

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

NOTIFICATION

FINAL FINDINGS

New Delhi, the 26th February, 2004

Subject: Anti-Dumping investigations in the matter relating to review of anti-dumping duty imposed on imports of Oxo Alcohols from Poland, Republic of Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union – Final Findings.

No. 40/1/2001-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:

2. The procedure described below has been followed with regard to the investigations:-

- i. The Designated Authority (hereinafter referred to as Authority), under the above mentioned Rules initiated the review of anti-dumping duty imposed on imports of certain types of Oxo Alcohols originating in or exported from Poland, Republic of Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union (hereinafter referred to as subject countries/territory). Final Findings in the previous investigation were notified by the Designated Authority vide Notification No.15/1/99/DGAD dated 17th July, 2000 recommending imposition of anti-dumping duty on imports of Oxo Alcohols from subject countries. The review of the anti-dumping duty imposed had been initiated vide Notification No. 40/1/2001-DGAD dated 27th August, 2002.
- ii. The Designated Authority sent a copy of Initiation Notification to the Embassies of the subject countries, the Delegation of the European Commission in India, the exporters, importers and the domestic industry as per the list available in the findings of the original Anti-dumping investigation and requested them to make their views known in writing within 40 days of the initiation of this review investigation.

iii. The Authority forwarded a copy of the public notice to all the known exporters and gave them an opportunity to make their views known in writing in accordance with the Rule 6(2). The Authority sent questionnaire to the following known exporters:

1. L G Chemicals Limited
Seoul, Republic Of Korea
2. M/S Zak
Poland
3. Arak Petrochemical Company
Tehran, Iran.
4. Al-Jubail Fertilisers Company
Saudi Arabia
5. Saudi Basic Industries Corporation (Sabic)
Kingdom of Saudi Arabia
6. Pt. Petrowidada,
Indonesia
7. Huls Aktiengesellschaft,
Germany
8. BASF Ag
Germany
9. Helm Ag,
Germany
10. Chemische Werke Huels
Germany
11. Eastman Chemical Company
USA
12. ICC Chemical Corporation
USA.
13. Vinmar International Limited
USA
14. Union Carbide Corporation
USA
15. Artistech Chemical Corporation
USA
16. Neste Chemicals
Sweden
17. OXENO Olefinchemie GmbH
Federal Republic of Germany
18. M/s. Iran Petrochemicals Commercial Company,
Tehran, Iran.

iv. The Authority forwarded copy of the public notice to the following known importers and consumers in India (whose details were made available by the petitioners in the original investigations) in accordance with Rule 6(4) & (5) and advised them to make their views known in writing within forty days from the date of the letter.

1. KLJ Plasticisers
New Delhi 110 015
2. PCL Oil and Solvents Limited,
New Delhi 110 001
3. Indo Nippon Chemical Company Limited,
Mumbai 400 020
4. Vision Organics Pvt. Limited,
Baroda 390 007
5. Lubrizol India Pvt. Ltd.,
Mumbai – 400 025.
6. Hmg Industries Limited
Mumbai 400 059
7. API Industrial Corporation
Delhi 110 035
8. C J Shah & Company
Mumbai 400 021
9. Harsh Kumar & Company
Mumbai 400 021
10. Vikas Organics Pvt. Limited,
New Delhi 110 026
11. Kothari Polymers Limited,
New Delhi 110 002
12. Payal Polymers,
New Delhi 110 002
13. Texpo Trading Private Limited
Mumbai 400 001
14. Guljoy Industries Limited,
Jodhpur, Rajasthan
15. N.K. Polymers & Additives Mfg. Co.
DAMAN
16. SILVASSA PLAST
New Delhi – 110 015.
17. K.L.J. Polymers and Chemicals Limited
New Delhi – 110 015.

18. Rachna Plasticizers
Mumbai – 400 052.

- v. The Authority forwarded the initiation notification to the Embassies of the subject countries in India; the European Union, Delegation of the European Commission in India 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 and questionnaire sent to the exporters was also sent to the concerned Embassies, along with a list of known exporters/producers.
- vi. Request was made to the DGCI&S to make available details of imports of subject goods.
- vii. Copies of the initiation notification were also sent to FICCI, CII, ASSOCHAM etc. for wider circulation.
- viii. The Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 3.7.2003. All parties presenting views orally 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;
- ix. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request;
- x. Arguments raised by the interested parties have been appropriately dealt in these findings;
- xi. Domestic Industry was called to give information on injury and which was furnished to the Authority.
- xii. The Authority conducted verification of the information of the domestic industry and also to work out the optimum cost of production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP).
- xiii. The Authority conducted verification of information of some of the importers and elicited views relating to the investigation.
- xiv. In accordance with Rule 16 of the Rules *supra*, the essential facts/basis considered for these findings were disclosed to known interested parties on 10th February, 2004 and comments received on the same have also been duly considered in these findings;
- xv. The period of investigation (POI) for the present review is 1st April, 2001 to 31st March, 2002.
- xvi. ***in this notification represents information furnished by the interested party on confidential basis and so considered by the Authority under the Rules;

B. VIEWS OF DOMESTIC INDUSTRY, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY.

3. The views expressed by various interested parties in response to the initiation notification, subsequent to the oral hearing and in response to the disclosure statement are discussed in the relevant paragraphs herein below to the extent these are relevant as per rules and have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paragraphs herein below. Responses were received from the following :

Exporters :

- i. M/s SABIC, Saudi Arabia
- ii. M/s Iran Petrochemical Commercial Company, Iran
- iii. M/s Oxeno Olefinchemie GmbH, Germany

Importers :

- i. M/s K.L.J. Plasticizers
- ii. M/s K.L.J. Polymers and Chemicals Ltd.
- iii. M/s Silvassa Plast
- iv. M/s Vikas Organics (P) Ltd.
- v. M/s Indo-Nippon Chemical Co. Ltd.
- vi. M/s API Industrial Corporation
- vii. M/s N.K. Polymers & Additives Mfg. Co.
- viii. M/s PCL Oil & Solvents Ltd.
- ix. M/s Rachna Plasticizers
- x. M/s Payal Polymers
- xi. M/s Lubrizol India Pvt. Ltd.
- xii. Indian Plasticizers Manufacturers Association (IPMA).

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. In the Initiation notification dated 27th August 2002, the Product under consideration had been described in the similar manner as in the original investigation i.e.: -

"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 (also known as 2-EHA)
- ii. Normal Butanol (also known as NBA)
- iii. Iso Butanol (also known as IBA)
- iv. Iso Octanol
- v. Iso Decanol
- vi. Normal Hexanol
- vii. Heptanol (Iso Heptanol and Normal Heptanol)
- viii. Nonanol (Iso Nonanol and Normal Nonanol)
- ix. Tri Decanol
- x. 2 Propyl Heptanol"

Representations were received as regards the scope of the Product under consideration. It was pointed out that although the original investigation had been initiated in respect of 10 forms of Oxo Alcohols, the Designated Authority had restricted the investigations to Normal Butanol, Iso Butanol, Iso Decanol, Iso Octanol, 2-Ethyl Hexanol and Normal Hexanol as per the Preliminary Findings dated 3.12.99 and Final Findings dated 17.7.2000. Further, as per the orders dated 11.4.2001 of the Hon'ble CEGAT, Normal Hexanol was deleted from the list of Oxo Alcohols subject to anti-dumping duty. Therefore, only the following five types of Oxo Alcohols were subject to anti-dumping duty in respect of this investigation: -

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

Having regard to the provisions of Rule 23 of Rule *supra* and the arguments put forth by the exporters and importers, the Designated Authority considered it appropriate to restrict the scope of the Product under consideration for the mid-term review in respect of the aforesaid five types of Oxo Alcohols and a corrigendum dated 11th December, 2002 had been issued to this effect.

Arguments have been made by the domestic industry that the Authority has incorrectly excluded some of the forms of Oxo Alcohols which were part of the earlier investigation. According to the domestic industry, the scope of review should also cover the Oxo Alcohols excluded in the earlier investigation.

On behalf of Indian Plasticisers Manufacturers Association (IPMA), M/s Lubrizol India Pvt. Ltd. (Importers), M/s Saudi Arabian Basic Industries Corporation (SABIC), Saudi Arabia and M/s Degussa AG, Germany, it has been argued that in terms of Rule 23, the review is for evaluating the need for continued imposition of the anti dumping duty. The word 'continued' imposition pre-supposes the existence of a duty in the first place. The Oxo Alcohols that are not subject to anti dumping duty cannot therefore, be the subject matter of review. The scope of the review should be as mandated by the Corrigendum issued by the Designated Authority. The scope of the product cannot be enlarged as argued by the domestic industry.

The Authority has examined arguments made in this regard and is of the view that in accordance with Rule 23, present review may be restricted to the five types of Oxo Alcohols as per Corrigendum dated 11th December, 2002. Accordingly, the Authority has considered the product under consideration for this review 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. Normal Butanol,
- ii. Iso Butanol,
- iii. Iso Decanol,
- iv. Iso Octanol,
- v. 2-Ethyl Hexanol"

5. Like Article :

M/s Andhra Petrochemicals Ltd. produces 2EHA, NBA and IBA. No significant arguments had been brought before the Authority as regards the issue of like article. In another investigation relating to imports of certain types of Acyclic Alcohols from Singapore, Brazil, Romania, Malaysia and South Africa, the Authority had issued Final Findings vide Notification No. 63/1/2001-DGAD dated 29th July, 2003. In that investigation, based on the information / evidence, the Authority had held inter alia Normal Butanol (NBA), 2Ethyl Hexanol (2EHA), Iso Butanol (IBA), Octanol and Iso Octanol as like article to the domestically produced Oxo Alcohols viz. 2EHA, IBA and NBA. On the basis of information furnished by the domestic industry, the importers and user industry, the Authority is of the view that Normal Butanol (NBA), 2Ethyl Hexanol (2EHA), Iso Butanol (IBA), and Iso Octanol being imported from the subject countries are Like Article to the domestically produced Oxo Alcohols.

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 (NOCIL) and Andhra Petrochemicals Ltd., Hyderabad (APL) in the previous investigations. It has been reported that M/s. Indu Nissan Oxo Chemical Industries Ltd., Mumbai and M/s. NOCIL, Mumbai have suspended production of the subject goods. None of these two units have commenced production. However, M/s. Andhra Petrochemicals Ltd., Hyderabad continues to produce Oxo Alcohols and represents the domestic industry. The Authority, therefore, holds that M/s Andhra Petrochemicals Ltd. represents the domestic industry.

E. OTHER ISSUES :

7. **Need for Initiation of this Review** – It has been argued on behalf of the domestic industry that exporters / importers / consumers have not brought sufficient grounds for initiation of this review. This review was initiated merely on a representation made by some importers or exporters. The interested parties had not given any positive information substantiating the need for review. Indu-Nissan had suspended its production even before initiation of original investigation. Even if it is argued that NOCIL has suspended production and the same warranted review, it would be an insufficient ground for initiating review.

On behalf of Indian Plasticisers Manufacturers Association (IPMA), M/s Lubrizol India Pvt. Ltd. (Importers), M/s Saudi Arabian Basic Industries Corporation (SABIC), Saudi Arabia and M/s Degussa AG, Germany, it has been argued that as per Rule 23, the Designated Authority shall, from time to time, review the need for continued imposition of the anti dumping duty. The Rule further requires that the Designated Authority shall recommend withdrawal of the anti dumping duty if it is satisfied that on the basis of information received, there is no justification for continued imposition of said duty. In the original investigation, there were three producers of Oxo Alcohols that were the subject matter of the investigation. One of the three producers, M/s Indu-Nissan has ceased production for almost three years. Indu-Nissan was the only producer of Iso Octanol and Iso Decanol that were subject to anti dumping duty in the original investigation. The other two producers M/s APL and M/s NOCIL do not produce these alcohols. It is in the context of this changed circumstance that they had approached the Authority for a review of the existing anti dumping duty. Since there is no producer of Iso Octanol and Iso Decanol in India, there is a need to review and withdraw the anti dumping duty on these two alcohols. It has been further argued that though there is no requirement under Rule 23 to demonstrate the need for a review, it

has been demonstrated that there is a changed circumstance warranting the review. It is also relevant to note that NOCIL has also stopped production of Oxo Alcohols.

The Authority has examined these arguments and is of the view that closure of Indu-Nissan and NOCIL was sufficient reasons to initiate a review. The Authority also noted that more than two and a half years had elapsed since the imposition of anti dumping duty in this case. Moreover, exporter from Iran had also requested for a review vide their letter dated 27th January, 2002. The Authority is, therefore, of the view that the present review had been initiated in keeping with the requirement of Rule 23.

8. Withdrawal of duty on Iso-Octanol and Iso-Decanol - As per the arguments of IPMA, M/s Lubrizol and Indian Chemical Manufacturers Association (ICMA), the only producer of Iso Octanol and Iso Decanol was M/s Indu-Nissan who has not recommenced production despite their letter dated 30th June, 2003. Fact remains that they have not commenced commercial production. During the period of review, there is no production of Iso Octanol and Iso Decanol. Therefore, these two Oxo Alcohols should be excluded from anti dumping duty.

It has been argued by the domestic industry that the sole producer of Iso Octanol and Iso Decanol had suspended production at the time of original investigation itself, therefore, there is no changed circumstance warranting reversal of earlier decision of the Designated Authority. Even when the domestic industry had suspended production of this type long back, there are no significant imports of this product. In case, there are no like articles to Iso Decanol and Iso Octanol and in case the goods are not being supplied by the domestic industry, it follows that the consumers must be importing the same. There is no evidence to suggest that there are imports to such an extent. Evidently, consumers have switched their requirements to other types of alcohols.

As per the information furnished by M/s Lubrizol, they have given evidence of imports of Iso Decanol and Iso Octanol during the POI. They have also stated that they are using it for manufacturing, additives and lubricants. The additives / lubricant industry is highly specification conscious and they cannot use 2EHA in place of Iso Octanol. The Authority, in the another anti dumping investigation relating to imports of Acyclic Alcohols from Singapore, Brazil, Romania, Malaysia and South Africa, has treated Iso Octanol as Like Article to the domestically produced Oxo Alcohols. The Authority, therefore, considers it appropriate to recommend anti dumping duty on Iso Octanol.

The Authority finds that M/s Indu Nissan who used to produce Iso Octanol and Iso Decanol, have not recommenced production. In addition, sufficient evidence has not been made available to the Authority to treat Iso Decanol as Like Article to domestic

product. Therefore, the Authority does not propose to recommend anti dumping duty on Iso Decanol.

F. EXAMINATION OF ISSUES RELATING TO NORMAL VALUE, EXPORT PRICE AND DUMPING

9. The Authority sent questionnaires to all known exporters for the purpose of determination of normal value in accordance with section 9A(1)(C) of the Act. Responses were received from only the following exporters :

- i. M/s SABIC, Saudi Arabia
- ii. M/s Iran Petrochemical Commercial Company, Iran
- iii. M/s Oxeno Olefinchemie GmbH, Germany

10. M/s SABIC, Saudi Arabia :

M/s SABIC has furnished information regarding their exports of 2EHA to India. As per their response, they have no domestic sales of 2EHA. They have given information regarding their exports to other countries. As per their response, they export 2EHA to South East Asia, Japan, Indian Sub-continent including Pakistan, North America, South Africa.

It has been argued by the domestic industry that non-confidential response of SABIC was provided to them just before the Disclosures. Moreover, the response filed by the exporter is insufficient and inadequate. It has not been disclosed that how exports to Pakistan constitute comparable, representative and to an appropriate third country. Transaction-wise data relating to exports to third country is not provided, hence it is not known whether the exporter has exported more than 20% of its exports at a loss. The information regarding cost of production is insufficient. No price adjustment has been made with regard to commission to SABIC. The Authority seems to have accepted the response without verification.

Authority has examined the views of the domestic industry and the response furnished by the exporter. The exporter has made exports of only two consignments to India during June, 2001. During this period, they had exported to 2EHA to Pakistan also. The exports to Pakistan are of a higher quantity during this period. Having regard to the geographical proximity of Pakistan to India, exports of sufficient quantity to Pakistan and the same period of export are factors considered sufficient to indicate that the export price to Pakistan is comparable representative price to an appropriate third country in accordance with Section 9A(1)(c) of the Act. The Authority also found the information furnished by the exporter to be sufficient to make determination

regarding Normal Value and export price. Verification of exporter's information as per Article 6.7 of the Agreement is not a mandatory requirement. The non-confidential version of the exporter's response was provided to the domestic industry and they were able to offer their comments. The exporter had claimed certain information as confidential in accordance with Rule 7(1).

Exports to Pakistan are , therefore, considered as the basis for determination of Normal Value. These sales appear to be in the ordinary course of trade based on the information relating to cost of production. The Normal Value is thus determined as US\$ *** PMT. M/s SABIC has made exports of *** MT of 2EHA to India. The export price has been determined as the weighted average of these exports. Adjustments have been made on account of marketing fee, overseas freight, clearance and handling as per exporter's information. As regards adjustments on account of credit cost, it has been informed by the exporter that in one export sale, the payment terms were 90 days from the Bill of Lading. Separate invoice for interest had been raised in addition to the CIF export price. Necessary documents to this effect have been provided by the exporter. After taking into account this clarification, the export price at ex-factory level comes to US\$***.

11. M/s Iran Petrochemical Commercial Company (IPCC), Iran

IPCC, Iran has furnished information regarding their domestic sales and exports of Normal Butanol (NBA), 2EHA and Iso Butanol. During the POI, they had made exports to India of 2EHA and NBA. Based on the available information, the domestic sales of 2EHA and NBA are considered in the ordinary course of trade. The Normal Value of 2EHA on the weighted average sales price is arrived at US\$ *** PMT after making adjustments as per information furnished. The Normal Value of NBA on the weighted average sales price is arrived at US\$ *** PMT after making adjustments as per information furnished.

The exporter has furnished information regarding export price of 2EHA and NBA. Adjustments have been made from the weighted average export price as per information given by the exporter to arrive at export price at ex-factory level of US\$ ***PMT for 2EHA and US\$ ***PMT for NBA.

12. M/s Oxeno Olefinchemie GmbH, Germany

M/s Oxeno Olefinchemie GmbH, Germany has furnished information regarding their exports of Iso Nonanol to India. As Iso Nonanol is not covered within the scope of this review investigation, this information has not been considered useful for determining Normal Value, export price and dumping margin.

13. Poland, Republic of Korea, Indonesia, Russia, USA and EU.

As regards exporters from Poland, Russia, USA and EU, the Authority notes that none of the exporters from these countries have co-operated in furnishing information regarding Normal Value and export price in respect of products covered by the review investigation. The Authority has constructed the Normal Value on the following basis :

Raw Material	Country	Basis of Normal Value
Propylene	Poland	Based on Chemical Weekly for the POI – EU Average Price
	Russia	Based on North East Asia Price – ICIS LOR - Average for POI
	USA	Based on ICIS LOR Prices for US region for POI
	EU	Based on Chemical Weekly for the POI – EU Average Price
Naptha	Poland	Based on Chemical Weekly for the POI
	Russia	Based on Chemical Weekly for the POI - Average Price for North East Asia
	USA	Based on ICIS LOR Prices for US region for POI
	EU	Based on Chemical Weekly for the POI
Other Raw Material	All above Countries	Based on cost of production of domestic industry – adjusted for custom duty, CVD, SAD
Other Conversion and fixed costs	All above Countries	Based on cost of production of domestic industry – adjusted for optimum capacity utilization

It has been argued by the exporter and importers that instead of constructing the Normal Value, the Authority should rely on published prices of concerned Alcohols in the Chemical Weekly and ICIS LOR. While constructing the Normal Value, the Authority cannot take the cost of production of the Indian Domestic Industry. The Authority is of the view that in accordance with Section 9A (1)(c), Normal Value can be determined on the basis of the comparable price in the home market of the exporting country or the comparable price of Like Article when exported to an appropriate third country or the cost of production of said article in the country of origin. The ICIS LOR or Chemical Weekly published prices for Oxo Alcohols cannot be used as a basis for determination of Normal Value. In the given circumstance where the exporter from these countries have not co-operated by giving information for Normal Value determination, the Authority has to resort to constructing the Normal Value on the basis of facts available in accordance with Article 6.8 [read with Rule 6(8)]. Therefore, as far as possible, the Authority has obtained price of raw materials for the respective countries and in respect of other elements of costs, it has to rely on best available information. In respect of Russia Authority has determined dumping margin on the basis of constructed normal value as per above methodology. The export price has been determined on the basis of the information furnished by the importer.

As regards Republic of Korea and Indonesia, the Authority notes there are no exports from these countries of subject Alcohols during the POI. The Authority has considered the arguments by some of the exporters that no imports had taken place from Republic of Korea and Indonesia. In the absence of exports dumping margin cannot be determined and without determining dumping margin, no anti dumping duty can be levied. It is further argued that adopting the same dumping margin as for the original investigation is against the provision of Rule 23. The Authority has considered these arguments and is of the view that it may not be feasible to determine the dumping margin for the POI of this review in the absence of clear information regarding exports of subject Alcohols from Republic of Korea and Indonesia.

14. Dumping Margin in respect of Saudi Arabia, Poland, Russia, Iran, USA and EU:-

The Authority followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of 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-I to the rules. 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 assessed the dumping margin as under:

Country	2EHA	NBA	IBA
Saudi Arabia	1.87		
Iran	14.78	17.07	
Poland		37.80	
USA		55.46	47.84
EU		31.02	14.91
Russia	103.29	107.38	

Wherever the data showed no imports of a particular form of Oxo Alcohols from a particular subject country to India, the box relating to dumping margin for that particular form of Oxo Alcohol from the particular subject country has been left blank.

G. INJURY AND THREAT OF INJURY

15. Rule 11 of Anti Dumping Rules reads as follows:

"Determination of Injury:

1. In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;
2. The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury , taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules."

16. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:

- i. A determination of injury shall involve an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.
- ii. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a significant price under-cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree.

17. Views of the Domestic Industry:

M/s APL, representing the domestic industry has furnished information on various indices /factors. There may not be imports of some types of Oxo Alcohols from some of the countries. However, this may be due to the very imposition of anti dumping duty and may well established the need to continue the anti dumping duty in force. The injury to the domestic industry must be seen in the context of anti dumping duties and the legal requirement which prescribe for a determination whether injury to the domestic industry would continue or recur in the event of revocation of existing duties.

18. Views of Exporters / Importers :

On behalf of Indian Plasticisers Manufacturers Association (IPMA), M/s Lubrizol India Pvt. Ltd. (Importers), M/s Saudi Arabian Basic Industries Corporation (SABIC), Saudi Arabia and M/s Degussa AG, Germany. It has been argued that APL does not have a jetty for import of raw material to take advantage of international prices. Moreover the annual capacity of the plant is 35000 MTs against the plants set up in the other countries of not less than 1,00,000 MTs. Thus, APL has lost any advantage from economies of scales of production. Further, APL also has a locational disadvantage in that the consumers of their products are located at different places. Consequently, APL has to incur much higher inland freight charges further eroding their competitiveness. Further, it has been argued that the solution to the problem of the Oxo Alcohol Industry is not in levying of anti Dumping Duty but in increasing their efficiency to face the international competition, to which companies even smaller than APL have adjusted to. In response to the Disclosure Statement, it has been argued that in the absence of price undercutting, causal link is absent. When price undercutting is not significant, the imported goods cannot be said to have caused any injury to the domestic industry. Injury to the domestic industry cannot be attributed to the dumped imports. There is no need to examine price underselling in this case when there is no significant price undercutting. The injury is not caused by price underselling. As the Authority has determined that price undercutting is not significant, the imports could not have caused any injury and therefore, no anti dumping duty should be levied in spite of price underselling.

19. Volume of imports:

The volume of imports of subject Alcohols during the POI as per transaction-wise import data from DGCIS has been as under:

Product/Country	Quantity-Kgs	Value-Rs.
EHA		
Saudi Arabia	1414000	36690839
EHA- (Barrel)		
Iran	14400	418451
		37109290
NBA		
Netherland	248750	5915941
Germany	64200	1672836
Poland	213000	4936157
USA	902480	20460461
Total	1428430	32985395
NBA- (Barrel)		
Germany	13200	463984
Iran	355049	9523225
USA	14750	458822

Total	382999	10446031
IBA		
Saudi Arabia	14400	385961
UK	95400	2520667
USA	5755250	132744332
Total	5865050	135650960
Grand Total	9104879	216191676

20. The Authority has conducted verification and on analysis, following information emerges on various economic factors / indices of the domestic industry:

Particulars	Unit	1999-00	2000-01	2001-02
Natural & Potential Decline in Sales				
Actual Sales		100.00	135.51	105.06
Total Sales – All Types	MT	25787	34943	27093
Profits				
Cost of Production	Rs./MT	100.00	105.58	98.51
Selling Price	Rs./MT	100.00	124.04	107.66
Loss	Rs./MT	100.00	30.18	61.18
Total Profit / Loss		-100.00	-36.09	-50.26
	Rs.Lacs	-1857.78	-670.52	-933.64
Output / Production		100.00	132.69	106.74
Total	MT	25953	34437	27702
Productivity				
Productivity per Employee	MT	100.00	133.60	112.50
Return on Investment		-100.00	-34.67	-47.23
Utilization of Capacity				
Capacity	MT	30000	36000	36000
Capacity Utilization	%	86.51	95.66	76.95
Actual and potential negative effect on cash flow				
Cash Flow		-100.00	70.65	32.46
Inventories				
Closing Stocks	MT	789	282	891
Employment		100.00	99.32	94.88
Employees	Nos.	293	291	278
Wages		100.00	109.61	122.33
Wages paid to employees	Rs.Lacs	293.31	321.49	358.81
Growth in Sales	Indexed	100.00	135.51	105.06

21. Assessment of Injury Parameters :

(i) Natural and Potential decline in Sales

The Authority finds that total sales of domestic industry have shown improvement during POI with reference to year 1999-2000.

(ii) Profits

The losses of the Company were Rs.185.77 Million during 1999-2000. These have come down to Rs. 93.36 Million.

(iii) Output

The production has increased from 25,953 MT to 27,702 MT during POI.

(iv) Market Share

The market share of domestic industry, imports from subject countries and other countries has been as under :

Market Share in demand (%)	1999-2000	2000-2001	2001-2002
Imports from subject countries	36.46	8.24	13.28
Imports from other countries	7.73	7.67	40.80
Sales of APL	31.55	52.85	39.51
Sales of NOCIL	24.26	31.24	6.42
Total	100	100	100

The Authority finds that the market share of domestic industry has come down from 55.81% in 1999-2000 to 45.93% during POI. The share of imports from subject countries was at 13.28% during POI which declined from 36.46% during 1999-2000. This decline can be attributed to the existing anti dumping duties on these sources.

(v) Price Undercutting

The price undercutting has been found to be in the range of -29.62% to +29.63% transaction-wise. While calculating the price under-cutting the Authority has compared the landed value of imports with the Net Sales realization of the domestic industry for the same month. However, on a comparison of weighted average net sales realization of the domestic industry for the whole investigation period, the price undercutting is not significant.

(vi) Price Depression

The Authority finds that the domestic industry has suffered price depression as a result of dumped imports.

(vii) Price underselling

The Authority also finds significant price underselling as a result of dumped imports from subject countries by comparison of the landed value with the Non Injurious Price of the domestic industry. The Price under-selling has been found to be in the range of 4% to 45%. However, in respect of exports of IBA from EU there is no price underselling.

(viii) Productivity

The productivity per employee has increased from 100 to 112.50 (indexed).

(ix) Return on Investment

The Authority finds that the return on investment continues to be negative during POI though the extent of loss has declined.

(x) Utilization of Capacity

The capacity utilization of the domestic industry declined from 86.51% to 76.95% during POI.

(xi) Actual and Potential Negative Effects on Cash Flow

The cash flow position has shown improvement during the POI.

(xii) Inventories

The closing stock at the end of POI were 891 MT which has increased in comparison to the earlier years.

(xiii) Employment

There is a small decrease in the number of employees of the Company.

(xiv) Wages

There has been increase in the wages paid to the employees.

(xv) Growth

The Authority notes that the domestic industry has shown growth of sales of 5.06% during the POI in comparison to the year 1998-99. However the growth showed a significant decline in comparison to the previous year.

(xvi) Ability to raise Capital Investment

The Authority notes that the domestic industry had continued to suffer losses. As recorded in the Annual Report for the year ended 31st March, 2002 of the company, more than 50% of the Peak Net Worth of the Company during the 4-5 financial years was eroded as of 31st March, 2002. Therefore, the Company would find difficulties in raising capital investment.

22. Cumulative assessment of injury:

As per annexure-II (iii) of Anti Dumping Rules, in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article -- and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from these countries collectively are 24.55% of total imports.

On an examination of the exporters' response, importers' information, the Authority finds that the prices of the subject goods coming from different sources are almost comparable and do not vary significantly. These have been imported under the same tariff classification. The user industry for the imported product and the domestic product is same. The information received from the importers and the user industry reveals that they have sourced the subject goods from the domestic producer as well by imports from the subject countries. Same product has been sourced from different countries by users and used interchangeably. The channels of imports are also found to be similar. The Authority has, therefore, found it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between the imported products and the conditions of competition between the imported products and like domestic product. The Authority finds that there is a cumulative effect of injury by imports of subject goods from subject countries on the domestic industry.

23. Overall Assessment and Causal Link

- i. Some of the economic factors/indices of the domestic industry like sales, production, productivity show improvement in the performance of the domestic industry. They have also been able to reduce their losses. The improved performance of the domestic industry on certain parameters is to be seen in the light of existing anti dumping duties.
- ii. The market share of the domestic industry has, however, declined. In addition, the fact that about 9,104 MT of dumped imports of subject goods took place during the POI, which constitute about 13.28% market share in total demand, holds a threat that the imports would intensify if the anti dumping duties are removed.
- iii. The Authority finds that the domestic industry continues to suffer injury on account of price undercutting. The price undercutting has been found to be in the range of -29.62% to +29.63% transaction-wise. While calculating the price under-cutting the Authority has compared the landed value of imports with the Net Sales realization of the domestic industry for the same month. However, on a comparison of weighted average net sales realization of the domestic industry for the whole investigation period, the price undercutting is not significant.
- iv. The Authority finds that the domestic industry has suffered due to price depression as a result of dumped imports.
- v. The Authority also finds significant price underselling as a result of dumped imports from subject countries by comparison of the landed value with the Non Injurious Price of the domestic industry. However, in respect of exports of IBA from EU there is no price underselling.
- vi. The losses of the Company for the year 31st March, 2002 were Rs.93.36 million.
- vii. The Authority is of the view that this is a review investigation under Rule 23 and the Article 11.2 of the Anti Dumping Agreement also guides the Authority. The Authority is required to examine whether the injury would be likely to continue or recur if the duty were removed. The performance of the domestic industry during the POI is to be seen in the overall context of the existing anti dumping measures on imports from subject countries as well.
- viii. Exporters / Importers have argued that APL does not have jetty for import of raw material to take advantage of international prices. The Authority has examined this aspect and found that M/s APL was in fact making savings in their procurement of basic raw material Propylene from M/s HPCL instead of purchasing from foreign suppliers based on the South East Asia prices for the period of investigation. As regards the arguments that APL has a locational disadvantage and their customers are located at different places, the Authority has found that APL makes its sales on ex-works basis and the comparison of ex-works net sales realization has been made for the purpose of determining the price undercutting. This has not been found to be cause of injury to the

domestic industry. As regards the plant size of APL and any consequential economies of scale of production, no verifiable data was brought before the Authority and therefore, this argument of importer/exporter was not substantiated. The Authority finds that as a result of continued imports of dumped subject goods, the domestic industry has suffered injury. This is a Mid-term Review and based on the assessment the Authority finds that dumping continues from several of the subject countries. The Authority is further of the view that domestic industry is suffering from injury and it may not be appropriate to withdraw the existing anti dumping measures as it may lead to continuance and recurrence of dumping and injury. The Authority, therefore, considers it appropriate to continue to impose the anti dumping duty.

H. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

24. Higher Imports of Plasticizers

It has been argued by ICMA and IPMA that substantial imports of cheaper plasticizers are taking place resulting in loss of market to the plasticizer industry. The cost of manufacturing of plasticizer has gone up substantially due to anti dumping duty on Oxo Alcohols and viability of the Indian Plasticizer Industry is under threat and will lead to closure of many units. The value addition margin from Phthalic Anhydride and Oxo Alcohols to plasticizer does not warrant any anti dumping duty. The Authority reiterates that the purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in the general interest of the country. The Authority has verified information of some of the Plasticizer manufacturing units. However, there was no evidence to substantiate that their profitability had been eroded.

25. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the product in India. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

I. FINAL FINDINGS

26. After considering the foregoing the Authority concludes that -

- i. Subject Oxo Alcohols have been exported below their Normal Value from Poland, Saudi Arabia, Russia, Iran, USA and European Union. There was no evidence of dumping from Republic of Korea and Indonesia during the POI of this review;
- ii. The domestic industry continues to suffer material injury on account of dumped imports from Poland, Saudi Arabia, Russia, Iran, USA and European Union;
- iii. The injury has been caused to the domestic industry by the dumped imports from Poland, Saudi Arabia, Russia, Iran, USA and European Union; and
- iv. The Authority considers it appropriate that anti dumping duties may continue to be imposed in respect of imports from Poland, Saudi Arabia, Russia, Iran, USA and European Union and withdrawal thereof would lead to continuance and recurrence of dumping and injury.

27. The Authority considers it appropriate to recommend the continuation of anti-dumping duty on imports of subject Oxo Alcohols originating in or exported from Poland, Saudi Arabia, Russia, Iran, USA and European Union. The amount of anti-dumping duty shall be equal to the margin of dumping or margin of injury, whichever is lesser and which if levied would remove the injury to the domestic industry. For the purpose of determining injury margin, the landed price of imports has been compared with the non injurious selling price of the domestic industry determined for the period of investigation. The anti dumping duty recommended as per this Review shall be valid for a period of five years from the date of the notification to be issued in this regard by the Central Government.

28. The anti dumping duty shall be on imports of following Acyclic Alcohols (Oxo Alcohols) viz. 2EHA, NBA, IBA and Iso Octanol falling under Customs heading 2905 of first Schedule to the Customs Tariff Act originating in or exported from Poland, Saudi Arabia, Russia, Iran, USA and European Union . The anti dumping duty shall be the difference between the amounts mentioned in column 9 below and the landed value of imports in US\$/MT .

S.No	Sub-Heading	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	2905	Acyclic Alcohol	2EHA NBA IBA Iso-Octanol	Saudi Arabia	Any Country	Any Producer	Any Exporter	756.82	MT	US\$

2	2905	Acyclic Alcohol	2EHA NBA IBA Iso-Octanol	Any Country	Saudi Arabia	Any Producer	Any Exporter	756.82	MT	US\$
3	2905	Acyclic Alcohol	2EHA IBA Iso-Octanol	Iran	Any Country	Any Producer	Any Exporter	628.42	MT	US\$
4	2905	Acyclic Alcohol	2EHA IBA Iso-Octanol	Any Country	Iran	Any Producer	Any Exporter	628.42	MT	US\$
5	2905	Acyclic Alcohol	NBA	Iran	Any Country	Any Producer	Any Exporter	622.04	MT	US\$
6	2905	Acyclic Alcohol	NBA	Any Country	Iran	Any Producer	Any Exporter	622.04	MT	US\$
7	2905	Acyclic Alcohol	2EHA NBA IBA Iso-Octanol	Poland	Any Country	Any Producer	Any Exporter	727.35	MT	US\$
8	2905	Acyclic Alcohol	2EHA NBA IBA Iso-Octanol	Any Country	Poland	Any Producer	Any Exporter	727.35	MT	US\$
9	2905	Acyclic Alcohol	NBA	USA	Any Country	Any Producer	Any Exporter	727.35	MT	US\$
10	2905	Acyclic Alcohol	NBA	Any Country	USA	Any Producer	Any Exporter	727.35	MT	US\$
11	2905	Acyclic Alcohol	2EHA IBA Iso-Octanol	USA	Any Country	Any Producer	Any Exporter	713.38	MT	US\$
12	2905	Acyclic Alcohol	2EHA IBA Iso-Octanol	Any Country	USA	Any Producer	Any Exporter	713.38	MT	US\$
13	2905	Acyclic Alcohol	2EHA NBA Iso-Octanol	EU	Any Country	Any Producer	Any Exporter	727.35	MT	US\$
14	2905	Acyclic Alcohol	2EHA NBA Iso-Octanol	Any Country	EU	Any Producer	Any Exporter	727.35	MT	US\$
15	2905	Acyclic Alcohol	2EHA IBA Iso-Octanol	Russia	Any Country	Any Producer	Any Exporter	826.47	MT	US\$
16	2905	Acyclic Alcohol	2EHA IBA Iso-Octanol	Any Country	Russia	Any Producer	Any Exporter	826.47	MT	US\$
17	2905	Acyclic Alcohol	NBA	Russia	Any Country	Any Producer	Any Exporter	727.35	MT	US\$
18	2905	Acyclic Alcohol	NBA	Any Country	Russia	Any Producer	Any Exporter	727.35	MT	US\$

29. Landed value of imports for the purpose shall be the assessable value as determined by the 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.

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

Abhijit Sengupta,
Designated Authority

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

CORRIGENDUM

New Delhi, the 16th March, 2004

Subject: Anti-Dumping investigations in the matter relating to review of anti-dumping duty imposed on imports of Oxo Alcohols from Poland, Republic of Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union – Final Findings.

No.40/1/2001-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, the Designated Authority had issued Final Findings vide Notification No. 40/1/2001-DGAD dated 26th February, 2004, in the subject review of anti dumping duty imposed on imports of Oxo Alcohols from Poland, Republic of Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union.

The last sentence of paragraph 27 of the aforesaid notification dated 26th February, 2004 is amended as under :

For :

"The anti dumping duty recommended as per this Review shall be *valid* for a period of five years from the date of the notification to be issued in this regard by the Central Government."

Read :

"The anti dumping duty recommended as per this Review shall be *valid* for a period of five years from the date of imposition of the provisional anti dumping duty i.e. 27th January, 2000."

Abhijit Sengupta,
Designated Authority