

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING &
ALLIED DUTIES

NOTIFICATION

New Delhi, the 20th August 2004

FINAL FINDINGS

Subject: Anti-dumping investigation concerning imports of Propylene Glycol originating in or exported from the European Union, Singapore, Korea RP and USA – Final Findings

No. 14/8/2003-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

A. PROCEDURE:

1. The procedure described below has been followed:-
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. Manali Petrochemicals Ltd, Chennai, on behalf of the domestic industry, alleging dumping of Propylene Glycol originating in or exported from European Union, Singapore, Korea RP and USA (hereinafter referred to as subject countries);
 - ii. The Authority notified the Embassies/High Commissions of subject countries in India about the receipt of fully documented petition made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
 - iii. The Authority issued a Public Notice dated 22nd August 2003 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Propylene Glycol.
 - iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainant and gave them an opportunity to make their views known in writing.

- v. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies/High Commissions of subject countries in India.
- vi. The Authority sent questionnaires, to elicit relevant information, to the following known exporters from European Union, Singapore, Korea RP and USA .
1. Lyondell Chemical Company, USA
 2. Shell Eastern Petroleum (Pte.) Ltd, Singapore
 3. The Dow Chemical Company, USA
 4. S.K. Oxichemical Co Ltd, South Korea
 5. M/s Repsol De Quimica., Spain
- vii. M/s Shell Eastern Petroleum (PTE) Ltd (SEPL), Singapore has responded to the exporters questionnaire. Some of the exporters as well as Importers asked for an extension of time to respond to the questionnaire and the Authority after considering the request from the exporters and importers extended the time period to reply to the questionnaire by two weeks. M/s Repsol, Spain and M/s Dow Chemical , USA has responded to the application filed by the domestic industry but has not responded to the exporters questionnaire and have not submitted any information in the form and manner as required in the exporters questionnaire. M/s Repsol has submitted two appendices in their response but no information with regards to their normal value and export price to India has been submitted by them as required in the exporters' questionnaire. In view of their non cooperation, the Authority has treated both the exporters as non cooperative and worked out dumping margin as per the best information available. However the arguments presented by these exporters including the delegation of European Union have been analysed to the extent these have been found relevant in this subject investigations. Further, none of the importers have also submitted any response to the importers questionnaire.
- viii. The Embassies/High Commissions of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- ix. The questionnaire was sent to the following known users/importers of subject goods: -
- Lupin Ltd Aurangabad 431 210
 - Anand Enterprise Mumbai
 - Refnol Resins & Chemicals Ltd Ahmedabad 382 330
 - Mundra Enterprise, Bangalore 560 053
 - C J Shah & Co Mumbai 400 021

- Pepsi Foods Ltd, PunjabPUNJAB
- Keva Flavours Ltd Mumbai - 400 080.
- ICPA Health Products Ltd Gujarat
- S H Kelkar & Co Ltd Mumbai 400 080
- Ambuja Plastics P Ltd Delhi 110 041
- Amtech Polymers Haryana
- Janardhana Chem Pvt Ltd Mumbai
- Morex Adhesives Pvt Ltd Mumbai
- Morex Petrochem Pvt Ltd Mumbai
- Network Polymers Pvt Ltd Maharashtra
- Babul Products Ltd Gujarat North
- Gopal Enterprises Mumbai
- K Uttamlal & Co Mumbai 400 009
- Pfizer Ltd Mumbai 400 102
- Mechemco Industries Mumbai 400 013
- Jewel Polymers Pvt Ltd Palghat 401 404
- Satyen Polymers Silvassa
- Dujodwala Paper Chemicals Ltd Maharashtra
- Chem Trade Mumbai 400 003
- Asian Paints India Ltd Mumbai 400 078

- x. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- xi. **** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xii. The investigation of dumping and injury covered the period from 1st April 2002 to 31st March 2003 (Also called the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 1st April 2000 to the end of period of investigation (also called period under consideration) as these periods were considered sufficient for the purpose of analysis of trends of injury.
- xiii. The Authority provided an opportunity to all interested parties to present their views orally on 25h May 2004. All parties presenting views orally were requested to file written submissions, of the views expressed orally. Domestic verification as well as exporters verification of the data submitted by them were undertaken by the Authority. The Authority sought and verified all the information it deemed necessary for the purpose of Final Findings with regards to determination of dumping and resulting injury. The Authority conducted on the spot investigation of the domestic industry to the extent considered

necessary. The Authority also carried out on spot verification of the data submitted by only cooperating exporter M/s SEPL, Singapore and verified the data submitted by them. In accordance with Rule 16 of The Rule supra, the essential facts/ basis considered for these findings were disclosed to known interested parties on 26th July 2004 and comments received on the same are duly considered in Final Findings. Confidential copies of the disclosure statement were issued to the domestic industry indicating the Non injurious price as arrived by the Authority and to the cooperating exporter indicating the normal value and exports price including various adjustments.

- xiv. The cost of the production of the domestic industry was also analysed to work out the optimum cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the petitioner so as to ascertain if anti Dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.
- xv. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. Product under Consideration.

2. The product under consideration in the present case is Propylene Glycol – aAll grades (also referred to as the subject goods). The propylene glycol is manufactured by the reaction of the propylene oxide with water at high temperature & pressure. The Propylene Glycol is used for industrial applications like manufacture of polyester resin, industrial anti-freezing applications and in pharmaceutical industries. This product is classified under Customs Tariffs Code 29053200.

C. Like Article.

3. The petitioner has claimed that goods produced by it are like articles to the goods originating in or exported from subject countries. There is no significant difference in the subject goods produced by the petitioner and those exported from subject countries. Petitioner claims that the two are technically and commercially substitutable. Rule 2(d) of the Anti-dumping Rule specifies that like articles mean an article, which is identical and alike in all respects to the product under investigation or in the absence of such an article, another article having characteristics closely resembling those of the articles under examination. In order to establish that subject goods produced by the domestic industry is a Like Article to that exported from subject countries, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority. It has been argued by some exporters that propylene glycol exported by

M/s REPSOL (Spain) is a special grade subject goods used only by the pharmaceutical, food and cosmetic industries. It has also been argued that domestic industry produces subject goods only for the industrial purposes. The submissions made by M/s Repsol/Delegation of EU are based on the assumption that grades referred to above (i.e pharmaceutical, food and cosmetic) are not manufactured by the domestic industry, which has been found to be factually incorrect by the Authority. The Authority notes that the domestic industry produces and sells substantial quantities of all the grades of the subject goods including the pharmaceutical and food grade. Further, None of the interested parties except M/s Dow Chemical and Delegation of the EU have raised any arguments with regards to the issue of Like article. M/s Dow Chemical, USA and Delegation of EU (after the disclosure statement) maintain that product exported by them is USP/EP grade of Propylene Glycol which is used in the foodstuffs or pharmaceuticals and is priced higher. However these exporters have not submitted any response enclosing any evidence to support their argument. On the Contrary, It is noted from the onsite inspection of the M/s SEPL that there is no difference in the costs for making the subject goods pertaining to the industrial or Pharmaceuticals grade except for some minor difference which could be on account of handling of the subject goods and cannot be attributed to variations in grades. Moreover, the domestic industry in their written submissions had specifically made the point that they manufacture all the grades of subject goods and there are no significant differences in the prices of these grades. On basis of the detailed investigation, the Authority, therefore, concludes that propylene glycol produced by domestic industry has characteristics, which are similar to those imported from subject countries and to those sold in the market of exporting countries. In view of the above the Authority holds that propylene glycol produced by the domestic industry and those being imported from and sold in the subject countries are like articles within the meaning of the rules.

D. Domestic Industry

4. The petition has been filed by M/s Manali Petrochemicals Limited, Chennai. The Authority notes that the petitioner is the sole producer of the subject goods in India and hence has standing to file the petition in terms of Rules 5(3) a of the Rules supra read with Rule 2(b).

E. De-minimus.

5. As regards ascertaining that the imports from the subject countries during the period of investigation (POI) are above de-minimus levels, the Authority has referred to the transaction wise data from the subject countries as made available by DGCIS.

After examining the data, The Authority holds that imports from all the subject countries are above de-minimus levels in terms of volume of imports.

F. Dumping.

6. Under Section 9A(1) I of the Customs Tariff Act 1975, Normal value in relation to an article means:

1. The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
2. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-
 - a. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - b. The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

7. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). Only one exporter M/s SEPL Singapore have responded to the questionnaire in the form and manner required as per letter to the exporters and exporters questionnaire.

F.1 Singapore

(a) Cooperation

8. M/s. Shell Eastern Petroleum Ltd (SEPL)- M/s SEPL , has responded to the exporters' questionnaire by giving information with regard to various appendices mentioned in the exporters' questionnaire. They also offered verification of the data

submitted by them and the Authority has verified the data after onsite inspection at the premises of the producer and the exporter.

(b) Normal Value & Export Price:

9. It has been argued by the domestic industry that both the producer as well as the exporters are separate units and therefore there should be two responses from them. It also has been alleged that there was no authorization from M/s Seraya Chemicals Singapore (PTE) Ltd for authorizing SEPL to undertake obligations on behalf of M/s Seraya. The Authority has verified the information submitted by the interested parties in this regard and has concluded that M/s Seraya Chemicals is a fully integrated cost centre within statutory accounts and as a single tax entity with SEPL within Singapore. The and the Authority has therefore treated response from the producer and exporter as a collective response from both the companies from Singapore for this subject investigation. With regards to allegation of sourcing their inputs through their related subsidiary or related company or through relationship company, the Authority notes that M/s SEPL sources the input propylene (PP) based on arms length pricing mechanism which includes elements of market related propylene prices through another company which is based on the ****through another company **** at a reference price which is based on margin sharing between **** and ****polypropylene and propylene for best in the class plants with a small percentage given to spot Ethylene prices in the SE Asia and the contract price in the USA which are further based on mainly confidential data used by ****. Further, After examining the documents, it is also concluded that these input prices are based on the contract which is further based on parameters **** as mentioned earlier which is applicable for all the users of that input and hence, there is no relationship pricing involved in the purchase of the inputs for the production of subject goods.

10. The response of the exporter has been examined by the Authority. After examining appendix VIII with regards to the cost of the production and Appendix I with regards to the transaction wise sales information in the domestic sales as per response to the exporters' questionnaire it is determined that domestic sales are under the ordinary course of trade. The Authority has also determined that the domestic sales are in a sufficient quantity for the determination of the Normal value as it comprises more than 5% of the sales of the product under consideration to the importing country. The authority has further verified the data submitted by the exporters by carrying out an on site inspection of the information submitted by the exporters in their submissions before the Authority. The Authority has assessed the normal value for the cooperating exporter after making all the adjustments required to be made at the ex-factory level as claimed by the exporter. Similarly, the authority has assessed ex factory export price of the cooperating exporter after allowing various

adjustments as claimed by the exporter while arriving at net export price at the ex factory level.

(c) Comparison

11. For the purpose of a fair comparison between the normal value and export price at an ex factory level, due allowance in the form of adjustments was made for differences that were claimed and demonstrated to affect prices and price comparability. These adjustments were made, wherever appropriate, in respect of transport, insurance, handling, loading, credit costs and others in accordance with para 6 of the annexure I of the anti dumping rules made under the Customs Tariff Act.

(d) Dumping Margin:

12. In accordance with Rule 6(IV) of annexure I to the anti dumping rules, the dumping margin was established on the basis of weighted average normal values with the weighted average export price. The comparison showed the existence of dumping of the subject goods by the exporter during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined and is 7.64%.

F.2 Other exporters from Singapore:

13. No other exporters from Singapore have responded to the Authority's request for information. The claim made by the petitioner with the regard to the determination of normal value and export price has also not been disputed by the other interested party (ies). Thus, the dumping margin in case of Non-co-operative/other exporters of Subject goods from Singapore is assessed by Authority at US\$ *****/MT orof Export price after determining the normal value as US \$*****/MT as per the best information available and export price as US\$*****/MT taking the weighted average export price from Singapore to India during the POI .

F.3 European Union

(a) Cooperation:

14. The only company from the European Union exporting producer M/s. Repsol YPF submitted only part information and they have not submitted response in the form and manner as prescribed in the exporter's questionnaire. They have not submitted any information with regards to the Appendix 1, which would show transactions wise sales information in the country of origin. They have submitted some information with regards to the exports to subject goods to India during the POI but they have not

submitted this information along with the evidences/invoices in the form and manner of the exporter's questionnaire. Further, they have not submitted 2A which shows the sale of the subject goods of the company with separate data for exports to India, domestic market and exports to the other countries. Similarly, Appendix 3 has not been submitted which would provide information about operating statistics of the firm. Though they have submitted some information with regards to the sales price structure for India and the EU, they have not submitted any information evidencing the various adjustments claimed in their sales price structure. Further no information pertaining to the Appendix 4 and Appendix 5 has been submitted which would show installed capacity, production, sales and raw material consumption and reconciliation. Further statement of raw material consumption as required in Appendix 6 and allocation and apportionment of expenditure as required in the Appendix 7 has not been submitted. Additionally, no information with respect of statement of the cost of the production as required in the Appendix 8, Factory cost and profit of exports to India and domestic sales as required in the Appendix 8A and 8B has been provided without which the tests of ordinary course of trade for domestic sales for determination of Normal value is not possible. Further, statement of the allocation of the SGA overheads has not been provided as required in the Appendix 9. In fact the entire submission made by the exporter to the exporters questionnaire is grossly deficient. The authority notes that the company was reminded by the authority to submit the complete response in the form and manner as prescribed in the exporter's questionnaire along with its Non confidential summary and was also reminded of the fact that if the information was not supplied within reasonable time, the Authority would be free to make determinations on the basis of the facts available , including those contained in the application for the initiation of the investigation by the domestic industry. The Authority notes that the firm in their communication dated 25th June 2004 has maintained that it has submitted all the "relevant information to show their position". They have further added that they have received advice from EC DG tradeB.2 and they are working with them in the issue. In view of non submission of response to the exporters questionnaire, the Authority treats the exporters as Non cooperative within the meaning of Agreement of Anti Dumping.

(b) Normal Value and Export Price:

15. The authority notes that the exporter has not submitted information in the form and manner required under the exporter's questionnaire. As no relevant information had been submitted under various appendices (particularly I & VIII), the authority cannot determine whether the domestic sales have been made in the ordinary course of trade. The claim made by the petitioner with regard to determination of normal value has also not been disputed by the exporter or other interested parties. Under the circumstances, normal value under the rules is determined on the basis of facts

available as per rule 6(8) of the Anti-dumping Rules. Therefore, the information available on the estimated costs of the production in the country or origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods for the exporter. Export price at ex factory level has been determined with the available data from the DGCIS and with adjustments as per the facts available.

(c) Comparison:

16. For the purpose of a fair comparison between the normal value and export price at an ex factory level, due allowance wherever appropriate, has been allowed in respect of transport, insurance, handling and other costs.

(d) Dumping Margin:

17. In accordance with Rule 6(IV) of annexure I to the anti dumping rules, the dumping margin was established on the basis of constructed normal values with the weighted average export price at an ex factory level. The comparison showed the existence of dumping of the subject goods by the exporter during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined and is 30.15%.

F.4 Other exporters from EU

18. No No other exporters from EU have responded to the Authority's request for information. The claim made by the petitioner with the regard to the determination of normal value and export price has also not been disputed by the other interested party (ies). Thus, the dumping margin in case of Non-co-operative/other exporters of Subject goods from EU is assessed by Authority at US\$ *****/MT or 30.15% of Export price after determining the normal value as US \$*****/MT as per the best information available and export price as US\$*****/MT taking the weighted average export price from EU to India during the POI.

F.5 USA & Korea RP:

(a) Cooperation:

19. Neither of None of the two United States exporting-producers submitted any response to the exporters' questionnaire. However, M/s Dow Chemical has submitted some arguments with regards to the like article, volume of imports from USA and injury caused to the domestic industry which have been dealt at the appropriate

headings. Further, there has been no response to the exporters questionnaire despite reminders to this effect by the Authority. There was no participation either from the only exporting producer from South Korea.

(b) Normal Value and Export Price:

20. The authority notes that the exporter has not submitted any information in the form and manner required under the exporter’s questionnaire. As no relevant information had been submitted under various appendices (particularly I & VIII), the authority cannot determine whether the domestic sales have been made in the ordinary course of trade. The claim made by the petitioner with regard to determination of normal value has also not been disputed by the exporter or other interested parties. Under the circumstances, normal value under the rules is determined on the basis of facts available as per rule 6(8) of the Anti-dumping Rules. Therefore, the information available on the estimated costs of the production in the country or origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal values of the subject goods for the exporter from United States and Korea RP separately. Export price at ex factory level has been determined taking into account the weighted average export price as reported by the DGCI&S for both the countries separately.

Comparison:

21. For the purpose of a fair comparison between the normal value and export price at an ex factory level, due allowance wherever appropriate, has been allowed in respect of transport, insurance, handling and other costs.

Dumping Margin:

22. In accordance with Rule 6(iv) of annexure I to the anti dumping rules, the dumping margin for exporters of United States and Korea RP were established on the basis of constructed normal values with the weighted average export price at an ex factory level. The comparison showed the existence of dumping of the subject goods by the exporters from United States and Korea RP during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined and is 46.87% for United States and 29.46% for Korea RP. As there was no cooperation from any of the exporters from United States and Korea RP, the dumping margin has been set by the authority for the United States and Korea RP, as a whole.

Country	Name of the producer/exporter	Normal Value	Export Price	D.M.%
Singapore	M/s. SEPL Corpn.	*****	****	7.64

Singapore	Other Producers/exporter	*****	*****	12.32
EU	All Producers/exporters	****	****	30.15
USA	All Producers/Exporters	****	****	46.87
Korea	All Producers/Exporters	****	****	29.46

G. Injury

a) Domestic consumption/demand

23. For the calculation of the Domestic consumption/demand of the product under consideration in a domestic market, the authority added the sales volume of the domestic industry to the total imports into the domestic market. On this basis, the domestic demand or consumption of the subject goods in the domestic market increased from 14626 MTs in 2000-01 to 18719 MTs representing an increase of 27.98%.

Domestic consumption / Demand			
	2000-01	2001-02	POI
Domestic Demand	14626.35	17551.24	18719.06
Index	100	120	127.98

24. (a) Cumulative Assessment of the effects of imports concerned

- i. The Authority examined whether imports of subject goods originating in USA, EU, Korea and Singapore should be assessed cumulatively as per Article 3.3 of the Agreement on Anti-Dumping and Rule 11 of the Anti Dumping Rules Under the Customs Tariff Act.
- ii. The margin of dumping established in relation to the imports from each of the countries concerned was above the de minimus threshold as defined in Article 5.8 of the Agreement on Anti-Dumping and Rule 14 of the Anti Dumping Rules and Volume of imports from each of these countries was not negligible.
- iii. As regards the conditions of competition, the investigation showed that subject goods imported from various subject countries were used by same users and the imported subject goods were being imported in the similar price band indicating that all their essential physical and technical characteristics are alike. The Authority further notes that subject goods imported from various subject countries and those sold in the domestic market by the domestic industry was interchangeable and was marketed in the domestic market during the period under consideration through comparable sales channels under similar commercial conditions. The authority further notes that none of the interested parties have submitted any arguments with regard to de-cumulation of any country from the subject countries.

- iv. In the light of the above, the authority has considered that the criteria set out in article 3.3 of the Agreement of Anti-Dumping and as per para iii of the Annexure II under Rule 11 were met and that imports from the countries concerned should therefore be examined cumulatively.

b) Imports originating in the subject countries.

Volume

25. The volume of imports of the product under consideration from subject countries into the domestic market increased by 52 % over the period under consideration. Import volumes into India have been shown separately following the submissions of the disclosure by interested parties. The authority further notes that the domestic consumption increased by 28% during the period under consideration.

Volume of imports of subject goods (subject countries and Non Subject countries) MT			
	2000-01	2001-02	POI
EU	231	453	334
Korea RP	382	217	598
USA	2111	1711	2668
Singapore	1783	3181.9	3233.7
Subject countries	4507	5562.9	6833.088
Non Subject Countries	113.6	210.63	80
Total Imports	4620.6	5773.53	6913.088

(c) Market Share

26. Over the period under consideration, the share of the domestic market held by dumped imports from the subject countries in the total demand increased by 20 percentage points. The market share held by the dumped imports increased from 30.8% in 2000-01 to 31.7% in 2001-02 and to 37.2% during the POI.

Market share of imports from subject countries as a proportion to the domestic production			
	2000-01	2001-02	2002-03
% Domestic Production	45.04	47.23	57.88
Market share of imports from subject countries as a proportion to the domestic demand.			
	2000-01	2001-02	2002-03
% Domestic Demand	30.8	31.7	37.2

27. On the basis of above examination, the Authority concludes that there has been a significant rise in the market share of dumped imports of the subject countries as a share of total demand and it has increased significantly during the POI as compared to previous years while the share of the domestic industry has declined.

(d) Prices

Evolution of Price over the period under consideration

27. Between 2001-02 and the POI, the average CIF prices of the imports originated in subject countries decreased by 6.6 percentage points during the period under consideration. The decrease occurred steadily over the period under consideration.

Average price of dumped imports CIF			
	2000-01	2001-02	2002-03
Rs/MT	****	****	****
Average price of dumped imports			
	2000-01	2001-02	2002-2003
Indexed	100.0	93.2	93.4

(e) Price Undercutting

29. A comparison for comparable types of the product concerned was made between the exporting producers and the domestic industries average selling price in the domestic market, net of all rebates and taxes to unrelated customers, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The constructed CIF prices of the subject countries concerned were adjusted for post importation applicable duties covering basic customs duty. This comparison showed that during the period of investigation, the subject goods originating in the subject countries were sold in the domestic market at prices which undercut the domestic industry's prices when expressed as a percentage of the domestic selling prices of the domestic industry.

Price Underselling

30. The Authority has also examined the claim of the petitioner that the domestic industry is suffering on account of the losses from the sale of propylene glycol. The Authority notes that price underselling is an important indicator to make an assessment of the injury. The Authority has worked out the Non-injurious price for the product under consideration and compared the same with the landed value to arrive at the extent of price underselling. The analysis shows a significant level of incidence of price underselling causing injury to the domestic industry. Additionally, the imports were having significant depressing effect on the prices in the domestic market, as the domestic industry prices have shown significant decline in their selling prices during the period of injury examination as a whole. Due to the depressing effect on the prices of the domestic industry, the margin of price undercutting does not appear significant and imports from some of the subject countries show negative price undercutting as

well. However the Authority notes that this could be on account of the price depression of the domestic industry. Thus, examination of the available evidence shows that the domestic industry, as a whole, has suffered injury on its sales of subject goods during POI. The authority has determined the extent of price undercutting during the POI and concludes that the domestic industry has suffered price undercutting and significant price underselling during the POI because of import from subject countries. Further, the Authority has calculated the exporter specific price underselling taking into account the individual landed values of all the co-operative exporters. These landed values are based on the actual export prices and ,therefore, the issues relating to the higher prices due to better quality are duly taken care of in the piece underselling calculations.

Price Depression/Undercutting/underselling			
	2000-01	2001-02	2002-2003
Selling Price Rs/unit	100****	****91.4	****89.2
Cost / Unit	100	87.9	94.2
Price Undercutting %	8-15	2-6	8-15
Price underselling %			15-25

Price Depression

31. As noted in the preceding paragraph, selling prices of the domestic industry have declined during the POI as compared to 2000-01. The Authority on the basis of the examination concludes that the domestic industry is facing the price depression on account of the dumped imports from subject countries. The authority also notes that variable costs form an overwhelming part in the total costs of production of the subject goods and during the period under consideration, though the cost of production has declined by 5-8% from 2000-01 to 2002-03 the selling prices have declined by more than 11%. The authority notes that even after increasing sales volume in absolute terms, the domestic industry's selling prices have been depressed and domestic industry is having to sell the subject goods at a price much less than non-injurious price. On the basis of the examination, the authority concludes that the domestic industry has suffered price depression during the period under consideration.

(f) Situation of the Domestic Industry

Preliminary remarks

32. For the examination of the impact of the imports on the domestic industry in India, the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net

sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II (iv) of the Rules supr.a

Capacity, Production and Capacity Utilisation

33. The production of the domestic industry increased from 82% to 89% during the period under consideration. As there was no change in the production capacity during the period under consideration, the capacity utilisation improved by 7% during the period under consideration.

	2000-01	2001-02	2002-2003
Capacity	13250.0	13250.0	13250.0
Production	10986.0	10429.0	11786.0
Capacity Utilisation%	82.91	78.71	88.95
Index	100	94.93	107.285

Inventories

Actual and Potential Negative Effects on Inventories			
	2000-01	2001-02	2002-03
Inventories/Stocks	****	****	****
Sales Volume MT	****	****	****
Invent % to Sales Vo	18.13	3.83	2.58
Indexed Stocks	100.00	24.86	16.76

34. The stocks decreased by 83.24% during the period under consideration. During the 2000-01, they constituted 18.13% of the sales volume whereas in the period of investigation, they accounted for 2.58% of the sales volume.

Cash Flow

35. Being a multi product company, the Authority could not decisively determine the cash flow pertaining to the product under consideration. Thus, based on the evidence made available, the authority could not conclude injury on account of this parameter despite the claims made by the domestic industry that it has incurred negative cash flow during the POI.

Sales Volume and Market Share of the Domestic Industry

36. The sales by the domestic industry in the domestic market increased by 17.83% in terms of volume. However, in terms of value, the per unit realization had a significant decline.

37. The market share held by the domestic industry, however, declined by more than 6% over the period under consideration.

38. The Domestic industry lost the market share steadily during the period under consideration. However the decline in the market share was more marked in the period of investigation as compared to the preceding year.

Actual and Potential decline in sales			
	2000-01	2001-02	2002-03
MT	****	****	****
Change on prev Yr		****	****
% Change		17.71	0.11
Rs sales	****	****	****
Change on prev Yr		****	****
% Change		-8.64	-2.54
Actual and Potential decline in output			
	2000-01	2001-02	2002-03
Kg (000)	****	****	****
% Change		94.93	107.28

Market Share of the Domestic Industry Indexed			
	2000-01	2001-02	2002-2003
Subject countries	30.8	31.7	36.50
Non Subject Countries	0.8	1.2	0.43
Total Imports	31.6	32.4	36.93
Domestic Industry	68.4	66.0	63.07

Growth

39. While the domestic demand increased by 28% between 2000-01 and POI, the sales volume of the domestic industry increased only by 17% during the same period. However, their market share in the total demand declined significantly from 68% to 64%. On the other hand, the volume of the imports from the subject countries in the total demand increased by 20% during the same period. The domestic industry, thus, has lost more than 6% in the market share, whereas the imports from the subject countries managed to increase the market share by 52% during the same period. The Authority notes that the domestic industry's presence was steadily reduced in the market while the domestic demand grew up by more than 20% during the period under consideration.

Sales Prices

40. The Domestic producer's average net sales price of the subject goods produced and sold in the domestic market decreased by 11% between 2000-01 and POI.

41. The sales price reduced by 8.64% during the 2000-01 to 2001-02 and by 2.54% from 2001-02 to 2002-03.

42. The evolution of sales price should be seen in comparison with the evolution of unit cost of production. Between 2000-01 and 2001-02, the unit cost of production of the domestic industry decreased by ****%. However, from 2001-02 to 2002-03 increased by ****% mainly because of increase in the cost of the inputs/raw materials. The Authority notes that decline of the sales price of the domestic industry have been more than decline in the unit cost of production. The Authority further notes that the firm has taken concrete steps towards cost reduction by slashing the employment. However, dumped imports exerted a pressure on the domestic industry to bring down the prices even after unit cost of production had gone up on POI.

Employment

43. Between the 2000-01 and POI, the level of employment of the domestic industry declined by 27.1%.

In an effort to increase the productivity in order to reduce unit costs, staff was reduced significantly from 2000-01 onwards.

Actual and Potential negative effects on employment and wages			
	2000-01	2001-02	2002-03
No of Employees	576	469	420
% Change		81.42	89.55
Volume of sales/Emp	****	****	****
Index	100.0	144.6	161.6

Employment	POI 2	POI 1	POI
No of Employees	576	469	420
% Change		81.42	89.55
Index	100.0	81.4	72.9
Wages	POI 2	POI 1	POI
Rs Lacs /Annum	****	****	****
% Change		92.03	88.49
Index	100.0	92.0	81.4

Productivity

45. Between 2000-01 and POI, productivity measured as output per person employed per year increased by 46.71% during the period under consideration. The increase in the productivity could be seen in the backdrop of decline in the number of employees of the domestic industry.

	2000-01	2001-02	POI
Turnover Lakhs	****	****	****
Employees	****	****	****
Productivity %	****	****	****
Index	100	123.09	146.71

Wages

46. Between 2000-01 and period of investigation, the average wage per employee decreased by 18.6%. The decline in the wages may be understood in the context of reduction in the number of employees of the domestic industry because of the lay off of staff. It has not been able to grant any increments or promotions during the last few years. All increments other than the statutory bonus have been reduced substantially.

Factors affecting domestic prices

47. The authority notes that the import prices of propylene glycol from the subject countries have declined from Rs.41456 per MT to Rs.38705/MT during the period under consideration i.e. decline of more than 6.5 percentage points. In fact, the prices have declined steeply by 6.6% from 2000-02 to 2001-02 and have steadied between 2001-02 to POI despite the fact that there was a steep increase in the international price of propylene during the period of investigation which was largely necessitated by the spurt in the crude oil prices. It is further noted that the market prices were driven down by the lower prices of the dumped imports along with the higher volumes of the subject goods. Based on this information, the authority concludes that dumped import prices have significantly affected the domestic prices.

Profitability

48. Over the period under consideration, profitability of sales in the domestic market to unrelated customers in terms of profit/loss before tax on net sales declined from - 2.5% – 3.5% to -8% to -10%. The profitability on the year-to-year basis declined by 9 to 11% in the POI as compared to previous year.

Return on Investment and ability to raise capital

49. The Authority notes that since the company is suffering losses, the return on investment is negative to the extent of 10-13 percentage points during the POI as compared to + 1-2 % in the previous year and –4 to 6 percentage points during the 2000-01. Thus The Authority notes that the Domestic Industry has not been able to earn any returns on its investments.

50. There has been a decline in the capital employed by the domestic industry for the production of propylene glycol.

51. The Authority notes that the company has suffered losses during the period of investigation after some profit in the immediate preceding year. This is despite the fact that the company has made concrete attempts to reduce its cost of production. The company says that they are contemplating to implement a power project which will help to reduce the production cost further. Imposition of Anti Dumping Duty would also enable the company to improve its realizations and the resultant ability to raise capital.

Magnitude of dumping margin

52. The magnitude of dumping margin from each of the subject countries is significant as worked out in earlier paragraphs.

Evidence of Lost Contracts

53. The authority could not find any direct evidence with regard to injury on account of loss of contracts. Hence, the authority could not conclude any findings with regard with injury to the domestic industry on account of this parameter.

Conclusion on Injury

54. From the foregoing, The Authority concludes that Imports of the subject goods from the subject countries into India have increased significantly in absolute terms, also in relation to the total imports of Propylene Glycol in India and also in relation to the demand of Propylene Glycol in India and in relation to domestic production as well. It is also determined that imports from subject countries are undercutting the selling prices of the domestic industry. The petitioner is suffering from price underselling also as landed price of subject goods are below the Non Injurious price or fair selling price of the domestic industry. The petitioner is further suffering from price depression as landed price of the subject goods from subject country have exercised a downward pressure in the domestic selling price of the of the domestic industry. There is a decline in the selling price of domestic industry over period under consideration. The domestic industry has suffered losses on account of sales on

subject goods. In fact, they have incurred losses during the POI. Though the domestic industry has not suffered any decline in the production/capacity utilisation and their inventory sales turnover ratio has also not declined during the period under consideration, the market share of the domestic industry has declined in relation to the total demand and also in relation to the total imports made from the subject countries. Though the sales volume has increased during the period under consideration, their sales prices have declined all along during the period under consideration and the decline in the sales prices has been more than the decline in the costs of the productions of the subject goods. It is also determined that their employment has sharply declined and so have their wages during the period under consideration, however, the firm continues to make losses on account of the sales of the subject goods even after recording the sharp improvements in their productivity due to aforementioned reasons. On the basis of the foregoing, the Authority observes that the domestic industry has suffered volume as well as price effect due to dumped imports from subject countries. On the whole, the domestic industry has suffered material injury on account of dumped imports from subject countries.

H. Causal Link.

(a) Introduction

55. In order to reach its conclusions on the cause of the injury suffered by the domestic industry and in accordance with Article 3.5 of Agreement of Anti Dumping and as per para (v) of Annexure II under Rule 11 under Customs Tariff Act as amended, the Authority examined the impact of all known factors and their consequences on the situation in that industry. Known factors other than the dumped imports, which could at the same time have injured the domestic industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

(b) Effect of dumped imports

56. Between 2000-01 and the POI, dumped imports from the subject countries increased significantly in volume by 52% and in market share by 20% (from 30.8% in 2000-01 to 37.2% in the POI). As regards the export prices, they decreased substantially during the whole period under consideration and undercut domestic industry prices during the POI on average by 9.73%. Moreover, undercutting figures did not show the full impact of the dumped imports, since domestic industry prices were depressed. All this coincided with the deterioration of the situation of the domestic industry in terms of price reductions, reduced market shares as well as deteriorating profitability.

57. Prices of dumped imports were below those of the domestic industry throughout the period under consideration and exerted a pressure on them which forced the domestic industry to decrease prices in spite of increasing costs of production. It is, therefore, considered that the dumped imports caused material injury to the domestic industry .

(c) Effect of Other factors

(a) Performance of Other Domestic producers:

58. There was no other domestic producer of the subject goods during the period under consideration except the petitioner. Therefore, the performance of other domestic producers could not have any bearing on the performance of the domestic industry producing the subject goods.

(b) Self Inflicted Injury, Economies of Scale & Cost Efficiency of SEPL:

59. It has been argued by the exporter that it is the cost structure, purchase policy, contract terms and policy of the petitioner to use its propylene oxide production specifically in its polyol business, therefore, restricting their loading of propylene glycol assets which has primarily led to alleged injury, if any. The Authority notes that it has arrived at the cost of production of the subject goods and its Non injurious price by taking into account actual cost of production of subject goods by verifying the domestic industries data without loading any overheads pertaining to the Polyol business. Moreover, the averments of the exporter are not substantiated with any evidence.

60. It has been argued by SEPL that their capacity to produce the raw materials is very high as compared to the Domestic Industry, leading to economies of scale. It has further been argued that the process of manufacture of PO, the major input for the production of Propylene Glycol, adopted by the Domestic Industry and SEPL are quite different. It has been stated that SEPL uses SMPO process which is a proprietary process of Shell. On the other hand, the process adopted by the Domestic Industry is the Chlorohydrin process. It has been stated that the SMPO process adopted by SEPL has an advantage over the Chlorohydrin process adopted by the petitioner as the former converts the major raw material i.e., propylene into the finished product more efficiently and generates lesser waste product. Further, it has been stated by SEPL that the logistics costs in their case are much lower due to the existence of corridor pipelines and better distribution systems.

61. The Authority notes with regard\The Authority notes with regards to the contentions made by SEPL that if there are any economies of scale that may lead to

reduction of costs and better efficiencies, the same would be adequately reflected in the cost of production of the concerned exporter. Moreover, the exporter has not substantiated his arguments with any facts or evidence in his support.

62. Further, annexure 1(i) of the Anti Dumping rule states that

"1. The elements of costs referred to in the context of determination of normal value shall normally be determined on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country, and such records reasonably reflect the cost associated with production and sale of the article under consideration."

The above Rule which is in line with the WTO Agreement on Anti-dumping, requires the investigating authorities to determine the normal value normally on the basis of records kept by the exporter or producer under investigation so long as it can be proved that the accounting systems followed by the exporter are as per their GAAP and that they reasonably reflect the cost associated with production and sale of the article under consideration.

63. The Authority, therefore, concludes that the cost and production efficiency of any exporter are duly reflected in their cost of production for the purpose of determination of normal value.

(c) Production & Capacity:

64. As regards the Domestic Industry's inability to fill the gap between the domestic demand and their own production, it may be observed that the imposition of anti-dumping duties does not amount to any kind of restriction on the supplies from other non-dumped sources or even from the subject countries at non-dumped prices. The Authority, therefore, does not find any merit in the exporters arguments.

(d) Contraction of demand or Changes in the pattern of consumption

65. The Authority notes that there is no contraction in the overall demand during the period under consideration. On the contrary, the overall demand has increased by 28% from 2000-01 to 2002-03. The Authority also, therefore, concludes that there is no apparent change in the pattern of consumption.

(e) Volume and Prices of imports not sold at the dumped prices

66. According to the available information, the total import volume of the product concerned originating in countries other than subject countries decreased by 50% and their market share came down from 0.8% to 0.4%. The Volume of the dumped imports have increased from 30.8% to 37.2% during the period under consideration while the proportion of the Non dumped imports have declined from 0.8% to 0.4% during the same period. It is further noted that imports from non subject countries are very negligible in the absolute terms also therefore, they are considered not to have had any impact on the domestic industry.

(f) Trade Restrictive practices of and competition between foreign and domestic producers

67. The Authority notes that there is a single market for the subject goods where dumped imports from the subject countries compete directly with the subject goods produced by the domestic industry. On the basis of the examination of the transaction wise imports from the subject countries and from the data furnished by the cooperating exporter from Singapore, it appears that the price determines the choice of the supplier as dumped subject goods are like product to the indigenous producer. The authority further notes that the imported product is sold to meet the similar commercial grades and specification as domestically produced subject goods. It is further noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses.

(g) Developments in Technology, Export performance and productivity of the Domestic Industry

68. The authority notes that Manali Petrochemicals Ltd (MPL) is operating a propylene oxide plant based on chlorohydrine route technology. The petitioner maintains that this is ideally for medium scale plants where both chlorine and propylene are available and are located very close to sea costs to enable the company to pump the large waste water generated by this process. The petitioner maintains that the technology adopted by M/s. MPL for production of propylene glycol is most modern one and is comparable to any of the multinational plants. The authority further notes that the company has been certified to ISO 9001 since 1996 by DNV with the recertification audits successfully complete in 1999 and 2002. It is also noted that the firm has been certified for compliance as per ISO 14000 which primarily deals with commitment to environment, reuse the waste water and limit the use of resources. On the basis of the examination of the records of the petitioner, the authority holds that developments in technology has not been a relevant factor for the injury to the domestic industry.

69. With regard to the export performance of the domestic industry, the authority notes that though there has been an improvement in the exports of the domestic industry during the period under consideration, it still forms a very insignificant part of the domestic sales of the domestic industry. Hence, the authority holds that material injury suffered by the domestic industry may not as a result of the export performance of the domestic industry.

70. As regards improvement in productivity, the authority notes that during the period under consideration, the productivity measures as output per person employed per year increased by 46.7% during the period under consideration. It is further noted that the increase in productivity may be seen in the backdrop of decline in the number of employees of the domestic industry and also in view of the various cost cutting measures implemented by the domestic industry. On the basis of the examination, the authority holds that the firm has taken steps for better productivity and the productivity per se is not the cause for the injury to the domestic industry.

(h) Conclusion on causation

71. Given the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the domestic industry from the injurious effects of the dumped imports, it is concluded that these other factors as such did not reverse the fact that the material injury found may be attributed to the dumped imports.

72. It is, therefore, concluded that the dumped imports originating in the subject countries have caused material injury to the domestic industry within the meaning of Rule 11 of Anti Dumping rules and article 3.5 of the Agreement of Anti Dumping.

I. Indian Industry interest.

73. 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.

74. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. 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.

75. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject countries 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.

J. CONCLUSIONS:

76. The Authority has, after considering the foregoing, come to the conclusion that:

- A. The subject goods have been exported to India from the subject countries below its normal value.
- B. The Domestic Industry has suffered material injury;
- C. The injury has been caused cumulatively by the dumped imports from Subject Countries.

77. The Authority considers it necessary to impose an anti dumping duty on all imports of propylene glycol from subject countries in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is proposed to be compared with the non-injurious price of the petitioner company determined for the period of investigation.

78. Accordingly, the Authority recommends that the definitive anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of propylene glycol falling under Custom Heading 29053200 originating in or exported from subject countries. The Anti-Dumping duty shall be the difference between the amount mentioned in column 9 of the following table and the landed value of imports per MT to be imposed from the date of Notification to be issued in this regard by the Central Government on all the imports of subject goods falling under Chapter 29 of the Customs Tariff, originating in or exported from the countries mentioned below: -

79. 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 under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.32.

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

81. The Authority may review the need for continuation, modification or termination or the definitive measures, as recommended herein, from time to time, as per the relevant provisions of the Act, and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party within the time limit stipulated for this purpose.

(ABHIJIT SENGUPTA)
DESIGNATED AUTHORITY