

Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan

NOTIFICATION

Final Findings

New Delhi, the 1st March, 2006

Subject : Sunset Review regarding anti-dumping duty imposed on imports of Oxo Alcohols from Poland, Saudi Arabia, Russia, Iran, USA and European Union – Final Findings.

No. 15/9/2003-DGAD – Whereas the Designated Authority, 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 (hereinafter also referred to as the Rules) vide Notification No.15/1/99-DGAD dated 17.7.2000 issued its Final Findings recommending definitive anti dumping duty on imports of certain forms of Oxo Alcohols viz. Normal Butanol (NBA), Iso Butanol (IBA), 2 Ethyl Hexanol (2EHA), Iso Dcecanol, Iso Octanol and Normal Hexanol from Poland, Republic of Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union. Definitive anti dumping duty was imposed vide Customs Notification No.109/2000-Customs dated 18 August 2000. The said notification of Customs was partially modified as per the orders dated 11.4.2001 of Hon'ble Customs, Excise and Service Tax Appellate Tribunal (CESTAT) and as per these orders, *inter-alia*, Normal Hexanol was excluded from the said Customs Notification. The Designated Authority conducted a Mid-term Review of the anti dumping duty imposed and issued final findings vide Notification No.40/1/2001-DGAD dated 26.2.2004 (modified vide Corrigendum dated 16.3.2004) recommending anti dumping duty on imports of Acyclic Alcohols (Oxo Alcohols) viz. 2EHA, NBA, IBA and Iso Octanol (hereinafter also referred to as subject goods) from Poland, Saudi Arabia, Russia, Iran, USA and European Union (hereinafter also referred to as subject countries) falling under Sub Heading 2905 of first schedule of the Customs Tariff Act (as per these recommendations, the anti dumping duty in respect of Republic of Korea and Indonesia was removed). Anti dumping duty as per the recommendations made in the final findings of the Mid-term Review were imposed vide Notification No.57/2004-Customs dated 20th April, 2004.

2. And whereas, M/s. Andhra Petrochemicals Ltd., Visakhapatnam filed a petition substantiating the need for sunset review of the antidumping duty imposed on the subject goods originating in or exported from subject countries and requested for continuation of the anti-dumping duty imposed on certain forms of Oxo Alcohols. The Designated Authority initiated sunset review vide notification dated 6th December 2004 to review whether cessation of anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury on imports of subject goods originating in or exported from subject countries, in accordance with the Customs Tariff (Amendment) Act, 1995 and the Customs Tariff (Identification, Assessment & Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. As per the Customs notification 57/2004 dated 20.4.2004 the anti dumping duty were to be in force for five years from the date of imposition of provisional duty i.e. from 27 January 2000. Having regard to the initiation of sunset review on 6.12.2004 and powers conferred under Section 9A (5) of the Customs Tariff Act, 1975 (51 of 1975), the Central Government extended the period of anti dumping duty up to 26 January 2006 vide Notification No. 84/2005-Customs dated 16 September 2005.

A. The Original Investigation

3. In the original investigation, the Designated Authority had recommended imposition of provisional Anti Dumping duty on imports of certain forms of Oxo Alcohols originating in or exported from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union falling under Sub-heading 2905 of Schedule I of Customs Tariff Act. The preliminary findings were published vide Notification No.15/1/99 dated 3.12.1999 and provisional duty was imposed on the subject goods vide Customs notification No. 6/2000 dated 27th January, 2000. The Designated Authority issued final findings on 17.7.2000 vide No.15/1/99-DGAD and definitive anti dumping duty was imposed by Customs as per notification No. 109/2000-Customs dated 18th August, 2000, which was partially modified as per the orders dated 11.4.2001 of Hon'ble Customs, Excise and Service Tax Appellate Tribunal (CESTAT). The Designated Authority conducted a Mid-term Review of the anti dumping duty imposed and issued final findings vide Notification No.40/1/2001-DGAD dated 26.2.2004 (modified vide Corrigendum dated 16.3.2004) recommending anti dumping duty on imports of Acyclic Alcohols (Oxo Alcohols) viz. 2EHA, NBA, IBA and Iso Octanol from Poland, Saudi Arabia, Russia, Iran, USA and European Union falling under Sub Heading 2905 of first schedule of the Customs Tariff Act (no duty was recommended in respect of South Korea and Indonesia). Anti dumping duty as per the recommendations made in the final findings of the Mid-term Review were imposed vide Notification No.57/2004-Customs dated 20th April, 2004.

B. PROCEDURE:

4. The procedure described below has been followed with regard to this sunset review investigation:-

- i. The Designated Authority sent a copy of the Initiation Notification dated 6th December, 2004 to the Embassies of the subject countries, the Delegation of EC in India, the domestic industry, the exporters and the importers as per the list available and requested them to make their views known in writing within forty days of the notification.
- ii. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to the following known exporters and Embassies of subject countries in India and according to sub-rule (4) of Rule 6 supra, the Authority also sent a questionnaire to the following known exporters to give information within forty days from the date of initiation of this review:

1. M/S ZAK
ZAKLELY AZOTOWE KEOZIERYZN SA,
Skr, POIZWOTA 163, 47220,
KEDZIEEGYN KOZLE
POLAND
2. ARAK PETROCHEMICAL COMPANY
NO.767, ENGHELAB STREET,
TEHRAN,
IRAN.
3. AL-JUBAIL FERTILISERS COMPANY
P.O. BOX - 10046
("SABIC")
AL-JUBAIL 31961
SAUDI ARABIA
4. SAUDI BASIC INDUSTRIES CORPORATION (SABIC)
P.O. BOX – 5101
RIYADH 11422
KINGDOM OF SAUDI ARABIA
5. HULS AKTIENGESELLSCHAFT,
BUILDING 1122/04,
D-45764, MARL,
GERMANY

6. BASF AG
INDUSTRIAL CHEMICAL DIVISION,
CIW/LG – E100, D-67056,
LUDWIGSHAFEN
FEDERAL REPUBLIC OF GERMANY
7. HELM AG,
NORDKANALSTRASSE 28,
D-20097, HUMBURG,
GERMANY
8. CHEMISCHE WERKE HUELS
MARL
FEDERAL REPUBLIC OF GERMANY
9. 9. EASTMAN CHEMICAL COMPANY
P.O. BOX – 431,
KINGSPORT, TENNESSEE 37662
USA
10. ICC CHEMICAL CORPORATION
720 FIFTH AVENUE
NEW YORK 10019, USA.
11. VINMAR INTERNATIONAL LIMITED
16800 IMPERIAL VALLEY DRIVE,
SUITE 499,
HOUSTAN TEXAS
USA
12. UNION CARBIDE CORPORATION
39-OLDREDGEBURY ROAD,
DANBURY, C.T. 06817 0001
USA
13. ARTISTECH CHEMICAL CORPORATION
PASADENA
TEXAS, USA
14. NESTE CHEMICALS
NESTE OXO AB
S 444, STENUNGSUND
SWEDEN
15. OXENO Olefinchemie GmbH
Paul Baumann Str. 1
D-45764 Marl
Paul Baumann, Strabe 1,
Federal Republic of Germany

16. Degussa India Pvt. Ltd.
12 A/A (13th Floor), Bakhtawar
229, Nariman Point
Mumbai – 400 021.
17. M/s. Iran Petrochemicals Commercial Company,
99-A, maker Tower 'F', 9th Floor,
Cuffe Parade,
Colaba,
Mumbai – 400 005
18. Mr. Mohammad Ehtiati,
Chairman and Managing Director,
M/s. Iran Petrochemicals Commercial Company,
No. 1339, Vali Asr Avenue,
Above Vanak Square,
Zip Code 19697,
P.O. Box. 19395/4619,
Tehran, Iran.
19. M/s. NIZHNEKAMSKNEFTEKHIM
NIZHNEKAMSK
Republic of Tatarstan
423550 Russia
General Directorate office

- iii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods;
- iv. The Embassy of the subject countries and the Delegation of EC in India was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, application and questionnaire sent to the exporters was also sent to them;
- v. A questionnaire was sent to the following known importers/users/industry's associations of subject goods in India calling for necessary information in accordance with Rule 6(4);

1. KLJ Plasticisers
KLJ House,
63, Rama Marg,
Near Kirti Nagar,
New Delhi 110 015
2. PCL Oil and Solvents Limited,
M 105, Connaught Place,

- 2nd Floor,
New Delhi 110 001
3. Indo Nippon Chemical Company Limited,
Maker Bhawan 2,
18, New Marine Lines,
Mumbai 400 020
 4. Vision Organics Pvt. Limited,
A/2, Swagat,
Behind Overseas Avenue,
Near Natubhai Centre,
Race Course Circle,
Baroda 390 007
 5. Lubrizol India Pvt. Ltd.,
VIP House, 2nd Floor,
88-C, Old Prabhadevi Road,
Mumbai – 400 025.
 6. API Industrial Corporation
108, Shahzada Bagh Extn.
Old Rohtak Road,
Delhi 110 035
 7. C J Shah & Company
105 Bajaj Bhawan,
10th Floor,
Nariman Point
Mumbai 400 021
 8. Vikas Organics Pvt. Limited,
34/1 Vikas Apartments,
East Punjabi Bagh,
New Delhi 110 026
 9. Payal Polymers,
E 24, Netaji Subhash Marg,
Daryagunj
New Delhi 110 002
 10. Texpo Trading Private Limited
Mustaf Building, 5th Floor,
Sir Pm Road, Mumbai 400 001
 11. Guljoy Industries Limited,
Nahata Bhawan
Chopasani Road
Jodhpur Rajasthan

12. N.K. Polymers & Additives Mfg. Co.
37/2, Ringanwada,
DAMAN
13. SILVASSA PLAST
KLJ HOUSE,
63, Rama Marg,
Najafgarh Road,
New Delhi – 110 015.
14. K.L.J. Polymers and Chemicals Limited
KLJ HOUSE,
63, Rama Marg,
Najafgarh Road,
New Delhi – 110 015.
15. Rachna Plasticizers
Shah House, Plot No.142,
S.V. Road, Khar (W)
Mumbai – 400 052.
16. Indian Plasticizers Manufacturers Association,
“KLJ House”,
63, Rama Marg (Najafgarh Road),
New Delhi – 110 015.

- vi. Some of the interested parties requested for extension of time for submission of response which was allowed by the Authority.
- vii. The Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 26 August 2005. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- viii. The Authority made available to all interested parties the public file containing non-confidential version of evidence submitted by various interested parties for inspection, upon request as per Rule 6(7);
- ix. Arguments made by the interested parties after initiation of the sunset review, subsequent to the public hearing and in response to the disclosures have been appropriately dealt with in these findings;
- x. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 21 November, 2005 vide a disclosure statement. Comments received on the same were examined and the Authority issued another disclosure statement on 9th January 2006 partially revising the earlier disclosures. Comments received in

respect of the both the disclosures have also been duly considered in these findings;

- xi. Cost investigations including spot verification (as deemed necessary) of the domestic industry were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the domestic industry;
- xii. Verification of information furnished by the exporter M/s SABIC and producer M/s SAMAD from Saudi Arabia was conducted by the Designated Authority;
- xiii. *** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xiv. The investigation covered the period from 1st October 2003 to 30th September 2004. The injury analysis covered the three preceding years 2001-2002, 2002-2003 & 2003-04 in addition to the POI.
- xv. Copies of the Initiation Notice were also sent to FICCI, CII, ASSOCHAM etc. for wider circulation.

C. Product under Consideration and Like Article:

5. The original investigation covered the following forms of Oxo alcohols under the scope of the investigation at the initiation stage:

- i. 2-Ethyl Hexanol
- ii. Normal Butanol
- iii. Iso Butanol
- iv. Iso Octanol
- v. Iso Decanol
- vi. Normal Hexanol
- vii. Heptanol
- viii. Nonanol
- ix. Tri Decanol
- x. 2 Propyl Heptanol

In the preliminary finding dated 3.12.99, the Authority decided to restrict the investigation only to Normal Butanol, Iso Butanol, Iso Decanol, Iso Octanol, 2- Ethyl Hexanol and Normal Hexanol. The Authority decided to restrict the investigation to these types of Alcohols on the ground that these were the only forms which were either being produced by the domestic industry or being imported or both during the investigation period. This position was reiterated by the Authority in the final findings dated 17.7.2000.

Consequent upon the orders of the CESTAT (formerly CEGAT) in an appeal, Anti Dumping duty was made applicable on the following five forms of Oxo Alcohols:

- i. Normal Butanol
- ii. Iso Butanol
- iii. 2-Ethyl Hexanol
- iv. Iso Octanol
- v. Iso Decanol

In the Mid term review findings notified vide Notification No.40/1/2001-DGAD dated 26.2.2004 (which were modified vide Corrigendum dated 16.3.2004) the Designated Authority recommended anti dumping duty on imports of Acyclic Alcohols (Oxo Alcohols) viz. 2EHA, NBA, IBA and Iso Octanol. In the present sunset review the Authority has treated product under consideration as: “Following Acyclic Alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives, known as Oxo Alcohols in the commercial and technical parlance and defined under customs sub-heading No. 2905 of Schedule I of the Customs Tariff Act, 1975:-

- i. 2-Ethyl Hexanol (2EHA)
- ii. Normal Butanol (NBA)
- iii. Iso Butanol (IBA)
- iv. Iso Octanol”,

The subject goods are covered under Sub-Heading No.2905 of the First Schedule of the Customs Tariff Act. These classifications, however, are indicative only and are in no way binding on the scope of the present review investigation. It has been argued by the domestic industry that Indu Nissan Oxo Chemical Industries has resumed production and sale of Iso Decanol and therefore, this may be included within the scope of the product under consideration. Further, the Authority has treated Nonanol and Iso Nonanol as like article in the second investigation of Oxo Alcohols and therefore, Nonanol and Iso Nonanol should also be included in the scope of product under consideration. It has been argued by the exporter, M/s SABIC and importer viz. IPMA and Lubrizol India Pvt. Ltd. that since anti dumping duties are being applied at present only on 2EH, IBA, NBA and Iso Octanol, the scope of the Sunset Review will be restricted only to these four Oxo Alcohols. The Authority noted that M/s Indu Nissan had filed a letter dated 16.1.2005 informing that they have started commercial production in January 2005. The Authority found that M/s Indu Nissan had suspended production for a considerable period dating back to the year 1999. The period of investigation for this review is October 2003 to September 2004, during which Indu Nissan was not in production. Information regarding cost of production or any other injury parameter concerning Indu Nissan has neither been furnished nor is available. The authority does not find it justifiable to include Iso Decanol in the scope

of product under consideration at this stage. As regards request of domestic industry to include Nonanol and Iso Nonanol, the authority is of the view that the present Sunset Review is to examine whether cessation of the existing anti dumping duty is likely to lead to continuation or recurrence of dumping and injury. There is no existing anti dumping duty on Nonanol and Iso Nonanol as per the original investigation and the Mid-term Review. Thus the authority does not find any justification to include Nonanol and Iso Nonanol in the scope of the product under consideration. The Authority, therefore, has held the product under consideration as under:

“Following Acyclic Alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives, known as Oxo Alcohols in the commercial and technical parlance and defined under customs sub-heading No. 2905 of Schedule I of the Customs Tariff Act, 1975:-

- i. 2-Ethyl Hexanol (2EHA)
- ii. Normal Butanol (NBA)
- iii. Iso Butanol (IBA)
- iv. Iso Octanol”,

(hereinafter referred to as subject goods)

There are no other arguments to the contrary as regards like article. The Authority, therefore, has held the Oxo Alcohols viz. 2EHA, NBA and IBA produced by the domestic industry as like article to the subject goods being imported from subject countries.

D. Domestic Industry :

6. Oxo Alcohols Industries Association represented the domestic producers, viz., Messrs Indu Nissan Oxo Chemical Industries Limited, Mumbai; National Organic Chemical Industries Ltd., Mumbai and Andhra Petrochemicals Ltd., Hyderabad in the original investigation. M/s. Indu Nissan Oxo Chemical Industries Ltd., Mumbai and M/s. NOCIL, Mumbai have suspended production of the subject goods. M/s Indu Nissan have stated to have resumed production in January 2005. However, no information regarding production details, costs, other injury parameters have been furnished for the POI as they were not in production during the period. M/s. Andhra Petrochemicals Ltd.(APL), Visakhapatnam continues to produce the subject goods. They represented the domestic industry in the Mid-term Review concluded vide final findings Notification dated 26.2.2004 and have also made the application for this Sunset Review. The Authority has considered the applicant M/s

Andhra Petrochemicals Ltd. to represent the domestic industry in accordance with the Rules supra.

E. Initiation of the Review, Responses received and Arguments raised:

7. In response to the initiation, responses have been made by the following:

a) Exporters:

- i. M/s Saudi Basic Industries Corporation (SABIC)- exporter and M/s Al Jubail Fertilizer Company (SAMAD and now known as Al Bayroni)-producer from Saudi Arabia,
- ii. M/s BASF AG, Germany informed that they did not ship any of the products under investigation into India from the subject countries, before and after opening of the case and during the validity of the measures. However, as a formal procedure, BASF would like to reserve its right to lodge a newcomer review in case of future shipments.

b) Importers/ Association:

The following importers/Association filed responses:

- i. Indian Plasticizers Manufacturers Association (IPMA)
- ii. KLJ Plasticizers
- iii. KLJ Polymers & Chemicals Ltd.
- iv. Silvassa Plast
- v. Lubrizol India Pvt. Ltd.
- vi. PCL Oil & Solvents Ltd.

c) Domestic Industry

Domestic industry through M/s APL.

F. EXAMINATION OF CLAIMS REGARDING NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN.

8. Domestic Industry's arguments:

- i. It may be observed from the response filed by the exporter that export sales to India has increased seven times, whereas exports to third countries have

- declined. The production, closing stocks, captive transfer of the company has declined. This clearly shows intensified dumping and likelihood of further dumping should the present anti dumping duties be revoked.
- ii. Exports are being made by SABIC to India below the associated normal value. SAMAD is procuring Propylene from its affiliated company. The transfer price considered is clearly apparent associated cost of production. Merely because the producer is able to procure Propylene at the cost of production of the affiliated supplier and because SABIC is not charging full commission (indirect SGA, interest and profit is much higher to the commission being paid), it can not be said that the product is not being exported to India below normal value.
 - iii. Petitioner has drawn attention to Article 2.4.2 and has stated that in the case of SABIC a comparison of weighted average normal value with the export price for the whole of the POI would not be appropriate in a situation where both the normal value and export price have significantly increased within the POI. Petitioner has requested that Designated Authority may determine monthly normal values for the months in which exports to India occurred and compare the same with the export price of the relevant period.
 - iv. Producers from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union were dumping Oxo Alcohols in India. With the imposition of anti dumping duty on imports from these countries, producers in some of the subject countries stopped exporting to India, which clearly shows that these producers could not have exported to India without resorting to dumping. Some of the countries have continued exports to India. However, as would be seen from the estimates of normal value, these exports have been at dumped prices.
 - v. Efforts were made to obtain information about the prices of Oxo Alcohols prevailing in the domestic market of subject countries. However, no reasonable and authentic information could be obtained about the prices of Subject Alcohols in their domestic market. Petitioner also tried to get information about the prices at which the exporters from subject countries might have exported the product under consideration to Countries other than India. The petitioner has not been able to get any authentic information about these prices also.
 - vi. Petitioner has, therefore, determined normal value on the basis of constructed cost of Subject Alcohols in these countries,

Likelihood of dumping - Factors suggesting likelihood of recurrence of dumping

Significant market share of imports:

- vii. Market share of subject imports is already significant. The imports from subject countries have increased. The imports from Saudi Arabia have increased significantly. SABIC is the only producer in Saudi Arabia. Sabic has increased

its export sales to India as is observed from the response. The imports from Saudi Arabia have increased by 192 % even after imposition of duty. The imports from subject countries have increased by 8% in POI of present review investigation.

- viii. In a situation where (a) reduction in anti dumping duties on imports from Saudi Arabia has resulted in steep increase in import volumes; (b) imposition of reasonable level of anti dumping duties has resulted in steep decline in the import volumes; and (c) imports are being reported for that type of alcohol from that country where either there is zero anti dumping duty or very low level of anti dumping duties, it follows that discontinuance of duty would result in flooding of subject goods in the Indian market.

Level of current dumping margin

- ix. Estimates of dumping margin given in these submissions makes it evident that dumping margin from subject countries are not only more than prescribed limits, but also significant. In the previously concluded investigation also, the Designated Authority found significant dumping margin.

Export orientation of foreign producers

- x. Exporters in the subject countries have built capacities far in excess of their domestic demand. Significant production is exported from these sources. As may be observed from the response filed by SABIC, the company has no domestic consumption. Entire production is meant for exports .

Authority's Examination

Normal Value for Saudi Arabia

9. The domestic industry had given estimates of Normal Value for Saudi Arabia in the application for Sunset Review. It has been argued by the exporter from Saudi Arabia and the importer that the domestic industry has adopted a different period for the price of major raw material Propylene and the consumption norm used is high leading to a very high normal value. Further the petitioner has adopted the price of Propylene for Saudi Arabia higher than EU and USA, whereas it should be the lowest for Saudi Arabia, being in Gulf, it does not have to incur the high cost of transportation. Further, for Saudi Arabia, the domestic industry has adopted the price as prevailing in South East Asia, which happened to be the highest. Further, these prices are CFR i.e. delivered prices. The cost of transportation of Propylene from Gulf is quite substantial, about US\$ 200 PMT. The petitioner also did not use the data for Propylene price for the first six months of POI when the prices were considerably

lower than the second half of POI during April – September 2004. For second raw material Syngas also, the petitioner has made an incorrect estimate on the basis of use of Naphtha in order to obtain Syngas. The producer in Saudi Arabia obtained Syngas from natural gas by reaction with steam. The petitioner has based the cost of other raw materials and conversion cost on the basis of the domestic industry's cost. The conversion cost of the domestic industry cannot be extrapolated to other countries without any evidence or justification.

10. M/s Saudi Basic Industries Corporation (SABIC), the exporter and M/s Al Jubail Fertilizer Company (SAMAD), Saudi Arabia, the producer have furnished questionnaire response. The company produces 2EHA. The authority has also conducted verification of the information of the producer and exporter at their plant and office in Saudi Arabia.

11. In response to the verification report and the disclosures, M/s SABIC and producer, M/s SAMAD gave comments raising following issues in the determination of normal value:

(a) The adjustment towards freight on transport of Propylene

The producer sought that the adjustment towards freight on transport of Propylene from Gulf to North East Asia may be revised from US\$ 150 to either US\$ 195 or at least \$170.

(b) Normal Value has to be determined on the basis of export price to third countries

The exporter had no domestic sale of the product under consideration and they had claimed third country export price to be considered as the basis for NV determination. The exporter has contested the reasoning of the DGAD for discarding the third country export price and to determine the normal value on the basis of cost of production (COP) plus SGA and profit. As per the exporter, COP has been adjusted by the authority and on the basis of revised COP, the ordinary course of trade test may be applied to third country export prices. As contended by the exporter, the export price to third country for determination of NV is not rendered unrepresentative because of any changes in the cost of production. The exporter has requested that NV may be determined on the basis of third country export price and it may be incorrect to discard this method and further, if exports to Korea and Pakistan or to any other third country are considered for normal value determination, it will prove that 2EHA was not at all dumped in India.

(c) Profit figure used in CNV is incorrect

As per the exporter, profit for the product concerned for exports to Korea may be taken or alternatively the profit margin of ***% instead of ***% determined by the authority be taken.

12. The issues raised by the exporter were examined in detail as under:

i) The Cost of production for 2EHA

As per the response, the producer/exporter did not make any domestic sales of 2EHA in Saudi Arabia. Exports are made by SABIC who furnished information regarding exports to India and to third countries viz. Iran, Pakistan, South Africa, Republic of Korea and Nepal. It had been informed by the company that one of the major raw materials i.e. Propylene is purchased from a related company at cost basis. The authority had sought information regarding sales by the affiliated company of Propylene to an independent / unaffiliated buyer. However, this information was not available and the exporter has informed that the related producer of Propylene has not made sales of Propylene to any independent or unaffiliated customers. The affiliated company has also not furnished its cost of production data. On verification of the information of cost of production it is found that the cost of propylene is a significant component of the cost of production of 2EH. The cost of propylene as reflected in the records of the producer could not be considered as these were procured from a related company and the records of cost of production of the producer did not reasonably reflect the cost of production of 2EH as per the requirement of para 1 of Annexure I of the Anti-Dumping Rules (article 2.2.1.1 of the AD agreement). As regards the cost of production of 2EHA, the cost of Propylene as per the producer's records has not been considered as it was purchased from affiliated company and did not reasonably reflect the cost of production. The producer instead provided ICIS LOR published prices as a basis for considering cost of Propylene, which have been used by the authority for determination of cost of production of 2EHA. The investment cost for procurement of Propylene which was part of the depreciation cost in SAMAD, has been excluded from the total depreciation allocated to the product. As regards marketing fee paid to the holding company SABIC on quantity sold, it is held as a part of total cost of sales and the same has been considered as a part of cost of sales. This is in line with the Article 2.2 of ADA whereby normal value is to be determined on the basis of cost of production in the country of origin plus a reasonable amount for administrative, selling & general costs and profits. For the purpose of comparison of NV with EP for dumping margin determination, however, adjustments have to be made from NV if the EP has been adjusted to exclude marketing fee.

The producer had claimed an element of freight of US\$ 195 PMT for transportation of Propylene from Gulf to North East Asia. The claim of the producer for adjustment of \$195 PMT was based on invoice of *** in respect of transport of Ethylene from Gulf

to Taiwan in the month of February 2005. The adjustment of \$ 195 on account of freight from the average Propylene price of \$ 715.48 for the period October 2003 to September 2004 is a significant element of construction of cost. The domestic industry had challenged the very high adjustment of freight of \$ 195 PMT from ICIS LOR price. They had furnished some Shipping Services letter indicatinadfin_oxoalcohols-SSR_polandg a freight of \$ 80 PMT from Rastanura to Visakhapatnam. The authority also made some independent enquiries from other sources to ascertain freight for transport of Propylene from Gulf to India or North East Asia. There appeared considerable divergence in the transport rates being made available. The ICIS LOR reports for the period October 2003 to September 2004 furnished by the producer were used as useful reference and considered to be more reliable. The freight rates from these reports were given as \$ 70 PMT between Korea to South East Asia(April 2004), \$ 180 PMT between US to Asia (April 2004), \$ 220 PMT in August 2004 from US to Asia(April 2004), \$ 250 PMT in August 2004 from US to Asia, \$ 260 PMT in August 2004 from US to Asia and \$ 300 PMT from US to Asia in September 2004. On analysis of the rising trend of freight rates for transport of Propylene, it was felt that the adjustment of \$ 195 PMT on account of freight from Gulf to NE Asia sought by the producer, which was based on an invoice of February 2005 (five months beyond POI), was on the higher side. It has been considered reasonable to adjust this freight to US\$ 150 PMT for the POI seeing the rising trend of freight. The cost of production was thus worked out after taking into account the objections of the producer and the revised cost of sales has been worked at US\$ *** PMT.

ii) Normal Value has to be determined on the basis of export price to third countries

As per Section 9A (1) (c) of the Act (Article 2.2 of the agreement), when there are no sales of the like article in the domestic market of the exporting country, the normal value can be determined either by the representative price of the like article when exported from the exporting country to an appropriate third country or on the basis of 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. In this case the exporter has furnished information of exports of 2 EHA to other countries viz. Korea, Iran, Pakistan, Malaysia, South Africa and Nepal. The determination of normal value on the basis of exports to third countries gives rise to several issues viz., which is the appropriate third country, whether the price of the selected third country is representative. The selection of any appropriate third country and price thereof may lead to different results giving different normal values. Due to volatile raw material price of Propylene seen during the POI, the export prices to these countries have also seen significant differences during the POI. The Authority has held the view that

selection of any particular third country would result in greater subjectivity. Moreover, it is also seen that the producer has also treated in its accounts the cost of Propylene procured from its related company on cost basis, which has not been accepted by the authority. This fact has also not been disputed by the producer. This methodology has also in some way affected the pricing decision of the exporter, though the exporter has disputed this. The authority also considered that, after all, the profitability of the producer SAMAD as reflected in the books of accounts is based on the reported methodology of reckoning the cost of the raw material. There is also no legal basis for the argument of the exporter that the normal value has to be determined on the basis of the third country export prices only in the absence of domestic sales. The relevant provision gives an option of determining normal value either on the basis of the third country export price or on the basis of the cost of production plus SGA and profits. There is no hierarchy between the two options. In the circumstances it has been felt appropriate to determine the normal value on the basis of 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.

iii) **Profit figure used in CNV**

As regards profits, as per para 4 of Annexure I of Anti Dumping Rules (Article 2.2.2 of the ADA), the amount for profit shall be based on actual data pertaining to production and sales in the ordinary course of trade of the like product by the producer under investigation. The profit thus has to be determined based on sales made in the ordinary course of trade. The exporter has given transaction-wise details of sales made to all countries. After applying the ordinary course of trade test on export transactions to all countries (excluding India), the authority found the profit margin as **%. In response to the disclosures, the exporter requested for considering profit as **% instead of **% as worked out by the Authority. The Authority found that there were discrepancies in the statement furnished by the exporter subsequent to verification and worked out the profit as per transactions details earlier provided by the exporter. The discrepancy being pointed out by the exporter was also very minor.

13. Normal value for SABIC/SAMAD

By adding to the cost of production plus SGA of \$*** the profit of %**, the normal value is worked out as US\$ *** PMT.

14. Normal value for EU, Poland, Russia, Iran and USA

In response to the initiation of this review, none of the exporters from EU, Poland, Russia, Iran and USA have given information on the questionnaire. The domestic industry had furnished information regarding estimate of normal value at the time of

making application for this review and in the written submissions subsequent to the public hearing. In support of their claim for normal value, they have relied on the price of major raw material Propylene as per published prices in ICIS LOR for the period of investigation. Cost of other raw material viz. Naphtha and conversion cost has been adopted as per the domestic industry's cost. The authority has checked the information to the extent reasonably possible. The domestic industry's cost of raw material and conversion cost have been verified and such verified cost has been suitably adopted for constructing the normal value. A reasonable profit margin has been added. In the absence of any questionnaire response from the exporters from EU, Poland, Russia, Iran and USA the Authority held the exporters from these countries as non-cooperative and was constrained to resort to facts available as per Rule 6(8) read with Article 6.8 and Annex II of the Anti Dumping Agreement.

The normal value has thus been determined as under:

Country	Constructed Normal Value \$PMT		
	2EHA	IBA	NBA
Iran	882.92	825.40	808.54
Russia	1050.82	905.97	806.43
EU	962.14	900.46	882.15
Poland	962.14	900.46	882.15
USA	952.45	891.28	873.15

15. Export Price for Saudi Arabia

M/s Saudi Basic Industries Corporation (SABIC), Exporter from Saudi Arabia has furnished questionnaire response. As per the response on Appendix 2, the exporter had shown nine transactions for total exports of *** MT of 2EHA exports to India. The exporter had shown details of adjustments in the Appendix 3A regarding Sales Price Structure viz. commission, overseas freight, overseas insurance, credit cost. The authority had conducted verification of exporter's data. Adjustments have been made on account of marketing fee of ***, credit cost, surveyor and port charges, ocean freight, bank charges, insurance and documentation. The net export price has been arrived at US\$ *** PMT for 2EHA.

16. Export Price for EU, Poland, Russia, Iran and USA

None of the exporters from EU, Poland, Russia, Iran and USA had furnished questionnaire response or information regarding exports – quantity and price. DGCI&S provided data relating to imports of subject goods from subject countries. The import price as per DGCI&S data has been relied for determining the export price from these countries. Adjustments have been made from the export price

on account of ocean freight @ US\$ 30 PMT for Iran, US\$ 50 PMT for EU, US\$ 60 PMT for USA and US\$ 30 PMT for Russia based on best available information and reasonableness. Adjustments on account of insurance @ 0.5% of CIF, commission @ 3%, inland freight @ 1% and custom and port charges @ 1% have been made considering it reasonable and keeping in view the authority's previous experience in this regard. The following export price has been determined:

Country	Export Price \$PMT		
	2EHA	IBA	NBA
Iran	713	560	633
Russia	--	--	598
EU	508	626	630
Poland	--	--	--
USA	506	444	609

Dumping Margin:

17. 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. As regards the argument of the domestic industry to make comparison of normal value and export price on month to month basis, the authority found the request impractical on account of the fact that the normal value has been proposed to be determined on the basis of constructed cost taking the average price of major raw material Propylene for the whole POI. The non-availability of appropriate freight rate for Propylene for each month of POI was also a significant factor to dissuade the authority to determine normal value month-wise based on cost of production. The authority was of the view that in the methodology followed the variations in the prices of raw materials as well as in the export prices have been captured. The transaction-to-transaction comparison methodology is suited where there are comparable and contemporary transactions present in the home market sales in the exporting country and the exports transactions. In the present case there are no domestic sales of 2 EHA in Saudi Arabia. As per Article 2.4.2 the existence of margin of dumping shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions. The comparison is at the same level of trade, i.e. Ex-factory level. Based on the Normal Value and export price as determined above the Authority has determined following dumping margins for different forms of Oxo alcohols by comparing normal value and export price of the similar type of Oxo Alcohols:

	2EHA	NBA	IBA
Iran	23.92	27.79	47.34

Russia		34.88	
EU	89.29	40.10	43.79
Poland			
USA	88.40	43.32	100.92
Saudi Arabia	5.30		

After determining dumping margin for individual type/form of oxo alcohol, the Authority has determined one dumping margin for each country as under:

	Dumping Margin %
Iran	33
Russia	34.9
EU	52.3
Poland	Nil
USA	78.5
Saudi Arabia	5.3

G. INJURY TO THE DOMESTIC INDUSTRY

Issues raised by the domestic industry :

18. Assessment of injury – recurrence of injury to the domestic industry in the event of withdrawal of anti dumping duty.

Standards of Review: Indian legislation as also WTO Anti Dumping Agreement provides standards for conducting review investigation. Basic purpose of review provisions is that Anti Dumping Duties once imposed should not remain in force for indefinite period. Anti dumping duties should remain in force only till such time there is dumping or there is possibility of recurrence of dumping in case duties are revoked and there is injury to the domestic industry or revocation of Anti Dumping Duty would result in recurrence of injury to the domestic industry.

19. Article 11.1 to 11.3 of Anti Dumping Agreement are relevant

Indian legislation states that as per Rule 23, the Designated Authority shall, from time to time, review the need for the continued imposition of the anti-dumping duty and shall, if it is satisfied on the basis of the information received by it that there is no justification for the continued imposition of such duty recommend to the Central Government for its withdrawal.

Above provisions clearly show that in case it is found that there is no injury to the domestic industry, Designated Authority should examine whether the revocation of duty would result in recurrence of injury.

20. Cumulative assessment of injury

The exporters from more than one country are dumping the subject goods in the Indian market.

Followings are relevant for cumulative assessment of injury in this regard:-

- a. the margins of dumping from subject countries are more than the limits prescribed above.
- b. the domestic product and product supplied by producers in various countries are like articles. It has been confirmed by the Designated Authority also in earlier investigations;
- c. imported products and domestically produced subject goods are interchangeable and are being interchangeably used;
- d. products supplied by various producers in subject countries are being marketed in India during the same periods through comparable sales channels and under similar commercial conditions;
- e. the domestic industry and exporters in the subject countries are selling the product to the same category of consumers.

Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market.

21. Potential situation:

The foreign producers continue to dump the subject goods in the Indian market even after imposition of antidumping duty. The dumping margin is significant also. Domestic industry therefore submits that discontinuance of anti dumping duty would lead to injury to the domestic industry. Therefore, revocation of anti dumping duties would inevitably result in increase in dumping.

22. Causal link

Injury to the domestic industry is being caused by the dumped imports. While the previous injury was caused by the dumped imports, possible revocation of anti dumping duty would result in recurrence of injury due to dumped imports. It may be

seen that listed factors as per Article 3.5 have not caused injury to the domestic industry, as established below:-

- a. Volume and value of imports not sold at dumping prices: - domestic industry has provided information on volume and value of imports from all countries, including countries under investigation and countries not under investigation. It would be seen that (i) volumes of imports from other countries are de-minimus, (ii) there are no imports from other countries except Indonesia , which was earlier attracting duty, (iii) imports from other countries, which are having significant shares already attracting antidumping duties.
- b. Contraction in demand:- The injury statement provided by the domestic industry along with these submissions contains sufficient information with regard to demand of the product under consideration over the entire injury period. It would be seen that the demand of the product under consideration has registered a positive growth. Thus, contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry.
- c. Changes in the patterns of consumption: - The pattern of consumption with regard to the product under consideration has not undergone any change. Changes in the pattern of consumption could not have, therefore, contributed to the injury to the domestic industry.
- d. Trade restrictive practices of and competition between the foreign and domestic producers: - There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- e. Developments in technology: - Technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.
- f. Export performance of the domestic industry: - The domestic industry is not exporting subject goods.
- g. Productivity: - Productivity of the domestic industry, as measured in terms of production per manpower has increased.

23. Factors establishing causal link: - While the above parameters establish that the claimed injury to the domestic industry is not caused by other factors listed under the Agreement, domestic industry submits that the following parameters establish that the injury to the domestic industry would be caused by the dumped imports in case of revocation of anti dumping duty.

- i. Landed price of imports would be significantly lower than selling price of the domestic industry in the event of revocation of antidumping duty, resulting in significant price undercutting. As a direct consequence, the domestic industry would either be forced to reduce the selling price or loose sales volumes. It

- would be important to note that the consumers vehemently argue that they would source the product at lowest prices, citing their low level of margin;
- ii. Given the price undercutting, the domestic industry would be faced with injury as a result of revocation of anti dumping duty, as the domestic industry would have limited options to face the competition created by the dumped imports, or looses sales volumes.
 - iii. Subject goods continues to be dumped in the Indian market by the producers and/or exporters in subject countries resulting in continued dumping;
 - iv. The dumping margin has remained significant despite antidumping duty in force. The injury to the domestic industry is being caused by the dumped imports from subject countries.
 - v. Revocation of present duty would lead to injury to the domestic industry as a result of continued dumped imports;
 - vi. Anti dumping duties in fixed form are required to be continued further for a further period of five years;

24. Submissions of exporter/producer M/s SABIC and SAMAD, Saudi Arabia, Indian Plasticizers Manufacturers association (IPMA) and Lubrizol India Pvt. Ltd. (Importers)

- i. As per the initiation notice the injury analysis covers the period 2001-02 to the POI. It is seen from the non-confidential version of the petition that the total sales of APL have increased from 77.53 in 2001-02 to 119.98 in the POI. The increase is about 55. The increase has to be studied not per product but for the company as a whole because APL has a swing plant and can produce any of the three products.
- ii. The Cost of production has increased marginally whereas the selling prices have shown substantial increase. This has resulted in the loss of (933.64) in 2001-02 becoming a profit of +923.95 in the POI. Thus, there is no price depression or suppression.
- iii. The production has also increased significantly from 80.44 to 125.49, an increase of 56%. Such a significant increase cannot be an indicator of injury.
- iv. The demand for the product has fallen from 103.71 to 94.76. However, in this demand fall scenario the market share of the domestic producer has increased from 39.51% to 66.92%. Thus, there is absolutely no indication of injury at all.
- v. No injury has been indicated by the number of employees or the productivity. Further, the capacity utilization has also jumped from 76.95% to 110.81%.
- vi. Cash flow position has improved from -110.94 to a whopping +697.74, indicating the healthy status of the domestic industry. Wages have also significantly increased from 111.61 to 139.73 i.e. an increase of 25%.

- vii. The closing stock shows a significant increase. The reasons for this need to be analyzed by the Designated Authority, in particular whether it is because of the status on a particular date and more so when production, sales and market share have gone up substantially.
- viii. The return on investment has shown a negative trend through out. This is more surprising as the company has reported a profit and also healthy positive cash flow from operations. Further, the index numbers clearly show that the selling prices are above the total cost of production. It is not known how and why the ROI is negative. The Designated Authority is requested to examine this claim. In any case, even after the operation of the anti-dumping duty for about 4 years, if the domestic industry is not in a position to show positive ROI it shows that the injury on this count is due to factors other than the alleged dumping.
- ix. In sum, the data shows that there is no material injury. The petitioner has not shown anywhere how the injury is likely to recur if the anti-dumping duty is removed. Thus, the sunset review has to be terminated on the ground that there is neither present injury nor likely recurrence if the duty were removed.

25. Analysis of injury parameters:

The authority has analyzed the injury information in respect of various injury parameters of domestic industry as under.

26. Import Volumes:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Poland	MT	263	0	0	0
S. Arabia	MT	1488	657	5909	7807***
Iran	MT	398	748	431	1051
USA	MT	7333	7362	9148	3955
Russia	MT	0	0	50	561
EU	MT	560	1157	0	947
Total Subject Countries	MT	10042	9924	15538	14322
Trend	Indexed	100	99	155	143
Other Countries	MT	0	0	0	7630
Trend	Indexed	0	0	0	100
Total Imports	MT	10042	9924	15538	21952

The authority found that the imports from subject countries have increased in absolute terms.

27. t, capacity and capacity utilization:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
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Capacity	MT	36000	39000	39000	39000
Capacity utilization	%	77	106	106	111
Trend	Indexed	100	137	137	144
Production	MT	27702	41211	41256	43214
Trend	Indexed	100	149	149	156
2EHA	MT	***	***	***	***
Trend	Indexed	100	123	145	152
NBA	MT	***	***	***	***
Trend	Indexed	100	222	173	172
IBA	MT	***	***	***	***
Trend	Indexed	100	131	115	143

It is found that the domestic industry increased the capacity utilization to 111% during POI and increased the production to 43214 MT during POI registering a growth of 56% from year 2001-02.

28. Sales:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Total sales	MT	27093	38429	42103	41926
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>142</i>	<i>155</i>	<i>155</i>
2EHA	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>122</i>	<i>139</i>	<i>151</i>
NBA	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>196</i>	<i>186</i>	<i>167</i>
IBA	MT	***	***	***	***
<i>sTrend</i>	<i>Indexed</i>	<i>100</i>	<i>123</i>	<i>186</i>	<i>146</i>

The authority noted that sales of domestic industry increased to 41,926 MT during POI from 27,093 MT during 2001-02 showing a growth of 55%.

29. Demand and market share:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Demand	MT	41534	48353	57641	63878
Trend	Indexed	100	116	139	154
Sales of petitioner	MT	27093	38429	42103	41926
sales of other Indian producers*	MT	4399	0	0	0
Imports from subject countries	MT	10042	9924	15538	14322
Imports from other countries	MT	0	0	0	7630
Market share in demand					
Domestic Industry	%	65.23	79.48	73.04	65.63
Trend	Indexed	100	122	112	101
Other Producer	%	10.59	0.00	0.00	0.00

Trend	Indexed	100	0	0	0
Subject Countries	%	24.18	20.52	26.96	22.42
Trend	Indexed	100	85	111	93
Other Countries	%	0.00	0.00	0.00	11.94
Trend	Indexed	0	0	0	100

The authority found that demand of the subject goods had increased to 63,878 during POI from 41,534 MT during 2001-02 showing a growth of 54%. The share of domestic industry was about 65% showing no change from year 2001-02, though in the intervening years, the share of domestic industry had risen to 79 and 73%. The share of imports from subject countries declined marginally to 22.42% during POI from 24.18%. In the POI, the share of imports from other countries in total demand was about 12%.

30. Profitability:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Cost of Production					
2EHA	Rs./MT	***	***	***3	***
Trend	Indexed	100	100	102	105
NBA	Rs./MT	***	***	***	***
Trend	Indexed	100	99	102	105
IBA	Rs./MT	***	***	***	***
Trend	Indexed	100	99	107	125
Selling Prices					
2EHA	Rs./MT	***	***	***	***
Trend	Indexed	100	135	121	129
NBA	Rs./MT	***	***	***	***
Trend	Indexed	100	129	109	108
IBA	Rs./MT	***	***	***	***
Trend	Indexed	100	115	98	112
Profit/Loss					
2EHA	Rs./MT	***	***	***	***
Trend	Indexed	-100	67	-10	5
NBA	Rs./MT	***	***	***	***
Trend	Indexed	100	1796	489	323
IBA	Rs./MT	***	***	***	***
Trend	Indexed	-100	35	-183	-236
Profit/Loss as per balance sheet	Rs.lacs	-933.64	2866.19	940.97	923.95

The cost of production of domestic industry showed an increase in trend. However, the selling prices also showed higher increase in trend. The profitability of the domestic industry improved during the POI. The profitability of the domestic

industry improved significantly with reference to a situation of loss during the year 2001-02.

31. Cash Flow:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Cash Flow from operations	Ra. Lacs	-110.94	2221.15	1142.11	697.74
Trend	Indexed	-100	2002	1029	629
Cash Losses					
Cash Profit / (Loss)	Rs. Lacs	226.84	4014.37	2108.79	2065.56
Trend	Indexed	100	1770	930	911

The cash flow position of domestic industry improved during the POI and also in the intervening years in comparison to year 2001-02.

32. Inventories:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Closing Stock – Total	MT	891	3673	2826	2227
Trend	Indexed	100	412	317	250
Inventory as %age of production	%	3.21	8.91	6.85	5.15

The inventories of the domestic industry did not show any appreciable increase as it was about 5% of production during the POI.

33. Productivity:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Employees	Nos.	***	***	***	***
Trend	Indexed	100	102	103	100
Productivity	MT/No	100	145	145	155
Trend	Indexed	100	146	145	156

The productivity of the domestic industry improved significantly during the POI.

34. Return on Investment:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Net Fixed assets	Rs. Lacs	13420	12110	10936	10382
Working Capital	Rs. Lacs	3023	4258	3252	3613
Capital Employed	Rs. Lacs	16443	16368	14189	13995
Profit / (Loss) Before Interest	Rs. Lacs	***	***	***	***
Return on capital employed	%	***	***	***	***
Trend	Indexed	100	2804	1102	1189

The return on capital employed showed significant improvement from the year 2001-02.

35. Employment:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Employees	Nos.	***	***	***	***
Trend	MT	100	102	103	103

The employment of the domestic industry did not show any appreciable change.

36. Wages:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Wages paid to employees	Rs. Lacs	358.81	382.44	456.28	449.22
Trend	Nos.	100	107	127	125

The wages of the domestic industry showed increase in trend which was normal for the industry.

37. Growth:

Particulars	Unit	2001-02	2002-03	2003-04	Oct 03 to Sep 04
Production	%	-	48.77	0.11	4.75
Sales Volume	%	-	41.84	9.56	-0.42
Total Imports from Subject country	%	-	-1	57	19
Market Share of Domestic Industry	%	-	22	-8	-5

The production of the domestic industry showed healthy growth. Overall the sales also showed growth, though in the POI there was a marginal decline of 0.42% over the previous year.

38. Price undercutting, price suppression and depression:

	Saudi Arabia	
	2EHA	NBA
CIF Export Price	***	***
Landing Charges	***	***
Assessable Value	***	***
Customs Duty 20%	***	***
Landed Value	***	***
Selling Price of the	***	***
Domestic industry	***	***
Undercutting	(***)	(***)

Undercutting %	(15-25)	(6-15)
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NIP	***	***
Injury margin	(***)	(***)
Injury Margin %	(3-13)	(2-12)

	Iran		
	2EHA	IBA	NBA
CIF Export Price	***	***	***
Landing Charges	***	***	***
Assessable Value	***	***	***
Customs Duty 20%	***	***	***
Landed Value	***	***	***
Selling Price of the domestic industry	***	***	***
Undercutting	***	***	***
Undercutting %	(6-15)	(7-16)	(8-17)
NIP	***	***	***
Injury margin	***	***	***
Injury margin %	0-10	5-15	(0-10)

	EU		
	IBA	2EHA	NBA
CIF Export Price	***	***	***
Landing Charges	***	***	***
Assessable Value	***	***	***
Customs Duty 20%	***	***	***
Landed Value	***	***	***
Selling Price of the domestic industry	***	***	***
Undercutting	***	***	***
Undercutting %	(20-30)	15-25	(5-15)
NIP	***	***	***
Injury margin	***	***	***
Injury margin %	(4-14)	20-30	(3-13)

	USA	Russia
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	2EHA	IBA	NBA	NBA
CIF Export Price	***	***	***	***
Landing Charges	***	***	***	***
Assessable Value	***	***	***	***
Customs Duty 20%	***	***	***	***
Landed Value	***	***	***	***
Selling Price of the	***	***	***	***
domestic industry	***	***	***	***
Undercutting	***	***	***	***
Undercutting %	15-25	5-15	(5-15)	(0-10)
NIP	***	***	***	***
Injury margin	***	***	***	***
Injury margin %	20-30	20-30	(0-10)	0-10

In the disclosure statement dated 21.11.2005, the authority had considered all the export transactions/volumes for injury analysis including price undercutting and price underselling. It was represented by the domestic industry that some of the exports made by Saudi exporter at the fag end of POI i.e. towards the end of September 2004 would not have been cleared from Customs and therefore, should not be considered for comparison for the purpose of price undercutting and injury margin. The arguments of the domestic industry was mainly on account of the reason that the export price of Oxo Alcohols had shown rising trends during POI and were at the highest towards the end of POI and therefore, may not lead to proper comparison. The authority had considered these arguments and had issued revised disclosure on 9.1.2006 partially amending the level of price undercutting and injury margin on account of exclusion of two shipments by the Saudi exporter made towards end of September 2004. In response to the revised disclosure, the Saudi exporter has contested the exclusion on the grounds inter alia that in respect of one of the shipments, the bill of entry had been filed on 30.9.2004 and therefore, technically, the imports had been made within the POI. Further, it has been argued that the authority has been consistently taking all the transactions/volumes of imports both for dumping and injury purposes. Merely because some exports have been made at higher price should not result in its exclusion. The authority after considering the arguments has considered it appropriate to make injury determination as regards price undercutting and price underselling taking into account all the export transactions/volumes that have been considered for dumping determination. The authority found that the selling price of domestic industry showed an increasing trend, though the cost of production also showed increase. However, the increase in selling price was greater in comparison to increase in cost of production. Price suppression or price depression was not evident. The price undercutting in respect of imports from Saudi Arabia, Iran, Russia, IBA and NBA from EU and NBA from USA was negative. There was

marginal price undercutting in respect of 2EHA imports from EU and 2EHA and IBA imports from USA. Overall the price undercutting was negative.

The non-injurious price of the domestic industry was compared with the landed value of imports of subject goods from subject countries and it was found that the price underselling was negative in respect of Saudi Arabia, NBA from Iran, IBA and NBA from EU, NBA from USA. There was price underselling in respect of 2EHA and IBA from Iran, 2EHA from EU, 2EHA and IBA from USA and NBA from Russia.

39. Overall assessment of injury:

The authority found that the parameters like output, sales, market share and productivity have shown improved performance by the domestic industry during the POI. The capacity utilization has increased to 111% in comparison to 77% during 2001-02. Sales have increased by 55% during POI from 2001-02. Inventories have not increased much in relation to the increased production. These are at 5% during the POI. The profitability of the company has improved significantly from the year 2001-02. From a position of loss it has now become profitable. Though in the intervening year of 2002-03 the company had higher profits. The market share of the imports from subject countries in total demand has declined to 22.42% during POI from 24.18% during 2001-02. The share of domestic industry in demand has remained about 65% though in the year 2002-3 it had risen to 79.48%. The exports from subject countries were found to be dumped with a dumping margin ranging from 5% to 78%. The cash flow position has improved. Return on investment has improved. Productivity has improved significantly. Overall the condition of the domestic industry has improved during the POI. The price undercutting from Saudi Arabia, Iran & Russia is negative. Only from EU and USA there is price undercutting in respect of 2 EHA and IBA.

The price underselling is not evident from S. Arabia. Though in some types there is some price underselling from Iran, EU, USA and Russia.

40. Likelihood of recurrence of dumping and injury:

From the examination of evidence, the authority found that imports have continued from Saudi Arabia, Iran, USA, Russia and EU. There were no imports from Poland. The dumping margin in respect of cooperating exporters from Saudi Arabia was found at 5.3%. In respect of Iran, USA, Russia and EU, the dumping margin based on the facts available was found in the range of 33 to 78%. The authority thus found that dumping continues from these countries. The position of domestic industry has improved over the years and during the POI. The domestic industry earned net profit as per Balance Sheet of Rs.92.39 million during POI. The selling price of the subject goods have shown rising trend. Due to the rising crude prices, the prices of

subject goods have shown overall rising trends during the last two years. The anti dumping duty recommended and imposed as per Notification No.57/2004-Customs dated 20th April 2004 was as a reference price. The prevailing imports are at substantially higher prices. With the incidence of the normal custom duty, the landed value of imports is much above the reference price recommended as per the existing notification dated 20th April 2004. There is no evidence brought forward which suggests that imports may intensify to a great extent. Despite the evidence of dumped imports during the POI of the review, there is no evidence of current injury to the domestic industry. The authority does not foresee any likelihood of recurrence of injury to the domestic industry in case the present notification imposing anti dumping duty as a reference price is withdrawn.

H. CONCLUSIONS

41. The Authority has, after considering the foregoing, come to the conclusion that in the sunset review investigation:

- i. Subject goods have been exported to India from Saudi Arabia, Iran, USA, Russia and EU below its normal value and thereby resulting in dumping; however there was no evidence of dumping of subject goods from Poland.
- ii. The domestic industry has not suffered material injury as a result of dumping from Saudi Arabia, Iran, USA, Russia and EU;
- iii. There is no likelihood of recurrence of injury in case the anti dumping duty imposed on imports from Saudi Arabia, Iran, USA, Russia, Poland and EU is withdrawn.

42. The Authority, therefore, in accordance with Section 9A (5) of the Customs Tariff Act 1975 as amended, recommends withdrawal of anti dumping duty imposed on imports of Acyclic Alcohols (Oxo Alcohols) viz. 2EHA, NBA, IBA and Iso Octanol from Poland, Saudi Arabia, Russia, Iran, USA and European Union falling under Sub Heading 2905 of first schedule of the Customs Tariff Act as per Authority's recommendations in mid term review final findings dated 26.2.2004 and Custom's Notification No. 57/2004-Customs dated 20th April, 2004.

43. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Christy L. Fernandez
Designated Authority