

**Government of India**  
**Department of Commerce**  
**Ministry of Commerce & Industry**

**NOTIFICATION**

New-Delhi, the 14th August 2003

**FINAL FINDINGS**

**Subject:** Anti-Dumping investigations concerning imports of Methylene Chloride originating in or exported from European Union, South Africa and Singapore - Final Findings

**17/1/2001-DGAD** - Having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof:

**A. PROCEDURE**

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification dated 24th December, 2002 with regard to anti-dumping investigations concerning imports of Methylene Chloride originating in or exported from European Union, South Africa and Singapore and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the said findings within forty days from the date of the letter;
- c. The Authority provided an opportunity to all interested parties to present their views orally on 9/7/2003. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.
- d. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;

- e. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;
- f. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, (submitted by the domestic industry alone) have been duly considered in these findings;
- g. Investigations were initiated vide Initiation Notification No.17/1/2001- DGAD dated 19th August 2002 and investigations were carried out for the period 1st April, 2001 to 31st March, 2002 (12 months).
- h. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

## **B. PRODUCT UNDER CONSIDERATION**

2. The product under investigation in the present case is Methylene Chloride. Methylene Chloride is a solvent belonging to the Chloromethane family of solvents. Methylene Chloride is a colorless, volatile liquid with a chloroform - like odour. The chemical formula of Methylene Chloride is  $CH_2Cl_2$ .

There are two technologies for production of Methylene Chloride. These are known by the basic raw material which is used in these technologies - Methane route and Methanol route. Even though Methylene Chloride can be produced through two distinctly different technology, the product produced through the two routes has essentially similar technical specifications. Thus, the difference in technology or production process does not result in different product.

Methylene Chloride is used in the photo films, bulk drugs and pharmaceutical industries. It is also consumed for manufacture of foam, resin casting, fumigants and agrochemical. It is mainly used as a paint stripper.

Methylene Chloride is classified under customs sub-heading 2903.12 of Chapter 29 of the Customs Tariff Act and 29031200 of the ITC (HS) Code. The classification is however indicative only and in no way binding on the scope of the present investigations.

The Authority confirms the preliminary findings on product under consideration.

## **C. LIKE ARTICLES**

3. In order to establish that Methylene Chloride is a Like Article to that exported from European Union, South Africa and Singapore, characteristics such as technical

specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority also finds that there is no argument disputing that Methylene Chloride produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Methylene Chloride imported from the subject countries/territory both commercially and technically. Methylene Chloride produced by the domestic industry has been treated as Like Article to the product exported from European Union, South Africa and Singapore within the meaning of Rule 2(d).

In view of the above, the Authority confirms the preliminary findings on Like Articles.

## **D. DOMESTIC INDUSTRY:-**

4. The petition has been filed by M/s Gujarat Alkalies & Chemicals Ltd., Vadodara. The petitioner has stated that the following companies are the producers of Methylene Chloride in India:-

- a. M/s Gujarat Alkalies & Chemicals Ltd., Vadodara
- b. M/s Chemplast Sanmar, Chennai
- c. M/s SRF Limited, Mumbai

M/s Chemplast Sanmar, Chennai has supported the petition. The total Indian production of the subject goods during 1998-99, 1999-2000, 2000-2001 and 2001-2002 was as follows:

<b>Producer</b>	<b>1998-99</b>	<b>1999-2000</b>	<b>2000-2001</b>	<b>2001-2002</b>
Gujarat Alkali	8572	8721	9559	8975
Chemplast Sanmar - Supporter	14054	14151	15518	15245
Petitioner + Supporter	22626	22872	25077	24220
SRF Ltd.	2465	3266	6661	7244
Indian production	25091	26138	31738	31464

The petitioner accounts for 28.52% of the total production in 2001-02 and the petitioner and the supporter accounts for 76.97% of the total Indian production in 2001-02. The petitioner therefore satisfies the standing to file the petition and constitutes domestic industry.

## **E. Other Issues:-**

## **5. I. Views expressed by Domestic Industry prior to and in the Public Hearing held on 9/7/2003:-**

We are grateful to the Designated Authority for initiating investigations into dumping of Methylene Chloride in the Indian market by the exporters from European Union, South Africa and Singapore and recommending interim anti dumping duties. The preliminary findings notified by the Designated Authority already confirms significant dumping resorted by the exporters from European Union, South Africa and Singapore in the Indian market, which has caused material injury to the domestic industry. We are confident, the further process being followed by the Designated Authority for the final determination of the anti dumping duties shall confirm the preliminary findings and our submissions of significant dumping and injury to the domestic industry.

### **Preliminary Submissions**

The present petition has been filed by M/s. Gujarat Alkalies & Chemicals Limited and supported by Chemplast Sanmar and SRF Limited. The production of petitioner accounts for a significant proportion in the Indian Production.

The industry had earlier suffered serious injury due to increased imports in the year 1999-2000, consequent upon which the industry filed a petition seeking imposition of safeguard duty. It was found by the Director General (Safeguard) that the domestic industry had suffered serious injury in this period. The period investigated by the DG (Safeguard) was 1999-2000. Further, the final findings were notified by the DG (Safeguard) on 15th Dec., 2000. The investigation was initiated on 18th July, 2000. Thus, the period July-Dec., 2000 was the period during which the DG (Safeguard) was conducting investigations. This also had an impact on the price trend in the market and profitability of the domestic industry.

### **Procedure**

The Designated Authority has already followed an elaborate procedure in the present investigations. Notices were sent to known exporters/producers in the subject countries, their Government and importers/users of subject goods in India. Only following exporters responded to the Designated Authority.

1. LII Europe GmbH, European Union
2. Ineos Chlor Ltd., European Union
3. Bayer (Pty) Ltd., South Africa
4. Ethylene Glycols (Singapore) Pvt. Limited, Singapore

None of the importers and consumers of the subject goods in India responded to the Designated Authority.

### **Product Under Consideration**

Product under consideration in the present investigation is Methylene Chloride. Methylene Chloride is a solvent belonging to the Chloromethane family of solvents. Methylene Chloride is a colorless, volatile liquid with chloroform – like odour. The chemical formula of Methylene Chloride is  $CH_2Cl_2$ . There are two technologies for the production of Methylene Chloride and the product produced through the two routes has similar technical specifications.

Methylene Chloride is classified under Customs sub-heading 2903.12 of Chapter 29 under the Customs Tariff Act and 29031200 under ITC. Methylene Chloride is used in photo films, bulk drugs and pharmaceutical industries. It is also consumed for manufacture of foam, resin casting, fumigants and agrochemical. It is used as a paint stripper also.

### **Like Article**

There is no significant difference in Methylene Chloride produced by the domestic industry and imported from European Union, Singapore and South Africa. These are comparable in terms of their features such as physical characteristics, manufacturing process and technology, functions and uses, specifications, distribution and marketing, pricing and tariff classification of goods. The consumer can use Methylene Chloride imported from the subject countries and Methylene Chloride produced by the domestic industry interchangeably. There is no significant argument made by any opposing interested parties disputing that the two are like articles.

Petitioner submits that Methylene Chloride produced by the domestic industry and imported from EU, South Africa and Singapore are like articles within the meaning of the Rules.

### **Standing**

The petition was filed by M/s. Gujarat Alkalies & Chemicals Ltd. for and on behalf of the domestic industry. Petition was supported by M/s. Chemplast Sanmar and M/s. SRF Limited. Petitioner accounts for a major proportion of Indian production. Petitioner, therefore, constitutes domestic industry within the meaning of the Rules.

### **Dumping**

The Designated Authority sent notices to all known producers and exporters of the subject goods in European Union, South Africa and Singapore. Some of the exporters have responded to the Designated Authority. However, none of them has furnished complete information in the form and manner prescribed. With regard to specific exporters, we submit as under:

M/s. LII Europe GmbH, European Union

The company has filed incomplete response, grossly lacking in vital data/information required for determination of normal value. Specifically, the company has not provided transaction-wise sales in the domestic market, cost of production of the subject goods, expenses incurred after FOB. Such being the situation, it can not be determine whether the sales made in the domestic market were in the ordinary course of trade. With regard to information on cost of production, petitioner submits that the non-providing of this vital information is sufficient to hold that the exporter has not sufficiently cooperated with the Designated Authority. Such being the case, petitioner submits that the Designated Authority is fully justified in determining normal value on the basis of BIA in accordance with the Rules.

With regard to export price calculation, the Designated Authority has calculated weighted average export price. Petitioner submits that it is the practice of the Designated Authority for non-cooperative exporters to consider lowest export price amongst known import transactions. This will not only ensure that the cooperative exporters are not at disadvantage as compared to non cooperative exporters, but also would encourage more exporters to respond to the Designated Authority and provide information. This would also ensure that non-cooperative exporters are not rewarded for their non-cooperation.

In view of the above, petitioner submits that the export price may please be determined considering lowest export price from transaction-wise information on imports already available on record.

LII also mentioned during the public hearing on 9/07/2003 that the freight rate from Europe to Kandla, India was working out to USD 83.53/MT approx. This need be considered to arrive at Ex-Factory export price for LII and other European manufacturers.

M/s. Ineos Chlor Ltd., European Union

The questionnaire response filed by this company also is grossly deficient as stated in the preliminary findings also. The company has not provided vital information, which

is sufficient for rejection of the questionnaire response. The normal value is, therefore, required to be determined on the basis of information provided by the petitioner.

With regard to determination of export price, petitioner reiterates submissions made hereinabove that the lowest price from transaction-wise information on record needs to be considered.

#### Bayer (Pty) Ltd., South Africa

The company has mentioned that they have not exported any material in period of investigation. Such being the case, the exporter is not an interested party at present. The preliminary finding may kindly be confirmed subject to submissions hereinabove that the dumping margin is required to be determined considering lowest export price.

#### Ethylene Glycols (Singapore) Pvt. Limited, Singapore

The company stated that they have not exported Methylene Chloride to India during the period of investigation. Such being the case, the exporter can not demand separate assessment of dumping margin.

With regard to claim of some of the exporters that there are no exports from their respective countries in period of investigation, petitioner submits that there is sufficient evidence on record, provided by the petitioner, which has been procured from Kandla Port Authorities, which clearly shows that goods have been imported from South Africa and Singapore.

#### Injury And Causal Link

Petitioner has already provided sufficient information to establish that the domestic industry has suffered material injury due to dumping of subject goods from the subject countries. Following parameters establish injury to the domestic industry, information for which was earlier provide and is being relied upon. These have been reflected by the Designated Authority in the preliminary findings.

#### **Substantial increase in volume of dumped imports**

Imports of Methylene Chloride have increased significantly from the subject countries in absolute terms as also in relation to production and consumption in India, after showing considerable decline in 2000-01. The high level of imports in 1999-2000 are to be seen alongwith the recommendations of the DG(Safeguards).

#### **Export price from Subject Countries**

Export price from subject countries has declined in the present investigation period after improving in between the safeguard investigation period and present investigation period.

### Economic Parameters Affecting The Domestic Industry

#### **Production And Capacity Utilization**

Production and hence capacity utilization of the domestic industry has declined in the present investigation period after improving between 1998-2001 (there is no addition to the capacities). Further, even though the petitioner has been operating the plant at higher capacity, the same has not helped the domestic industry, as the domestic industry has suffered financial losses.

#### **Natural and potential decline in sales:**

Sales volumes of domestic industry declined in the investigation period after improving between 1998-2001.

#### **Inventories:**

Stocks have increased over the years. The increase in inventories is in spite of reduction in production by the domestic industry.

#### **Cost of Production:**

Even though unit cost of production has declined (between 2000-01 and 2001-02), the same has increased as compared to 1999-2000.

#### **Selling Price:**

Selling Price has declined (between 2000-01 and 2001-02), the same has increased as compared to 1999-2000. The changes in the selling price were more than the changes in the cost of production, resulting in higher financial losses to the domestic industry.

#### **Profits:**

The domestic industry has been suffering for a long due to cheap imports in the Country. Profitability of the domestic industry has deteriorated over the years. Further, the profitability has deteriorated significantly inter-se in the investigation period. From a situation of profits in the beginning of the investigation period, the industry has been left to a situation of severe losses towards the end of the investigation period. Further, the losses increased gradually within the investigation

period. As a result, the overall losses to the domestic industry in the investigation period were higher than previous years. Further, the profitability deteriorated significantly inter-se investigation period.

**Market share:**

- a. Share of the subject countries in imports of the subject goods represents a very high proportion of imports of the subject goods in India.
- b. Share of the subject imports in demand of the product in the country increased significantly, after showing a considerable decline in 2000-01. As stated earlier, comparison with reference to 1999-2000 has to be done considering the final findings of the DG (Safeguards) that the domestic industry suffered serious injury in that period.

**Actual and potential negative effects on cash flow:**

Continuous losses being suffered by the domestic industry are very adversely affecting the cash flow the domestic industry.

**Employment:**

Even though the petitioner is a public sector company with little control to reduce employment, the petitioner is forced to take all possible steps to keep employment at the lowest level.

**Productivity:**

Productivity of the domestic industry has declined in the investigation period as compared to previous year after improving in 2000-01.

**Return on investments:**

Return on investments has remained negative. Even though the domestic industry had positive return on investment in the beginning of the investigation period, the same became negative and deteriorated thereafter towards the end of the investigation period.

**The magnitude of the margin of dumping:**

The dumping margin from subject countries are not only more than de-minimus but also very significant. The impact of dumping on the domestic industry is significant.

**Growth:**

The imports are retarding the growth of the domestic industry. Even when the demand has increased significantly between 1998-99 and investigation period, the sales of the domestic industry have declined with reference to the previous year.

**Ability to raise capital investments:**

The petitioner is making all attempts to reduce its loan liability in an effort to reduce its interest burden. However, the adverse performance of the petitioner on this product (coupled with other products such as Caustic Soda) are major hurdles to the petitioner from seeking loans at lower rates of interest. Ability to raise funds, for the petitioner, is, therefore, getting adversely affected.

All the parameters, collectively and cumulatively, establish that the domestic industry has suffered material injury from the dumped imports. In view of the foregoing, it is submitted that the preliminary findings is required to be confirmed subject to the above.

**Duty in US \$ term:**

The Designated Authority has recommended anti-dumping duty in terms of US \$. It is submitted that the final duties may please be recommended in terms of US \$ only so that erosion in the quantum of protection does not take place.

**Domestic Industry's Rejoinder on submissions made by the EU:**

1. It is factually incorrect to state that Safeguard investigations are still open with regard to this product as the final findings have already been issued by the DG Safeguard.
2. Even when the Government of India has not imposed Safeguard Duty on this product, it does not imply that serious injury was not caused to the domestic industry as a result of increased imports. DG Safeguard, which is the statutory Authority with regard to the issue of serious injury, had clearly held that the domestic industry was seriously injured.
3. Assuming that the domestic industry is operating at full capacity or their sales are increasing, it does not follow that there was 'no injury' to the domestic industry.
4. Assuming that imports have been made to meet the demand, the same does not imply imports at injurious price.
5. The information filed by the domestic industry clearly shows that there was significant price undercutting and underselling, resulting in deterioration in profitability, clearly resulting in injury to the domestic industry. A number of

other parameters showing injury to the domestic industry have earlier been brought out by the petitioner and the same is relied upon.

6. It would thus be seen that there is no merit in the arguments advanced by the EU, meriting reconsideration of the preliminary findings. The petitioner requests that the preliminary findings may kindly be confirmed and definitive duties recommended for a period of five years.

## **II. Views expressed by Exporters prior to and in the Public Hearing on 9/7/2003:-**

### M/s LII Europe GmbH

1. M/s LII Europe have circulated copies of their response to the exporters questionnaire at the time of the oral hearing to all interested parties.
2. They have also submitted copies of "ICIS-LOR Reports" on spot prices of Methylene Chloride.

## **III. Views expressed by importers prior to and in the Public Hearing:-**

None of the known importers responded to the questionnaire forwarded by the Authority or submitted views at the time of the oral hearing.

## **IV. Views expressed by the Delegation of the European Commission :**

The European Commission would like to support the arguments presented by the exporters subject to this proceeding and to draw the attention of the Designated Authority of the following points:

- This anti-dumping investigation has been initiated while there is an existing safeguard investigation still open;
- The European Commission has raised its concerns, amongst others within consultation under Article 12.3 of the WTO Safeguard Agreement, regarding the shortcomings of the injury analysis made in the safeguard investigation. Given that India has not imposed measures in this safeguard case it can only be presumed that no injury was found. The precise findings should be disclosed immediately;
- In the present AD case, it is clear from the disclosure of preliminary findings that the petitioner is operating at full capacity and thus questions must immediately be asked as to whether injury exists here. With the domestic industry operating at full capacity it is also clear that the market needed the additional imports to satisfy demand.

- Data provided for sales of other domestic producers shows that these have increased their sales and it is therefore necessary to also examine whether other factors are causing injury.
- As the domestic producer are operating at full capacity and increasing their sales any injury from imports can only be from price effects but no information has been provided regarding price undercutting, price depression, underselling and profitability. Thus, it can be said that no proof of injury has been provided. Information on prices should be disclosed immediately either in terms of actual prices or in indexed form.

### **Examination by the Authority:**

1. Final Findings were issued by DG Safeguards in the safeguard investigations in which serious injury was established to the domestic industry.
2. The Authority notes that although the domestic industry has optimally utilised its capacity, it has been prevented from recovering a reasonable price and consequently suffered financial losses. Though imports may have been effected to meet the requirements of demand, what is of relevance is the price at which such imports have been effected. If the exporters wanted to supply the subject goods to meet the requirement in the Indian market that could have been done by exporting the requirements at a price equivalent to their normal values but not at dumped prices.
3. The price effect of imports have been examined by the Authority in the relevant paras of these Final Findings. The domestic industry has been forced to reduce its selling prices to respond to the low import prices in the market. The domestic selling prices significantly declined in the first quarter of the POI (April-June, 2001) from Rs \*\*\*/MT to Rs \*\*\*/MT in the fourth quarter (January -March 2002) i.e., by 18% as a consequence of decline in import prices from the subject countries/territory.

## **F. DUMPING:-**

The Authority sent questionnaires to the known exporters from the subject countries/territory in terms of section 9 A (1). The deficiencies in the exporters responses were brought out in the Preliminary Findings to which the exporters did not respond with the information called for. There are no claims made by the exporters in South Africa and Singapore with regard to Normal Value and Export Price. The Authority has therefore been constrained to rely upon constructed price and best available information with regard to Normal Value and Export Price respectively

### **(A) Normal Value**

## 1. European Union

### (A) LII Europe,GmbH

This exporter has given an incomplete response which is grossly lacking in vital data/information. In the absence of transaction wise information on domestic sales, the cost of production of the subject goods and costs incurred after fob, the Authority is not in a position to determine the sales price in the ordinary course of trade in the domestic market of the exporter. The Authority is therefore unable to come to any material conclusion with regard to normal value.

The petitioner has stated that Chlor Alkali is a leading journal publishing information with regard to a number of products one of which is Methylene Chloride. The petitioner has been able to trace the selling price of Methylene Chloride in the European Union with the help of this journal. However, it is noted that the prices in this journal are export prices and hence indicative only.

It has been submitted by the petitioner that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and methanol on the basis of the prevailing prices in European Union and have constructed cost of production for the producers in this territory, considering consumption norms of the Indian producers which, as has been claimed, cannot vary significantly for the Indian producers and producers in the subject countries.

The normal value as per the constructed cost method is therefore considered to be USD \*\*\*/MT or Rs \*\*\*/MT for the 'bulk' product and USD \*\*\*/MT or Rs \*\*\*/MT for the 'packed' product for LII Europe,GmbH at an average exchange rate during the POI of 1USD=Rs.47.76.

### (B) Ineos Chlor

The Authority notes that the cost of production stated by the exporter for the product under investigation is USD \*\*\*/MT. The selling price for the bulk product in the EU market is USD \*\*\*/MT and that for packed product is USD \*\*\*/MT. The ex-factory domestic selling price stated for the Bulk product sold in the domestic market is USD \*\*\*/MT while that for packed product is USD \*\*\*/MT. The adjustments considered for arriving at the ex-factory prices for both bulk and packed grades have not been furnished and are hence not known.

The export price for the bulk product to India is USD \*\*\*/MT and that for packed product is USD \*\*\*/MT. The ex-factory export price to India for bulk is US\*\*\*/MT

while that for packed is USD\*\*\*/MT. The adjustments considered for arriving at the ex-factory export prices for both bulk and packed grades have not been furnished and are hence not known.

The deficiencies in the exporters response have been brought out in Para 4(B) of the Preliminary Findings. Considering the ex-factory normal value of USD \*\*\*/MT claimed for the bulk product and ex-factory export price of USD \*\*\*/MT claimed by the exporter, the dumping margin for Methylene Chloride (bulk) is USD\*\*\*/MT (which is 43.41% of the export price).

Considering the ex-factory normal value of USD \*\*\*/MT claimed for the packed product and ex-factory export price of USD\*\*\*/MT claimed by the exporter, the dumping margin for Methylene Chloride (pack) is USD \*\*\*/MT (which is 21.68% of the export price).

However, due to the deficiencies in the exporters response brought out in Para 4(B) of the Preliminary Findings, the information/data submitted by the exporter is not acceptable and the Authority has been constrained to reject the exporters response for the purpose of these Final findings. It has been submitted by the petitioner that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and methanol on the basis of the prevailing prices in European Union and have constructed cost of production for the producers in this territory, considering consumption norms of the Indian producers which, as has been claimed, cannot vary significantly for the Indian producers and producers in the subject countries.

The normal value as per the constructed cost method is therefore considered to be USD \*\*\*/MT or Rs \*\*\*/MT for the 'bulk' product and USD \*\*\*/MT or Rs \*\*\*/MT for the 'packed' product for M/s Ineos Chlor at an average exchange rate during the POI of 1USD=Rs.47.76.

## **2. Singapore**

For Singapore the petitioner submits that prices in the domestic market are not published in Chlor Alkali. There is no other reasonably sufficient evidence of the prices in the domestic market in Singapore. The petitioner has therefore claimed the normal value on the basis of constructed cost of production.

It has been submitted that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and methanol on the basis of the prevailing prices in European Union, South Africa and Singapore and have constructed cost of production for the

producers in these countries, considering consumption norms of the Indian producers which, as has been claimed, cannot vary significantly for the Indian producers and producers in the subject countries. The normal value as per the constructed cost method comes USD \*\*\*/MT for Singapore.

The normal value in Singapore is therefore considered to be USD \*\*\*/MT or Rs \*\*\*/MT for the 'bulk' product and USD \*\*\*/MT or Rs \*\*\*/MT for the 'packed' product at an average exchange rate during POI of 1USD=Rs 47.76.

### **3. South Africa**

As far as M/s Bayer (Pty) Ltd., is concerned the Authority in its reply to them had noted that the Preliminary Findings Notification had merely observed that exporters from South Africa have not responded to the questionnaire. There was no reference to M/s Bayer (Pty) Ltd. The Preliminary Findings Notification mentions that Bayer (Pty) Ltd. in the Republic of South Africa is not a manufacturer of Methylene Chloride.

It was clarified that in their response to the Initiation, Bayer had stated that no product was exported from South Africa to India during the POI. This has been reported in the Preliminary Findings. Annexure 5 of the petition shows imports of the subject goods from South Africa. The Authority has noted that a quantity of 1501 MT of the subject goods was imported from South Africa during the POI.

The Authority observes that the exporters from South Africa have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers the exporters to be non-cooperative and has proceeded on best available information.

For South Africa the petitioner submits that prices in the domestic market are not published in Chlor Alkali. There is no other reasonably sufficient evidence of the prices in the domestic market in this country. The petitioner has therefore claimed the normal value on the basis of constructed cost of production. It has been submitted that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and methanol on the basis of the prevailing prices in European Union, South Africa and Singapore and have constructed cost of production for the producers in these countries, considering consumption norms of the Indian producers which, as has been claimed, cannot vary significantly for the Indian producers and producers in the subject countries. The normal value as per the constructed cost method comes to USD \*\*\*/MT or Rs \*\*\*/MT for South Africa.

The normal value in South Africa is therefore considered to be USD \*\*\*/MT or Rs \*\*\*/MT for the 'bulk' product and USD \*\*\*/MT or Rs \*\*\*/MT for the 'packed' product at an average exchange rate during POI of 1USD=Rs .47.76.

## **B. Export Price**

### **1. European Union**

The weighted average cif price as per the information available with the Authority is determined at Rs \*\*\*/MT for the European Union. The ex-factory export price has been determined after taking USD \*\*\*/MT as ocean freight, \*\*\*% as marine insurance charges, commission @ \*\*%, \*\*% for inland freight and \*\*\*% for port expenses as per the petitioners information. After adjustments on these accounts the ex- factory fob export price is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT for the European Union at an average exchange rate of 1USD=Rs 47.76 during the POI.

The petitioner has stated that bulk and loose shipment of imports can be handled only at Kandla Port in the country, as the special facilities required for its unloading and further shipment are available only at this port. It is seen that a quantity of \*\*\*MT of the subject goods have been imported at Kandla port from the EU at a cif price of Rs \*\*\* or Rs \*\*\* (USD \*\*\*/MT). After adjustments on the aforesaid accounts the ex-factory fob export price for bulk shipments of the subject goods is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT for the European Union at an average exchange rate of 1USD=Rs 47.76 during the POI.

A quantity of \*\*\* MT of imports of the subject goods at ports other than Kandla of a cif value of Rs \*\*\* or Rs \*\*\* (USD \*\*\*/MT) were imported. After adjustments on the aforesaid accounts the ex- factory fob export price for packed shipments of the subject goods is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT for the European Union at an average exchange rate of 1USD=Rs 47.76 during the POI

### **2. South Africa**

The weighted average cif price as per the information available with the Authority is determined at Rs \*\*\*/MT for South Africa. The ex-factory export price has been determined after taking USD \*\*\*/MT as ocean freight, \*\*\*% as marine insurance charges, commission @ \*\*%, \*\*% for inland freight and \*\*\*% for port expenses as per the petitioners information. After adjustments on these accounts the ex- factory fob export price is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT for South Africa at an average exchange rate of 1USD=Rs 47.76 during the POI.

### **3. Singapore**

The weighted average cif price as per the information available with the Authority is determined at Rs \*\*\*/MT for Singapore. The ex-factory export price has been determined after taking USD \*\*\*/MT as ocean freight, \*\*\*% as marine insurance charges, commission @ \*\*%, \*\*% for inland freight and \*\*\*% for port expenses as per the petitioners information. After adjustments on these accounts the ex-factory fob export price is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT for Singapore at an average exchange rate of 1USD=Rs 47.76 during the POI.

## **B. Dumping margin**

### Authority's Position:-

The Authority followed the consistent practice of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I to the anti-dumping rules. Dumping margin has been determined on the basis of a fair comparison of Export Price with the Normal Value in pursuance of the principle laid down in Para 6 of Annexure-1 to the Rules.

### **European Union**

#### (1) LII, Europe GmbH

Considering the normal value at USD \*\*\*/MT and the ex-works export price at USD \*\*\*/MT for bulk shipments, the dumping margin determined by the Authority comes to USD \*\*\*/MT (which is 85.32% of export price).

Considering the normal value at USD \*\*\*/MT /MT and the ex-works export price at USD \*\*\*/MT for packed shipments, the dumping margin determined by the Authority comes to USD \*\*\*/MT (which is 55.75% of export price).

#### (2) Ineos Chlor

Considering the normal value at USD \*\*\*/MT and the ex-works export price at USD \*\*\*/MT for bulk shipments, the dumping margin determined by the Authority comes to USD \*\*\*/MT (which is 85.32 % of export price).

Considering the normal value at USD \*\*\*/MT and the ex-works export price at USD \*\*\*/MT for packed shipments, the dumping margin determined by the Authority comes to USD \*\*\*/MT (which is 55.75 % of export price).

### **South Africa**

Considering the normal value at USD\*\*\*/MT and the ex-works export price at USD \*\*\*/MT for the 'bulk' product, the dumping margin determined by the Authority comes to USD \*\*\*/MT(which is 99.92 % of export price).

## **Singapore**

Considering the normal value at USD \*\*\*/MT and the ex-works export price at USD \*\*\*/MT for the 'bulk' product, the dumping margin determined by the Authority comes to USD \*\*\*/MT (which is 62.42 % of export price).

## **G. INJURY:-**

Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such article..." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

Annexure II(iii) under Rule 11 supra further provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, only when it determines that the margin of dumping established in relation to the imports from each country is more than two per cent expressed as a percentage of export price and the volume of the imports from each country is three per cent of the imports of the like article or where the export of the individual countries is less than three per cent, the imports cumulatively account for more than seven per cent of the imports of the like article, and cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

The Authority notes that the margin of dumping and quantum of imports from the subject countries/territory are more than the limits prescribed in Rule 11 Supra.

For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilisation, quantum of sales, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with

Annexure II (iv) of the rules supra, the details of which as brought out in the Preliminary Findings are reproduced below:-

a. Quantum of Imports

Qty : kg

S.No.	1998-99	1999-2000	2000-01	April '01-March'02) (Kandla port and DGCIS)
<b>Individual country imports</b>				
European Union	74,87,054	10,175,660	32,23,999	6,729,090
South Africa	---	25,378	---	1,501,000
Singapore	12,600	---	1000	5,20,000
Ineos Chlor data				45,51,130
LII Europe data				42,18,200
Total (subject exporters )				87,69,330
Total subject Countries	74,99,654	102,01,038	32,24,999	107, 90, 330
Other sources	17,69,054	1,80,496	6,29,701	6,49,475 (as per DGCIS)
Total imports	92,69,054	103,81,534	38,54,700	114, 39, 805

The Authority notes that DGCIS data shows no imports from South Africa and Singapore. The DGCIS data shows lower imports from the EU as compared to the data from Kandla port.

The increase in the total imports of Methylene Chloride from the subject countries was significant in the POI as compared with the quantum of imports in 2000-01. The subject countries accounted for 94.32% of the total imports in the POI.

The share of EU, South Africa and Singapore in total imports was 76.65%, 13.12% and 4.54% respectively in the POI.

b. Production and Capacity Utilisation

The production and capacity utilisation of the petitioner was as follows:-

GACL (MT)	1998-99	1999-2000	2000-01	2001-02 (POI)
Installed Capacity	8910	8910	8910	8910
Production	8572	8721	9559	8975
Capacity Utilisation (%)	96.21	97.88	107.28	100.73

The quarterwise projection based on the monthwise details on production and capacity utilisation of the domestic industry is given in the table below:-

	Quarter 1 Apr.-June-01	Quarter 2 July - Sept. 01	Quarter 3 Oct.-Dec. 01	Quarter 4 Jan.-Mar.-02

Installed Capacity	2227	2227	2228	2228
Production	2159	2191	2463	2162
Capacity Utilisation	96.95	98.38	110.55	97.03

From the above, it is seen that production has declined. The petitioner in order to distribute fixed costs and minimize injury operated at high capacity which however is not an indicator of improved performance of the petitioner.

### c. Sales and Market Share

Qty (MT)

	1998-99	1999-2000	2000-01	2001-02 (POI)
Sales of Petitioner	8207	8152	9415	9158
<b>Sales of other dom. Producers</b>				
Chemplast Sanmar	14,059	12,822	14,396	14,557
SRF	2465	3306	6586	7448
Total Sales	24731	24280	30397	31163
Demand	34,000	34,661	34,252	42,603
Share of petitioner	24.14%	23.52%	27.47%	21.49%
Share of petitioner + supporter in demand	65.49%	60.51%	69.51%	55.66%
Share of imports in demand	27.26%	29.95%	11.25%	26.85%
Share of dumped imports	22.06%	29.43%	9.41%	25.33%

It is seen that total and dumped imports in the POI (2001-02) have increased in absolute terms as compared to the previous year (2000-01). While the market share of imports from the subject countries have increased in demand the share of the domestic industry has declined in the POI. The petitioner's share in demand has fallen sharply from 27.49% in 2000-01 to 21.49% in the POI.

### d. Price undercutting and price depression

Rs/kg

Year	Sales Realisation Bulk Packed (Rs/kg)		Landed Price of Imports South EU Africa Singapore Others				
	1998-99	***	***	***	---	***	***
1999-2000	***	***	***	***	---	***	
2000-2001	***	***	***	---	***	***	
2001-02 (POI)	***	***	*** (wt ave) bulk packed	***	***	***	
			***				***
Undercutting %			6.68%	(-.04%)	12.37%	5.44%	(-)

It is evident from the above table that the exporters from the subject countries/territory have reduced their prices significantly in the POI. The domestic industry has been forced to reduce its selling prices to respond to the low import prices in the market. The domestic selling prices significantly declined in the first quarter of the POI (April-June, 2001) from Rs \*\*\*/MT to Rs \*\*\*/MT in the fourth quarter (January - March 2002) i.e., by 18% as a consequence of decline in import prices from the subject countries. Hence the price effect of imports is established from the above.

The Authority notes from the submissions made by M/s Ineos Chlor that they have exported a quantity of 3300.13 MT of the bulk grade of a cif value of USD \*\*\* (USD \*\*\*/MT) and 1251 MT of the packed grade of a cif value of USD \*\*\* (USD \*\*\*/MT). The Authority notes from the submissions of M/s LII Europe that they exported a quantity of 4218.2 MT of the bulk product of a cif value of USD \*\*\* (USD \*\*\*/MT). The position regarding price undercutting based on the submissions made by the said exporters is as follows:

Rs./MT

Year	Bulk Packed		Landed Price of Imports (EU) Bulk Packed Price Underselling %			
	Bulk	Packed	Bulk	Packed	Bulk	Packed
Non-injurious price of domestic industry	***	***				
Ineos Chlor ( EU)			***	***	34%	9.54%
LII Europe			***	---	38%	---

e. Profitability:-

(Rs. per MT)

Petitioner	1999-2000	2000-01	2001-02 (POI)
Cost of Production	***	***	***
Selling price	***	***	***
Trend Indexed	100.00	123.65	108.67
Profit & Loss	_* **	_* **	_* **
Trend Indexed	-100.00	-112.05	-133.63

From the above table it is seen that even though the unit cost of production has declined (between 2000-01 and 2001-02) the selling price has declined more than decline in the unit cost of production. A quarterwise projection based on the month wise details on sales volume, selling price, cost of production and profit and loss of the petitioner shows that the selling price and losses incurred by the petitioner have increased as shown below: -

	Quarter 1 Apr.-June-01	Quarter 2 July - Sept. 01	Quarter 3 Oct.-Dec. 01	Quarter 4 Jan.-Mar.-02
Sales Volume	2270	2145	2431	2312
Selling Price	***	***	***	***
Cost of Production	***	***	***	***
Profit/Loss	***	_-***	_-***	_-***

The profitability of the domestic industry has deteriorated very significantly inter-se in the investigation period. From a situation of profits in the beginning of the investigation period, the industry has been left to a situation of losses towards the end of the investigation period. Further, the losses increased gradually within the investigation period.

f. Closing stocks:-

1998-99	1999-2000	2000-01	2001-02
64	472	237	248

The petitioner's closing stocks have increased.

**g. Return On Investments**

Rs. Lacs

	1999-2000	2000-01	2001-02
Capital Employed	***	***	***
Profit/Loss	_-***	_-***	_-***
Return on Investment %	_-***	_-***	_-***

h. Cash Flow/Profit

	1999-2000	2000-01	2001-02
Profit/Loss (Rs/Lacs)	***	***	***
Depreciation (Rs/Lacs)	***	***	***
Cash Flow/Profit (Rs/Lacs)	***	***	***
Trend Indexed	100.00	40.88	-0.75

The continuous losses being suffered by the domestic industry are adversely affecting the cash flow of the domestic industry.

### i. Employment

Even though the petitioner is a public sector company with little control to reduce employment, the petitioner is forced to take all possible steps to keep employment at the lowest level. At the same time, the petitioner is forced to resort to minimum wage increase which the petitioner is obliged to under the legal provisions.

### j. Productivity

	1999-2000	2000-01	2001-02
Production (MT)	***	***	***
Production per day (day/MT)	***	***	***
Trend (considering 360 days of production days)	100.00	109.61	102.91

k. Given the previous history of imports and decline in export prices, there would have been further decline in sales had the domestic industry not reduced prices.

l. Imports are retarding the growth of the domestic industry. Growth has been negative in 2002-02 as compared to the previous year even though demand has increased.

## **H. CONCLUSION ON INJURY**

6. In view of the foregoing the Authority confirms the conclusions on injury in Para J of the Provisional Findings and reiterates that:-

- a. the quantum of imports from the subject countries/territory have increased in absolute terms;
- b. the market share of the petitioners have gone down while that of imports has increased;
- c. the petitioners have been forced to match import prices that are below their non-injurious price and net sales realisation resulting in losses

The Authority therefore concludes that the domestic industry has suffered material injury.

### **7. Causal Link**

The Authority holds that the material injury to the domestic industry has been caused by imports from the subject countries/territory that are major exporters of Methylene Chloride to India. The Authority notes that the volume and value of imports of Methylene Chloride from other countries are either de-minimus or the prices are significantly higher. There is no decline in demand of Methylene Chloride in India

which could have contributed to any injury to the domestic industry. While the domestic industry's share in demand has decreased from 69.51% in 2000-01 to 55.66% in 2001-02, the share of dumped imports has increased from 9.41% in 2000-01 to 25.33% in 2001-02. The Authority notes that import prices from the subject countries/territory have undercut the prices of the domestic product forcing the domestic industry to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The material injury to the domestic industry was therefore caused by the dumped imports from the subject countries/territory.

### 8. Anti-Dumping duty imposed:-

The Authority has carefully evaluated the injury caused to the domestic industry on account of dumping of Methylene Chloride and has recommended the amount of anti-dumping duty equivalent to the dumping margin or less, which if levied, would remove injury to the domestic industry. For this purpose, the Authority has compared the non-injurious selling price of the domestic industry with the landed value of imports from the subject countries. Wherever the margin is found to be less than the dumping margin, the Authority has recommended duty lower than the dumping margin.

### 9. FINAL FINDINGS:-

The Authority after considering the foregoing, concludes that:

- a. Methylene Chloride originating in or exported from the European Union, South Africa and Singapore has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered material injury;
- c. material injury has been caused by imports from the subject countries/territory.

10. The Authority recommends imposition of definitive Anti-dumping duty on all imports of Methylene Chloride originating in or exported from European Union, South Africa and Singapore classified under customs sub-heading 2903.12 of Chapter 29 of the Customs Tariff Act and 29031200 of the ITC (HS) Code of the Customs Tariff Act. The anti-dumping duty shall be the amount mentioned in Col.9.

Sl. No	Sub - Heading or Tariff Item	Description of Goods	Specification	Country of Origin	Country Of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1.	2903.12	Methylene Chloride	Bulk	EU	All	Any	Any	118	MT	USD

2.	2903.12	Methylene Chloride	Packed	EU	All	Any	Any	80.9	MT	USD
3.	2903.12	Methylene Chloride	Bulk	All except EU	EU	Any	Any	118	MT	USD
4.	2903.12	Methylene Chloride	Packed	All except EU	EU	Any	Any	80.9	MT	USD
5.	2903.12	Methylene Chloride	Bulk/Packed	South Africa	All	Any	Any	140.18	MT	USD
6.	2903.12	Methylene Chloride	Bulk/Packed	All except South Africa	South Africa	Any	Any	140.18	MT	USD
7.	2903.12	Methylene Chloride	Bulk/Packed	Singapore	All	Any	Any	36.30	MT	USD
8.	2903.12	Methylene Chloride	Bulk/Packed	All except Singapore	Singapore	Any	Any	36.30	MT	USD

11. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

12. Subject to the above, the Authority confirms the preliminary findings dated 24th December, 2002.

13. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

**L.V.SAPTHARISHI**  
DESIGNATED AUTHORITY