, net of all rebates and taxes, at the same level of trade. This comparison shows that during the period of investigation, the subject goods originating in the subject country were imported into the Indian market at prices which were lower than the selling prices of the domestic industry in the last three months. The table below shows that there is price undercutting from the subject country but this is only during the last 3 months of PoI as there have been no imports during the first 9 months of PoI.

Particulars	Unit	POI
Net Selling Price	Rs/Kg	***
Landed Price	Rs/Kg	39.43
Price undercutting	Rs/Kg	***
Price undercutting	%	25-35%
Price undercutting	Range (%)	25-35%

b) Price Underselling

51. The Authority has also examined price underselling impact on the domestic industry on account of dumped imports from the subject country. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports as follows:

Particulars	Unit	POI
Non-injurious Price	Rs/Kg	***
Landed Price	Rs/Kg	39.43
Price underselling	Rs/Kg	***
Price underselling	%	55-75%
Price underselling	Range (%)	55-75%

52. It is seen that the landed prices of the subject goods from the subject country during January 2016 to March 2016 were significantly lower than the NIP determined for the domestic industry. The Authority has examined this aspect later in para 93 of this finding.

c) Price Suppression/Depression

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

Particulars	Unit	2012-13	2013-14	2014-15	POI
Selling Price	Rs/Kg	***	***	***	***
<i>Trend</i>	Indexed	100	110	92	73
Cost of Sales	Rs/Kg	***	***	***	***
<i>Trend</i>	Indexed	100	112	113	79

54. It is seen that the costs have increased up to 2014-15, and then declined significant in the POI. The selling price increased up to 2013-14 and then declined in 2014-15 and the POI. The petitioner has claimed that the domestic industry was under constant pressure to sell the subject goods below its cost, resulting in financial losses throughout the injury period and these losses suffered by the domestic industry during the entire injury period are attributed to the dumped imports from present and previous set of dumping countries. The Authority notes that the imports from Saudi Arabia entered the Indian market in last three months of POI matching the prices prevailing at that time.

IV. Economic parameters of the domestic industry

55. Annexure II to the Anti-dumping Rules requires that 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 and the 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.

a) Production, Capacity, Capacity Utilization and Sales

56. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization is as follows:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Capacity	MT	22,500	22,500	22,500	22,500
Production	MT	14,409	5,484	4,203	11,080
Capacity Utilization	%	64.04%	24.37%	18.68%	49.24%
Domestic Sales	MT	14,472	6,425	4,037	11,154
Demand	MT	46,606	49,190	59,280	70,551

57. It is seen from the above table that the performance of the domestic industry had shown improvement in terms of production, sales volume and capacity utilization in the POI when compared to previous two financial years, however production, sales and capacity utilization has declined as compared to the base year, 2012-13.

58. The petitioner has claimed that decline in production, sales volume and capacity utilization in Jan-Mar 2016 was due to un-remunerative prices and not any technical or other considerations. The Authority notes that import prices in PoI declined during first 9 months and continued thereafter as well including prices from Saudi Arabia which also matched the prevailing price in India during the last 3 months of PoI.

59. It is noted that production, domestic sales and capacity utilization of the domestic industry has not increased to the extent of increase in demand for the product in the Country in the POI. The Authority holds that correction to the dumped prices from EU, Malaysia, Singapore, South Africa and the USA was made post PoI only and its effect would only be available in post PoI period which is not part of this investigation.

b) Profits, profitability, return on investment and cash profits

60. The cost of sales, selling price, profit/loss, cash profits and return on investment of the domestic industry has been analyzed as follows:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of Sales	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>112</i>	<i>113</i>	<i>79</i>
Selling Price	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>110</i>	<i>92</i>	<i>73</i>
Profit/Loss (per unit)	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-155</i>	<i>-732</i>	<i>-268</i>
Profit/loss total	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-69</i>	<i>-204</i>	<i>-206</i>

Profit before interest	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-100	-58	-305	-280
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-100	-82	-308	-290
Return on Investments	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-100	-67	-360	-379

61. The above analysis shows that the selling price of the domestic industry remained below the cost throughout the PoI, resulting in loss per unit. The profit before interest, cash profit and return on investment remained negative over the injury period. It is seen that losses were also reported in the POI. It is however important to note that imports from Saudi Arabia came after January, 2016 only and the Authority has addressed this issue subsequently in this finding in response to post disclosure comments in para 93.

c) Market Share

62. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Market Share	Unit	2012-13	2013-14	2014-15	POI
Domestic Industry	%	31%	13%	7%	16%
Subject country	%	0%	0%	0%	12%
Countries with AD Measures	%	69%	85%	93%	72%
Other Countries	%	0%	2%	0%	0%

63. It is seen from the above table that the market share of the domestic industry has declined upto 2014-15 but improved in the POI. The market share of domestic industry in PoI has improved as compared to last 2 financial years i.e. 2013 – 14 and 2014 – 15. However, the market share of the domestic industry in the POI is lower than market share in the base year, 2012-13, on account of major market share being held by other non-subject countries under AD investigation in the POI. The Authority notes that imports from Saudi Arabia happened during last 3 months of PoI and their impact on domestic industry has been addressed subsequently in this finding in para 93.

d) Employment, Productivity and Wages

64. The position with regard to employment, wages and productivity is as follows:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Employment	Nos.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	98	97	93
Wages	Rs. Lacs	***	***	***	***
<i>Wages</i>	<i>Indexed</i>	100	103	112	107
Productivity per day	MT per day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	38	29	77
Productivity per employee	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	39	30	82

65. The level of employment has declined over the injury period, whereas wages have increased. The petitioner has claimed that employment and wages are not reflective of the adverse performance of the domestic industry, as these factors are governed by overall operations of the company and the economy. Productivity has moved in the same direction as that of production showing improvement over the last two financial years. The petitioner has claimed that the production of the domestic industry suffered due to un-remunerative product prices (i.e., dumping). However the Authority notes imports from Saudi Arabia happened only during January to March, 2016 and its impact has been dealt appropriately in para 93 of this finding in response to the post disclosure comments.

e) Inventories

66. The data relating to inventory of the subject goods are shown in the following table:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Average Inventory	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	50	11	16

67. It is seen that the average inventory level has declined with decline in the level of production with the production level in PoI being almost double when compared to last 2 years, the inventory level in PoI does not reflect an adverse situation on this factor.

f) Growth

68. The data relating to growth of the domestic industry is shown in the following table:

Growth	Unit	2012-13	2013-14	2014-15	POI
Production	MT	-	-62%	-23%	164%

Domestic Sales	MT	-	-56%	-37%	176%
Cost of sales	Rs./Kg	-	12%	1%	-30%
Selling price	Rs./Kg	-	10%	-16%	-21%
Profit/(loss)	Rs./Kg	-	55%	373%	-63%
ROI	%	-	1%	-6%	0%
Market Share	%	-	-18%	-6%	9%

The growth table also depicts the improvement made by Domestic Industry in PoI especially on volume parameters when compared to previous 2 years.

69. The Authority notes that the growth of the domestic industry in terms of the volume parameters such as, production and sales volume, shows improvement in the POI as compared to immediately preceding year/years. Growth in terms of price parameters, such as, profits, cash profits and return on investment has remained adverse throughout the injury period. However imports from Saudi Arabia were only post January, 2016 and its impact on Domestic industry has been analyzed in para 93 of this finding.

g) Ability to raise capital investments

70. The Authority notes that the domestic industry is unable to utilize its capacity even in a situation of rising demand of the product in the country, resulting in heavy losses. The fact whether imports from Saudi Arabia over just 3 months can be considered as a cause towards this has been examined in para 93 of this finding.

h) Level of dumping & dumping margin

71. It is noted that imports from the subject country are entering the country at dumped prices and that the margin of dumping is above de-minimis limits. Linkage of imports from Saudi Arabia to injury has been examined in para 93 of the findings.

i) Factors Affecting Domestic Prices

72. The examination of the import prices both from the subject country and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from the subject country and other countries concurrently dumping the product were below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling in the Indian market. Thus, the primary factor affecting the domestic prices is landed value of subject goods from the countries viz. EU, Malaysia, Singapore, South Africa and the USA subjected to Anti-Dumping investigation earlier along with Saudi Arabia for a duration of only 3 months i.e. January to March 2016 under anti-dumping investigation.

j) Conclusion on injury

73. It is thus seen that imports from the subject country had entered India in significant volume in the last 3 months of POI only, both in absolute terms and in relation to production and consumption in India. These dumped imports are also undercutting the prices of the domestic industry in the market.

74. Dumped imports from subject country as well as other non-subject countries have adversely impacted the performance of the domestic industry in respect of production, domestic sales, capacity utilization, inventories, market share, profits, cash profits and return on investment.

75. Performance of the domestic industry with respect to sales, production and capacity utilization had improved when investigations for imposition of anti-dumping duty on other sources were still under process in the first nine months of the POI, i.e. April-December 2015. However the Anti-Dumping measures were imposed post Pol. The performance in respect of the above parameters deteriorated in the last quarter of the POI, i.e. January-March 2016 as fresh imports from the subject country started. The contributory effect imports from Saudi Arabia has been examined in para 93 of this finding.

76. The Authority has also considered first 9 months and last 3 months of Pol separately as under.

77. First 9 Months of Pol (April 2015 to December 2015)

Injury Parameters - Price Undercutting

SN	Particulars	Unit	April to Dec 15
1	Landed Price- Countries attracting ADD		
A	EU	Rs/Kg	63.80
B	Malaysia	Rs/Kg	54.53
C	South Africa	Rs/Kg	56.40
D	USA	Rs/Kg	59.88
E	Singapore	Rs/Kg	58.29
2	NSR	Rs/Kg	***
3	Price undercutting		
A	EU	Rs/Kg	***
B	Malaysia	Rs/Kg	***
C	South Africa	Rs/Kg	***
D	USA	Rs/Kg	***
E	Singapore	Rs/Kg	***

Injury Parameters - Price Depression

SN	Particulars	Unit	April to Dec 15
1	NIP	Rs/Kg	***
2	NSR	Rs/Kg	***
3	Price depression	Rs/Kg	***
4	Profit/(loss)	Rs/Kg	***
5	ROI	%	***

Injury Parameters- Market Share

SN	Particulars	Unit	April to Dec 15
1	Demand		
A	Sales of domestic industry	MT	10,362
B	Imports from Saudi Arab	MT	-
C	Imports from Countries attracting ADD	MT	37,502
	Total	MT	47,864
2	Market Share		
A	Domestic Industry	%	22%
B	Saudi Arab	%	0%
C	Other Countries attracting ADD	%	78%

In first 9 months of PoI, there is a positive price undercutting from Malaysia only. The price depression effect is also quite significant. The market share of Domestic Industry is 22% of demand.

78. Last 3 Months of PoI (January to March 2016)

Injury Parameters – Price undercutting

SN	Particulars	Unit	Jan to Mar 16
1	Landed Price- Saudi Arab	Rs/Kg	39.43
2	Landed Price- Countries attracting ANTI-DUMPING DUTY		
A	EU	Rs/Kg	59.19
B	Malaysia	Rs/Kg	37.83

C	South Africa	Rs/Kg	39.75
D	USA	Rs/Kg	38.38
E	Singapore	Rs/Kg	38.36
3	NSR	Rs/Kg	***
4	Price undercutting		
A	Saudi Arab	Rs/Kg	***
B	EU	Rs/Kg	***
D	Malaysia	Rs/Kg	***
E	South Africa	Rs/Kg	***
F	USA	Rs/Kg	***
G	Singapore	Rs/Kg	***

The price undercutting is positive for all major countries including Saudi Arabia except EU which was negative even in earlier 9 months.

Injury Parameters - Price Depression

SN	Particulars	Unit	Jan to Mar 16
1	NIP	Rs/Kg	***
2	NSR	Rs/Kg	***
3	Price depression	Rs/Kg	***
4	Profit/(loss)	Rs/Kg	***
5	ROI	%	***

The price depression is slightly less as compared to previous 9 months. Market Share of Domestic Industry from 22% of demand is now reduced to 3%.

Injury Parameters- Market Share

SN	Particulars	Unit	Jan to Mar 16
1	Demand		
A	Sales of domestic industry	MT	792
B	Imports from Saudi Arab	MT	8,791
C	Imports from Countries attracting ADD	MT	13,104
	Total	MT	22,688
2	Market Share		
A	Domestic Industry	%	3%
B	Saudi Arab	%	39%
C	Other Countries attracting ADD	%	58%

79. Month wise NSR and Landed values of imports during Pol

Month	CIF Price					
	Saudi Arab	Malaysia	Singapore	South Africa	USA	EU
	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg
Jan-16	39.94	36.86		36.66	34.75	
Feb-16	35.53	38.31		36.31	-	
Mar-16	34.60	37.26	37.98	36.74	-	54.40
Month	Landed Price					
	Saudi Arab	Malaysia	Singapore	South Africa	USA	EU
	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg
	Jan-16	43.46	37.23	-	39.88	37.81
Feb-16	38.65	38.69	-	39.50	-	-
Mar-16	37.65	37.63	38.36	39.98	-	59.19

Month	NSR	Capacity Utilisation	Saudi Arab	Malaysia	Singapore	South Africa	USA	EU
	Rs/Kg	%	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg	Rs/Kg
Apr-15	***	***	-	59.17	55.74	55.95	59.88	56.53
May-15	***	***	-			60.77		61.30
Jun-15	***	***	-	63.27		65.38		64.34
Jul-15	***	***	-	62.08	64.73			67.45
Aug-15	***	***	-	61.21	63.68			68.65
Sep-15	***	***	-	55.92	60.10			
Oct-15	***	***	-	51.24	54.33	57.86		
Nov-15	***	***	-	46.86	50.41	50.71		
Dec-15	***	***	-	39.25	47.89	45.38		
Jan-16	***	***	43.46	37.23		39.88	37.81	
Feb-16	***	***	38.65	38.69		39.50		
Mar-16	***	***	37.65	37.63	38.36	39.98		59.19

It is seen that landed values of PUC from Malaysia and Singapore have dropped during the first 9 months of PoI and continue at that level and even drop in the last 3 months of PoI. NSR also shows a declining trend during first 9 months and marginally improves in the last 3 months of PoI.

F. Evaluating Causal Link

80. The Authority notes that the interested parties have argued that injury to the domestic industry is due to their dependence on one source of propylene, plant shutdown of its supplier i.e. HPCL due to fire accidents, dumping from other countries in the POI and other factors like inevitability to import due to huge demand supply gap. The Authority has considered these aspects while computing NIP so that while undertaking evaluation of causal link between Dumping and consequential Injury, the inefficiency due to these parameters are not attributed to injury to Domestic industry.

81. The Authority has undertaken appropriate segregation of various factors so as to evaluate the extent of injury only on account of dumped imports. In the instant investigation, the Authority has analyzed injury caused to the domestic industry by segregating the POI in two periods – (a) April – December 2015 – when there were no imports from the subject country; and, (b) January – March 2016 – when the imports from the subject country started as stated above.

82. The Authority has examined below other factors listed under the Antidumping Rules which could have contributed to injury to the domestic industry for examination of causal link between dumping and material injury to the domestic industry.

a) Imports from third countries

83. The Authority has examined import data of the subject goods obtained from DGCI&S. It is noted that the domestic industry is facing injury from dumped imports entering into the country from the subject country as well as other countries for which a separate investigation was done earlier. The Authority has evaluated impact of prices from these countries as well on injury to Domestic Industry in para 93 in later part of the findings.

b) Contraction in demand

84. 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.

c) Trade restrictive practices of and competition between the foreign and domestic producers

85. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

d) Developments in technology

86. The Authority notes that the technology adopted and manufacturing process adopted by the domestic industry is quite comparable with that adopted by producers in the subject country. However there is a wide difference in the capacity of producer/exporter of subject country which is many times higher than the Domestic Industry's capacity.

e) Changes in pattern of consumption

87. The domestic industry is producing the subject goods that have been imported into India. Possible changes in the pattern of consumption are not a factor that could have caused claimed injury to the domestic industry.

f) Export performance

88. As the petitioner has not exported the product under consideration, the claimed injury to the domestic industry is on account of domestic operations only.

g) Performance of the domestic industry with respect to other products

89. The performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance since the information considered by the Authority is with respect to the product under consideration only.

h) Productivity of the domestic industry

90. The impact on account of productivity due to various factors like non-availability of raw material are appropriately taken care of while computing NIP.

91. The Authority has determined non-injurious price for the domestic industry in terms of the principles outlined in Annexure III to the AD Rules. The non-injurious price of the domestic industry has been compared with the landed value of the subject imports from each of the responding exporters in the subject country to determine injury margin. The injury margin so determined for each exporter/ producer has been considered for determination of weighted average injury margin. The level of injury margins as determined are given below. The cooperative producer/exporter have been assessed individually while for non-cooperative best available information has been adopted. The analysis as to whether computation of this injury margin can be

attributed to imports from Saudi Arabia during a short period of 3 months has been analyzed appropriately in para 93 of the findings.

Injury Margin

SN	Producer	Exporter	Non-injurious Price	Landed Price	Injury Margin	Injury Margin	Injury Margin
			US\$/MT	US\$/MT	US\$/MT	%	Range
1	SADARA	Petrochem Middle East FZE	***	***	***	***	80 - 90
2	SAAC	Tasnee Marketing	***	***	***	***	70 - 80
3	SAAC	Tasnee Marketing — Petrochem Middle East FZE	***	***	***	***	70 - 80
4	SAAC	Tasnee Marketing – Toyoto Tsusho	***	***	***	***	70 - 80
5	Non-cooperative/Residual producers/exporters other than (1) to (4) above		***	***	***	***	80 - 90

92. Post disclosure comments

Submissions made by the domestic industry

- The petitioner requests disclosure of following facts, in order to enable them to offer meaningful comments to the disclosure statement:
 - a. The Authority may kindly disclose the non-confidential version of the verification report of the exporters/producers from the subject country to offer meaningful comments on the dumping margin calculated.
 - b. The Authority may kindly make available a copy of all the communications sent via mail or letter, to the opposing interested parties and replies filed by these interested parties. Petitioner is not requesting any confidential information. Petitioner is requesting only NCV of this information.
 - c. It is apparent that Saudi Kayan has made some submissions at a very late stage. Petitioner requests copy of the same to be made available to them.
 - d. Authority may disclose the actual dumping margin. In this case, the injury margin is much higher than dumping margin. In any case, once the Designated Authority issues final findings, the interested parties shall know the actual dumping margin determined. What would not remain confidential at that stage cannot be confidential

at this stage.

- The above is vital for the domestic industry to offer their meaningful comments on the disclosure statement. However, pending such disclosure, the domestic industry offers hereunder following preliminary submissions to the Disclosure Statement. The domestic industry craves leave to make further submissions, as and when the above essential facts are disclosed.

- Petitioner considers that the disclosure statement does not meet the requirements of Rule 16, in as much as it records the contentions of parties with regard to absence of imports throughout the injury period and presence of dumped imports from other sources in the same period; but does not contain the impact of the same on this aspect with regard to the injury to the domestic industry. The disclosure statement merely states that the Authority proposes to consider these aspects for the purpose of examining causality between imports from Saudi Arabia and injury claimed by the Domestic Industry. The disclosure statement further states that the Authority proposes to consider whether a short period of 3 months of imports from Saudi Arabia is just and reasonable to determine the key parameters of Dumping and Injury to Domestic Industry, in light of relevant WTO guidelines/AD rules and analytic evaluation. Petitioner submits that these statements clearly implies that the disclosure statement is incomplete. When the Authority has not even examined (or revealed to interested parties) these aspects on causality aspects, it follows that the disclosure document does not contain “essential facts” with regard to causal link. What the Designated Authority has disclosed is not a fact. It is an “information”. The petitioner submits that the meaning of disclosure of essential facts means disclosure with regard to existence of relevance facts. Relevant facts in this regard are (a) whether there is dumping, (b) amount of dumping margin, (b) whether there is injury, (c) injury margin, (d) whether injury is due to dumping or some other factors.

- Petitioner concludes as follows from the disclosure statement:
 - a. The product under consideration is Normal Butanol.
 - b. The petitioner is the sole domestic producer of subject goods in India.
 - c. The product under consideration is exported at prices below normal value, resulting in dumping from the subject country. The dumping margin determined for the responding exporters is significant.
 - d. Domestic industry has suffered material injury and such injury is evidenced by adverse price effect of dumped imports from the subject country.
 - e. Anti-dumping duty is required to be imposed to address dumping causing injury to the domestic industry.

- M/s Saudi Kayan has made some submissions at a very late stage and claimed the right to apply for New Shipper Review. Petitioner submits that Saudi Kayan is related to SAAC and SADARA by means of forming SABUCO together and therefore, Saudi Kayan should not be allowed to take the advantage of New Shipper in future. In any case, the issue is extraneous to the present case and the petitioner requests the Designated Authority to kindly not make any observations with regard to entitlement or otherwise of the company.
- In the disclosure statement at para no. 18 (m) under Views of the Domestic industry, it is inadvertently stated that:
The exporter, Saudi Kayan, is entitled to new shipper review, being a producer who has not exported the product to India during the investigation period.
- It is requested that the above statement may be read as:
The exporter, Saudi Kayan, is not entitled to new shipper review, being a producer who has not exported the product to India during the investigation period.
- The Authority has considered cost of production of the responding exporters for determination of normal value because of the reason that the sales made in the domestic market were not representative of the sales in the normal course of business. It is not clear from the disclosure statement, whether the tolling charges received by SABUCO from their affiliates are reasonable as otherwise the cost of production of normal butanol of related parties will not reflect true and fair amount. The Authority may clarify this fact in the Final Findings.
- Both the producers have not claimed commission in the export price. The Authority may kindly consider adjusting the export price for the amount of commission in the Final Findings.
- Petitioner submits that the requirement under the law is not that dumped imports must be the sole or even principal cause of injury. With regard to causal link, it is well settled jurisprudence that dumping need not even be the principal cause of injury, let alone the only cause. The Appellate Body in the case Malleable Cast Iron Tube or Pipe Fittings from Brazil [WT/DS219/AB/R] held as under:

“193. We now turn..... The European Commission first identified other factors that may be causing injury to the domestic industry. In then evaluating each “other factor” individually, the European Commission

determined that each factor's contribution to injury was insignificant (or, for one factor, not so much as to break the causal link between dumped imports and injury)."

- It is a well-settled law that for satisfying the requirement of existence of causal link in anti-dumping investigations, it is absolutely not necessary that dumped imports must be the sole or even principal cause of injury. In DOTP from Korea and Steel Concrete Reinforcing Bar from Japan and Turkey, USITC has determined that the existence of injury caused by other factors does not compel a negative determination. Relevant extracts of the same are enclosed.
- Assuming but not conceding, existence of other factors causing injury does not vitiate or break the causal link between dumping from Saudi Arabia and injury to the domestic industry so as to conclude no injury on account of dumped imports from Saudi Arabia. The petitioner refers and relies on WTO Panel Report in the matter of anti-dumping duties on malleable cast iron tube or pipe fittings from Brazil.
- While the responding exporters have identified "other factors" that could have caused injury to the domestic industry, however, they have not quantified injury being suffered by the domestic industry due to these "other factors".
- Petitioner submits that there are several cases where imports from a particular country did not occur throughout the investigation period. It is quite possible and, in fact, it indeed is the case in some investigations conducted by the Authority in respect of imports from more than one country that imports from one or more countries under investigation have occurred only in few months of the POI, which could either be in the beginning or in between or towards the end or even periodic over the POI. However, if the imports are beyond 3%, the authority has not excluded such country from the scope of subject countries only because the imports from such country were not spread over the entirety of investigation period. It is because of the reason that merely because imports are not uniformly spread or are only in the beginning or towards the end of the POI, it cannot be said that those imports have not caused injury. Thus, existence of imports only in part of the POI does not mean absence of causal link, so long as the imports are at dumped price and domestic industry has suffered injury.
- The POI of this case is 12 months, which is as per the normal practice of the Authority. It is not necessary that the dumped imports should be present throughout the POI. There is no requirement in the AD law to examine the continuity of the imports over the injury period or in POI. The requirement for imposing the antidumping duties is that the imports should be more than 3% and the prices are dumped prices. In the present case,

the market share of imports from Saudi Arabia is 14.80% in the POI and the export price is Rs 36.24 per Kg, which is lowest among all the importing countries and significantly lower than the domestic industry. There are a number of cases, where the exports made by the exporter were sporadic, however, individual margins have been granted. The Authority never insisted that the imports should be at least for a period of 6 months in order to assess the behavior of the exporter whether it is habitual in dumping the goods. The DA has recommended imposition of anti-dumping duty in the following cases where imports were reported only in the POI or part thereof, evidence to this effect is enclosed herewith:

- a) Ammonium Nitrate – Georgia – Imports in three months of POI (only in Jul, Aug & Feb in 2015-16 period).
 - b) Flexible Slabstock Polyol from Australia, EU & Singapore – Australia only in POI
 - c) R-DVD from Malaysia, Thailand & Vietnam – Vietnam in POI(2008-09)
 - d) Thermal Sensitive Paper from Indonesia, Malaysia & UAE – all subject countries imported in POI only
 - e) Certain Phosphorous based compounds – POCl₃ from EU and China imported in POI only
 - f) DFS – 1st case – China's imports in POI only
 - g) Caustic Soda from Qatar – Imports from Qatar in POI only. Further, threat of injury was also examined by the DA.
 - h) Vitamin A Palmitate from EU, Singapore and Georgia – Imports from Georgia were reported in POI only
 - i) Vitrified/ Procelain Tiles from China and UAE.
- In the instant case, there is no doubt about the dumping behavior of the exporters as dumping of the subject goods started even before the commencement of commercial production and the Authority has determined significant dumping margin. Further, significant volumes were exported by these exporters at dumped prices even in a period as short as 3 months shows aggressive dumping behavior of the exporters. Nothing more is required to assess the behavior of the exporters. While imposition of AD duty is prospective for 5 years, the exporter is free to export the goods at un-dumped prices and the concerned importer can claim refund of excess duty paid with the active co-operation of the exporter. Further, there is provision for mid-term review by which, the AD duty imposed could be reduced or withdrawn based on the price behavior of the exporter.
 - The Authority has stated under the paragraph 92 of the Disclosure Statement that in the first 9 months, there was price pressure on the domestic industry because of the imports from other countries which were subjected to antidumping duty levy in April, 16. The domestic industry admits that there was price pressure from these countries during

first 9 months of POI. However, during the last 3 months of POI, the price pressure on the domestic industry increased to the extent that the decline in selling price was more than 4.50/Kg without corresponding decline in raw material prices. Further, the dumped prices from Saudi Arabia created price pressure not only on the domestic industry's prices, but also gave stiff competition to the other countries, who were exporting significantly during the first 9 months of POI. During the last 3 months of POI, the share of other countries declined from 100% to 60% in total imports and from 78% to 51% in demand. The decline in share of domestic industry and other imports in last 3 months of POI are attributed to primarily to imports from Saudi Arabia which shows direct nexus of injury and dumped imports from Saudi Arabia.

- While it is admitted that the injury suffered by the domestic industry during POI is also simultaneously caused by dumped imports from the subject countries of another investigation as well as dumped imports from the subject country of this investigation; the impact of injury caused by dumping of imports from Saudi Arabia in present period cannot be ignored, irrespective of the period for which dumping took place. Even if injury caused by subject imports is not segregated for 3 month period, following parameters show injury caused by subject imports as established in the Disclosure Statement:
 - a) Significant dumping margin for responding exporters
 - b) Price undercutting and price underselling are also significant
 - c) Subject imports hold market share of 12% in the POI
- While the domestic industry has sought the remedial measure against EU, Malaysia, Singapore, S. Africa and USA in the earlier investigation, the domestic industry is seeking relief measure against dumping from Saudi Arabia through this investigation. The performance of the domestic industry has slightly improved in first 9 months of POI, when the dumped imports from other countries were present, the performance of domestic industry has deteriorated steeply during last 3 months of POI when the exporters from the subject country resorted to unprecedented dumping causing material injury to domestic industry in terms of volume parameters such as production, sales volume, market share and capacity utilization. Further injury in terms of price parameters intensified as losses and cash losses increased and return on investment which was already negative, further declined.
- The opposing interested parties have contended that domestic industry has for the first time claimed that imports from Saudi Arabia are causing threat of material injury based on post POI data. It is submitted that "Injury" in terms of Section 9B (1)(b)(iii) includes all three forms of injury, i.e., material injury, threat of material injury and material

retardation to the establishment of the domestic industry.

- In Sewing Machine Needles case from China, the DA has examined and considered threat of injury along with material injury, even when the same is not considered for examination in the initiation notice.
- Domestic industry submits that the form of anti-dumping duty should be fixed quantum of anti-dumping duty (fixed form of duty), in US\$ terms.

**Submissions made by the exporters, importers and Other Interested Parties/
other Parties**

M/s Lakshmi Kumaran & Sridharan Attorneys representing producers/exporters from Saudi Arabia viz. Saudi Butanol Company (“SABUCO”), Saudi Acrylic Acid Company (“SAAC”), Sadara Chemical Company (“Sadara”), National Petrochemical Industrialization Marketing Company (“Tasnee Marketing”), Toyota Tsusho Corporation (“Toyota”), Petrochem Middle East FZE has filed various submissions:

- We support the identification of producers in Saudi Arabia by the Designated Authority. Designated Authority has correctly noted that SAAC is producer of Normal Butanol. Designated Authority has rightly observed that SAAC, Saudi Kayan and SADARA are not related to each other.
- Respondents also support the determination of the Designated Authority treating Respondents as cooperating producer/exporter.
- If the Designated Authority were to change any of these essential facts disclosed in the disclosure statement, we request the Designated Authority to provide us adequate opportunity to provide our comments.
- The Designated Authority has proposed to consider “*whether a short period of 3 months of imports from Saudi Arabia is just and reasonable to determine the key parameters of dumping and injury to Domestic industry, in light of WTO guidelines/AD rules and analytic evaluation.*”
- Respondents submit that it is not just and reasonable to determine key parameters of dumping and injury to domestic industry based on 3 months import data in light of WTO guidelines, Anti-dumping Rules and analytical evaluation.

Determination of dumping and injury based on short period of 3 months is incorrect in light of WTO law and Indian Anti-dumping Rules

- The Designated Authority has acknowledged that period of data collection in the present investigation is a three months period. WTO Committee on Anti-dumping Practices provides that period of data collection should be of at least six months. It states that:

“The Committee recommends that with respect to original investigations to determine the existence of dumping and consequent injury -

1. as a general rule:

a. the period of data collection for dumping investigations normally should be twelve months, and in any case no less than six months, ending as close to the date of initiation as is practicable.”

Further the Committee considers that minimum period of six months of data collection is appropriate to determine existence of dumping. The guideline effectively means that the period of investigation should be such that it shall have at-least 6 months of import/export data from the subject countries. Even though it is in the form of a recommendation, there is no ambiguity in the guideline regarding the obligatory nature of the provision which stresses that the minimum period should be ‘no less than six months’.

- Indian authority has consistently followed the recommendation of the Anti-dumping committee while determining the period of investigation. In no case, the Designated Authority has issued positive recommendation of dumping and injury based on import/export data of just three months.
- Practice followed by the European Commission for the selection of period of investigation is no different to that of the practice followed by DGAD. The European Commission typically adopts one-year time period as the investigation period. Investigation period have been longer or in some cases shorter. The shorter periods are of 11 months, 9 months and 6 months in some cases but not of 3 months period.
- The objective of providing for a minimum of six months POI is to ensure data collection over a sustained period of time. Data for a sustained period is essential for reliable determination of dumping as well as injury.
 - i. Domestic sales data or import/export data of three months is insufficient for assessment of dumping

- In *EC – Tube or Pipe Fittings*, the European Commission conducted its examination using a POI of one year from 1 April 1998 to 31 March 1999. The Brazilian Real was devalued by 42 percent towards the end of this period in January 1999. Brazil argued that the European Commission was obligated to compare normal values with export prices solely from the post-devaluation period.
- The Appellate Body observed that Brazil's approach would imply that determination will be based on the data of a very short period. Permitting such discretionary selection of data from a period of time within the POI would defeat the objectives underlying investigating authorities' reliance on a POI for the purposes of a dumping determination.
- In *EC-Tube or Pipe Fittings*, the Panel also observed that dumping determination based on data collection over a sustained period of time is less likely to be subject to market fluctuations or other vagaries that may distort a proper evaluation and the use of a sufficiently long period of investigation is critical in order to ensure that any dumping identified is sustained rather than sporadic.
- In the present case, the Designated Authority has determined positive dumping margin for exports made by SAAC.
- For determination of normal value for SAAC, the Designated Authority constructed the normal value because it determined that domestic sales by SAAC were made below cost of production. Accordingly, domestic sales by SAAC were discarded for the purpose of determination of normal value. Normal value was determined based on cost of production plus SGA expenses and reasonable profit.
- Section 9A (1)(c) provides that normal value is the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country i.e. the sales of like article in the domestic market of the exporting country. When such sales do not permit proper comparison, normal value can be determined on the basis of cost of production plus SGA expenses and reasonable profit in accordance with Section 9A (1)(c)(ii)(b).
- When determination of normal value is based on domestic sales made by the producer/exporter, Article 2.2.1 of the Anti-dumping Agreement and Annexure I, para. 2(i) of the Indian Anti-dumping Rules provide for minimum of six months of data collection of such domestic sales by the exporter. Similarly, even when normal value is constructed based on cost of production of the producer/exporter, it is only

logical that such cost of production of the producer/exporter should also be for a reasonable period of time i.e. minimum of six months. Minimum six months' time period is essential to ensure that cost of production data is stable and representative of its actual cost.

- In the present case, commercial production of SABUCO (toll processor of SAAC) started only on March 2016. Actual cost of production data was available only for one month period and thus cost of production based on which normal value has been determined for SAAC is of one month period only. Determination of normal value based on only one month cost data cannot be considered as just and reasonable.
- Without prejudice to the above, it is also submitted that for calculation of the normal value, the authority has [***].
- Also, import/export data for the period of six months is necessary for decisive and reliable determination of export price. As already noted, Article 2.2.1 of the Anti-dumping Agreement and Annexure I, para. 2(i) of the Indian Anti-dumping prescribes minimum of six months' time period of data collection for domestic sales by the exporter for determination of normal value. It is logical that export price and consequent dumping margin should also be based on import/export data of six months. In the present case, import/export data of Normal Butanol from Saudi Arabia is available for only three months i.e. January 2016 to March 2016 because there were no imports of Normal Butanol from Saudi Arabia before this period. Import data of a shorter period of one, two or three months cannot be considered as reliable.
- For determination of normal value for SADARA, the Designated Authority constructed the normal value because it determined that domestic sales by SADARA were made below cost of production. Accordingly, domestic sales by SADARA were discarded for the purpose of determination of normal value. Normal value was determined based on cost of production plus SGA expenses and reasonable profit.
- Section 9A 1(c) provides that normal value is the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country i.e. the sales of like article in the domestic market of the exporting country. When such sales do not permit proper comparison, normal value can be determined on the basis of cost of production plus SGA expenses and reasonable profit in accordance with Section 9A1(c)(ii)(b).

ii. *Import data of three months is insufficient for identification of injury*

- The Designated Authority has noted that it has examined the injury parameters objectively taking into account the facts and arguments made by the parties in their submission.
- In relation to the examination of injury in the disclosure statement, the Designated Authority concluded that:

“the imports from the subject country had entered India in significant volume in the last 3 months of POI, both in absolute terms and in relation to production and consumption in India. These dumped imports are undercutting the prices of the domestic industry in the market”

- The Designated Authority has further noted that:

“imports from Saudi Arabia are only during last 3 months to examine the injury to Domestic industry during POI, the Authority has extremely limited data and proposes to consider first 9 months and last 3 months of POI separately”

- When the duration of the POI was fixed for one year time period, assessment of injury should also be made on the basis of data for one year time period. Further sub-division of the one-year POI into nine months and three months period will frustrate the purpose of selecting the POI of longer duration.
- In other words, the Designated Authority cannot determine that imports from Saudi Arabia are affecting the performance of the domestic industry in the last quarter of the POI and therefore there is material injury to the domestic industry due to imports from Saudi Arabia.
- Import volume from subject country is the starting point and very important information for the purpose of injury determination. Article 3.1 of the Anti-dumping Agreement and Para 1 of Annexure II to Indian Anti-Dumping Rules 1995 provide that a determination of injury shall be based on positive evidence and involve an objective examination of both (a) volume of the dumped imports and the effect of the dumped imports on prices in the domestic market of like products and (b) the consequent impact of these imports on domestic producers of such products. A short period of three months cannot provide accurate and unbiased picture of (a)

volume and price effect of imports on prices in the domestic market and (b) its impact on domestic producers of such products.

- Thus, the Designated Authority does not enjoy absolute discretion in deciding the duration of the POI as shorter period of data collection will not permit objective assessment and will contravene other provision of the Anti-dumping Agreement and Anti-Dumping Rules.

- In the disclosure statement, the Designated Authority has observed that:

“Keeping in view the fact that the period of imports from Saudi Arabia is just 3 months and the backdrop of declining prices in the first 9 months of POI which is prior to imports from Saudi Arabia, the Authority proposes to consider these aspects for the purpose of examining causality between imports from Saudi Arabia and injury claimed by the domestic industry.”

- It is needless to stress that declining prices in the first 9 months of POI and the resultant injury to the domestic industry in the first 9 months of the POI cannot be attributed to imports from Saudi Arabia. Also, any injury caused to the domestic industry during first three years of injury investigation period is attributable to other factors like shutdown of the HPCL (raw material supplier) plant, imports from other countries already attracting anti-dumping duty etc. and not to imports from Saudi Arabia for the simple reason that there were no imports from Saudi Arabia during that period.
- At best, imports from Saudi Arabia can only be responsible for injury to the domestic industry in the last three months of the POI. However, such attribution analysis is incorrect and unjust.
- It is humbly submitted that a short period of 3 months will not result in an objective assessment of causal link. It is insufficient for assessment of causal link. In accordance with Article 3.5 of the Anti-dumping Agreement and Annexure II, para. 5 of Indian Anti-dumping Rules, it must be demonstrated that dumped imports are, through the effects of dumping causing injury to the domestic industry. It is not possible to establish that injury caused to the domestic industry throughout the injury investigation period of 4 years and particularly during the POI is due to imports during three months of January to March 2016. Needless to say, such an evaluation will not satisfy the requirement of objective examination under Article 3.1 of the Anti-dumping Agreement and Annexure II, para (i) of Indian Anti-dumping Rules.

- Moreover, Designated Authority shall also examine any known factors other than dumped imports which at the same time are injuring the domestic industry, and the injury caused by these factors must not be attributed to the dumped imports.
- Examination of the situation of domestic industry over number of years i.e. 4 years injury investigation period is advisable because it will reveal injury caused by other factors recession, business or product cycles or by structural adjustment problems of the domestic industry. Needless to say, 3 months of period will not allow such assessment of causal link at all.
- No assessment of causal link in accordance with the provisions of Anti-dumping Agreement and Indian Anti-dumping Rules is possible in the present case where imports have happened only during three months, leave alone the requirement of objective assessment based on positive evidence.
- The Designated Authority has observed positive improvements on certain parameters such as production, sales volume and capacity utilisation in the POI.
- For other parameters where there are negative trend prior to the POI such as market share, productivity etc. imports from Saudi Arabia cannot be considered responsible for such injury.
- The Designated Authority has noted that negative trend for some parameters has continued in the POI and imports from Saudi Arabia took place in last three months of the POI. Such continuation of negative trend on certain parameters in the POI cannot be attributed to imports from Saudi Arabia that took place only in last three months of the POI.
- We disagree with the assessment of the Designated Authority in the disclosure statement that dumped imports from subject country as well as other non-subject countries have adversely impacted the performance of domestic industry. Imports from non-subject country took place throughout the injury investigation period. However, imports from Saudi Arabia took place only during last three months of the POI. The Designated Authority cannot equate impact of imports from other countries with the imports from Saudi Arabia. Negative development on economic parameters was experienced throughout the investigation period whereas imports from Saudi Arabia took place only during last three months of the POI.
- Also, the Designated Authority cannot conclude that performance of domestic industry deteriorated in the last quarter of the POI due to imports from Saudi Arabia.

As already noted segregation of the POI into sub-groups for determination of injury and causal link is not permitted. It would also be against the initiation notice which prescribed POI of one year period. In any case, import data of three months is insufficient to make any assessment of causal link between such imports and injury to the domestic industry.

Examination by the Authority

93. The Authority notes various submissions made by Domestic Industry and the producers/exporters from Saudi Arabia filed in response to the disclosure statement and holds that all relevant facts to be made as the basis for final findings have been disclosed. The public file contains all non-confidential version of documents/information filed by different interested parties. The Authority notes that in the foregoing paras under injury, certain economic and financial parameters regarding Domestic Industry have though been noted to be adverse however attributing cause of these to imports from Saudi Arabia over 3 months only requires appropriate analysis. The Authority has examined the contentions of Domestic Industry and the other interested parties on various aspects of investigation viz. dumping, injury and causality reported by the Authority in the foregoing paragraphs and holds as under:

- (i) The Authority notes that during the Pol i.e. 1st April, 2015 to 31st March, 2016 the imports of subject goods in the first 9 months occurred from 5 countries viz. EU, Malaysia, Singapore, South Africa and the USA. These countries were subjected to an Anti-Dumping investigation initiated on 20th November, 2014 with Pol of 1st April, 2013 to 30th June, 2014 and final findings dated 19th February, 2016 recommending Anti-Dumping measures being accepted on 13th April, 2016 vide Customs Notification No. 13/2016 – Cus (ADD).
- (ii) The Authority notes that demand of the subject goods have continued to increase from 2012 – 13 to 2015 – 16. The Authority further notes that during the Pol for the current investigation, though there were no Anti-Dumping measures on the 5 countries mentioned in (i) above levied, the Domestic Industry's performance showed improvement on parameters like production, sales, capacity utilisation, profit and market share when compared with the previous 2 financial years i.e. 2013 – 14 and 2014 – 15 which include the complete Pol of earlier Anti-Dumping investigation against 5 countries viz. EU, Malaysia, Singapore, South Africa and the USA. The improvement in performance can only be attributed to factors other than dumping from above mentioned 5 countries as AD measure on 5 dumped sources was made applicable post Pol in April 2016. One of the factors noted is the declining

cost of sales of Domestic Industry which has reduced the per unit losses. In order to segregate injury due to 5 dumped sources already investigated, the behaviour of the import prices from these 5 countries post levy of ADD in April 2016 maybe needed which is not captured during this Pol. This data could in fact enable segregating injury due to the fresh source of imports i.e. Saudi Arabia.

- (iii) Further the Authority notes that 'net sales realisation' of the domestic industry during first 9 months of the Pol has declined in line with the import prices from the 5 countries viz. EU, Malaysia, Singapore, South Africa and the USA especially Malaysia and Singapore. The price level set by these imports was matched by the export prices from Saudi Arabia during January – March 2016 and not set by producers/exporters from Saudi Arabia.
- (iv) The market entry price by any new player in a global market tend to match and compete with the existing prices in the importing market. The prices available to Saudi Arabia for reference during January – March 2016 were the uncorrected prices from 5 countries viz. EU, Malaysia, Singapore, South Africa and the USA which got corrected to a fair level in April 2016 after levy of AD measures. The prices in January – March 2016 were therefore not set by producers/exporters from Saudi Arabia but given to them. The export price pattern of exports from Saudi Arabia in a situation where other prevailing prices in India were restored to a fair level can only be evaluated if a larger period beyond Pol was available to consider export pattern/prices from Saudi Arabia. The Pol under present investigation therefore constrains a fair and objective assessment of causality between the exports by Saudi Arabia to India and consequential injury to Domestic industry during the considered Pol.
- (v) Since the investigation is for examining material injury and not for evaluating threat of injury or material retardation to Domestic Industry, a reasonable duration of period is warranted to capture the price and volume trend from Saudi Arabia and to analyse impact of factors other than dumped imports to exclusively establish a causal link between dumping and consequential injury. The 3 months of exports from January – March 2016 is not sufficient enough in this case to conclusively establish a causal link between exports from Saudi Arabia and injury to Domestic Industry. The Authority holds that post Pol data cannot be referenced for the above analysis as for the current investigation Pol is fixed as 1st April, 2015 to 31st March, 2016, for determining material injury to Domestic Industry on account of dumping during this period.

- (vi) The Authority notes the submissions by producers/exporters from Saudi Arabia on dumping margin computation and holds that guidelines of the committee on Anti-Dumping practices regarding duration of PoI adopted on 5th May, 2000 are only recommendations which recognize at the same time that the Investigating Authorities may consider appropriate PoI's on a case specific basis.
- (vii) The Authority notes that the fact of exact date of commercial production by M/s Sabuco i.e. March 2016 was known after onsite verification of the producer/exporter during the course of investigation. The Authority further notes that the trial production by M/s Sabuco started in October 2015 and the declaration of commercial production in March 2016 has impact only on determination of processing cost component of M/s Sabuco, the toller for the 2 producers/exporters. Raw materials and SGA costs are considered from the records of two producers i.e. M/s Sadara and M/s SAAC. Since any commercial sales activity in domestic or export market generally needs to be based on a prudent pricing policy, the fact that exports to India occurred in January 2016 and first domestic sales by Sadara was made in December 2015, the requirement of minimum period of 6 months PoI with reference to normal value determination is technically met and not compromised. If the producers/exporters have undertaken sales in domestic and exports market prior to date of declaration of commercial production, the Investigating Authorities cannot ignore such sales and exempt such exports from the purview of dumping examination. In the facts of this case, the Authority had to adopt the cost data of M/s Sabuco appropriately. However the Authority holds that the processing cost component pertaining to M/s Sabuco could be further validated and refined if 6 months data after date of commercial production was adopted to take care of start-up and unusual costs along with recovery test to make the 'normal value' more representative and realistic.

Conclusions and Recommendations:

94. Having examined the contention of various interested parties and on the basis of the above facts, circumstances, limitations and analysis, the Authority concludes as under:

- (i) Period of last 3 months of PoI of exports of subject goods from Saudi Arabia is not sufficient to evaluate injury to the domestic industry as material injury determination would require data on imports and Domestic industry's sales for a longer duration.
- (ii) The short period of production especially commercial production of just one month also constrains determination of a representative and realistic normal value for cooperating producers/exporters.

- (iii) Causal link between imports from Saudi Arabia and injury to the Domestic Industry is not conclusively established on the basis of 3 months of export period.
- (iv) The Authority in view of the above does not consider it appropriate to recommend levy of an Anti-Dumping Duty on the subject goods from Saudi Arabia and hereby terminates this investigation in accordance with Rule 14 (b) of AD Rules.

Further Procedure

95. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Designated Authority