

Government of India
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)

NOTIFICATION

NEW DELHI, the 8th April 2005

Preliminary Findings

Sub: Anti-Dumping Investigation concerning imports of Certain Rubber Chemicals (MOR, PX13 and TDQ) originating in or exported from the European Union, USA, China PR and Chinese Taipei

NO.14/13/2004-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

WHEREAS M/s National Organic Chemicals Industries Ltd. (herein after referred to as NOCIL or petitioner) has filed an application before the Designated Authority (hereinafter referred to as this Authority), in accordance with the Act, and Rules, alleging dumping of Certain Rubber Chemicals namely MOR, PX13 and TDQ (herein after referred to as subject goods) originating in or exported from the European Union, USA, Chinese Taipei and People Republic of China and requested for initiation of an investigations for levy of anti dumping duties on the subject goods. The petitioner has alleged that MOR is being dumped by the exporters and producers in EU, USA and China, while PX-13 and TDQ are being dumped by the exporters and producers in EU and Taiwan. These countries/ territories have been referred to as subject countries/ territories hereinafter.

AND WHEREAS, the Authority on the basis of sufficient evidence submitted by the petitioner M/s National Organic Chemicals Ltd. on behalf of the domestic industry, issued a public notice dated 17th August 2004 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries/territories in accordance with the sub-Rule 5(5) of the Rules to determine the existence, degree and

effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

A. Procedure

Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigation by the Authority.

- i. The Designated Authority sent copies of initiation notifications dated 17th August, 2004 to the Embassies/representatives of the subject countries/territories in India, known exporters from the subject countries/territories, importers and the domestic industry as per the information available with it and requested them to file questionnaire responses and make their views known in writing within 40 days of the initiation notification.
- ii. Copies of the non-confidential version of the petition filed by the domestic industry were made available to the known exporters and the Embassies/High Commissions of the subject countries/territories in accordance with Rules 6(3) supra.
- iii. The Embassies/High Commissions/ Representatives of the subject countries/territories in New Delhi were informed about the initiation of the investigations in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries/territories to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporter was also sent to the Embassies/High Commissions of subject countries/territories along with a list of known exporters/ producers.
- iv. The Authority sent questionnaire, to elicit relevant information, to the known exporters from subject countries/territories in accordance with the rule 6(4):-
- v. In response to the above notification the following exporters from the subject countries/ territories filed their questionnaire responses. No response was however, received from China PR, Chinese Taipei and USA.
 - a. M/s Flexsys NV, Belgium
 - b. M/s Lanxess NV, Belgium
 - c. M/s Lanxess AG, Germany
 - d. M/s General Quimica SA, Spain
- vi. Questionnaires were sent to known importers and Consumers of subject goods in India calling for necessary information in accordance with Rule 6(4). Whereas M/s J. K Industries Ltd has filed substantial importer's questionnaire

response; the following interested parties have filed only brief responses to the initiation of the investigation:

- a. M/s Lanxess India Pvt. Ltd
- b. Automotivre Tyres Manufactureres Association (ATMA)
- c. The Delegation of the European Union

The views of the above interested parties, to the extent they are relevant have been taken on record and examined by the Authority at appropriate places.

- vii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and Central Board of Excise and Customs (CBEC) to arrange details of imports of subject goods for the past three years, including the period of investigations;
- viii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- ix. Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the petitioner on the basis of Generally Accepted Accounting Principles (GAAP) was worked out provisionally so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- x. *** in this Notification represents information furnished by the petitioner on confidential basis and so considered by the Authority under the Rules;
- xi. Investigation was carried out for the period starting from 1st January 2003 to 31st December 2003 (POI).

C. Product under Consideration and Like Article

The products under consideration are three specific rubber chemicals used in manufacture of rubber products, namely: i) Anti-Degradants: PX 13 ii) Accelerators: MOR iii) Antioxidant: TDQ

Detailed chemical names of the products are as follows:-

MOR: N-oxydiethylene-2-benzothiazole sulphenamide (2-Morphoolinothiobenothiazole) (MBS). MOR Mercapto benzothiazole disulphide is reacted with morpholine and sodium hypochlorite. The reaction is carried out in presence of isopropyl alcohol. The product is filtered, washed and extruded to form pallets, which are dried and packed. The isopropyl alcohol is recovered and recycled.

PX 13: N-1, 3-dimethyl butyl-N'Phenyl paraphenylenediamine (6 PPD). PX-13 Px-13 is produced by hydrogenation of a mixture of 4-nitrodiphenylamine and methyl isobutyl ketone in an autoclave at moderately high pressure in presence of a noble metal catalyst. The resulting reaction mass, which contains unreacted ketone, by-products, etc., is filtered to remove the catalyst, which is then recycled. The filtrate is distilled to remove low boilers and is then flaked to give the finished product. The low boilers are redistilled to recover the unreacted ketone. Catalyst is recycled until the activity is reduced. It is then removed from the system.

TDQ: Polymerized 2,2, 4-Trimethyl-1, 2 di-hydroquinoline. TDQ Acetone and aniline are condensed at high temperature in presence of an acid catalyst. The resultant mass is then polymerised to the required degree; the excess acid is neutralized with caustic solution and washed with water. The material is then stripped at high temperature under vacuum to recover low boilers. The product is then pastilized and bagged.

These rubber chemicals are extensively used in treating natural rubber, synthetic rubber (SBR, Butadiene Rubber, Nitrile Rubber, Carboxylated Rubber) and other synthetic rubber based compounds used for manufacture of various rubber products

The Authority notes that there is no dedicated ITC HS Classification for the subject goods and products under consideration are classified under various subheadings of customs classification heads 38.12.10, 38.12.20 and 38.12.30 as well as under 29.34.20 and 29.25.20 (at six digit levels) of the Customs Tariff Act and ITC HS classification. The Delegation of the European Union has also submitted that the European classification of the above products do not conform to the classification used in the European Union. However, the Authority notes that the products are known by their respective trade names and the chemical descriptions as indicated above, Therefore, the Customs and ITC HS classifications shown above are indicative only and are in no way binding on the scope of the present investigation.

C.1 Views of the Exporters, importers and other interested parties

The interested parties in their preliminary submissions have stated that It is an unprecedented practice of the Designated Authority to initiate “a three in one” investigation which covers three distinctive and separate rubber chemicals i.e. MOR, TDQ and PX-13 in a single investigation and that there cannot be one anti-dumping case for three products.

The Authority notes that neither the Agreement nor the Antidumping Rules prohibits in any manner investigation of multiple products under one investigation. As long as the individual domestic products and the individual export products are like articles and the injury determination can be conducted against individual products there is no

restriction to limit the investigation to single product as has been argued by the exporter.

The Authority further notes that the products under consideration, in the present investigation, are three distinct yet same general category of rubber chemicals used as Anti-degradants, Accelerator Rubber Chemical, and Antioxidants in the rubber industry. The domestic industry is same for these rubber chemicals, which manufactures all these chemicals in the same manufacturing facilities. Therefore, initiation of a combined investigation was most ideal in this situation to optimize use of resources for such investigations.

The Authority also notes that the initiation notification has amply clarified that both dumping and injury investigations are to be carried out in respect of individual products in addition to overall impact examination on the domestic industry as a whole. The Authority also notes that the investigation covers the countries/territories named in the petition against each of the subject rubber chemicals and do not cover all the countries for all the products as has been argued. Therefore, the arguments of the interested parties in this respect do not appear to be valid.

D. Standing of the Domestic Industry and initiation of the investigation

D.1 Views of the interested parties

The interested parties in their submissions have questioned the standing of the domestic industry. They have submitted that total domestic production and share of the petitioner have not been properly reported in the petition. Therefore, the Designated Authority, in order to measure the degree of support in this case, should have taken up the practice of sending pre-initiation questionnaires to the other Domestic Producers requesting for information on their production and sales quantity and whether or not they are supporting the complaint. As there is no finding made in the Initiation Notification, on the issue of standing which is contrary to the information provided in the Petition, the Designated Authority has clearly violated Section 5(3) (a) of the Anti-Dumping Rules.

They have further submitted that without prejudice to the aforesaid submissions made, in case the Designated Authority has verified the sufficiency of the standing test (polling) before initiating this proceeding, nevertheless the Designated Authority should put the Petitioners to strict proof to verify the data submitted for the purpose of “standing”, more so after these errors have been brought to the notice of the Designated Authority.

The exporter has also submitted that the proceedings must fail for lack of clarity and evidence on dumping, injury and causal link, since the petitioner has failed to provide adequate non-confidential disclosures on the above in its application for the investigation.

D.2 Views of Domestic industry

The domestic industry has submitted that dumping is extensive and such has been the extent of dumping that two major producers, i.e. M/s Bayer India and M/s ICI India have substantially exited from manufacture of the products under consideration and turned traders, resorting to imports from some of the subject countries. Since these companies have turned traders, they do not constitute eligible Indian producers to qualify to be treated as domestic industry within the meaning of Rule 2(b).

The petitioner further argued that production facilities of Rubber Chemicals generally involve production of a large number of rubber chemicals within the same facilities. Therefore, there is no published information reasonably available with regard to production by various producers. However, as per its market Bayer India and ICI has suspended production and substantially existed from production of these products and continue to offer the material by resorting to imports. Therefore, they have assessed production of these companies based on its market intelligence, as there is no published information available in this regard.

They have further argued that since ICI and Merchem have resorted to imports of MOR, PX13 and TDQ, in commercial quantities, after suspending/ curtailing/reducing production and to sell the material in the market these Companies do not qualify to be eligible as domestic industry. Therefore, once production of these Companies is excluded, petitioner satisfy requirement of standing under Rule 5 of Indian Rules and WTO Agreement and constitutes domestic industry. Since production of the petitioner constitutes more than 50% of eligible Indian Production for each of the subject chemical, petitioner considers that there is no necessity to establish support or opposition to the petition.

D.3 Examination by the Authority

The petition has been filed by M/s. NOCIL, Mumbai. M/s Bayer India Ltd., M/s ICI Ltd. and M/s Merchem Ltd. were the other manufacturers of some of these products under consideration. However, it has been argued by the domestic industry that all of them have either ceased to produce the subject goods because of the dumped imports and turned themselves into traders and importer of the subject goods or substantially reduced their production. All the three companies were asked by the Authority to confirm the above position, as well as their support or opposition to the application.

However, no response was received from these producers. Therefore, the Authority concludes that there is no opposition to the investigation from any other domestic producers.

The transaction-wise import data provided by DGCI&S and other sources show that these companies have substantial imports of these products during the period of investigation. As far as Bayer India is concerned, the Company is allegedly related to the world major M/s Bayer GmbH, which is the major producer and exporter of the subject goods to India from its manufacturing facilities located at different locations. Bayer India is also the importer of the subject goods from their principals in Germany and Belgium. Therefore, these domestic manufacturers do not qualify to be included in the domestic industry domain in terms of Article 4.1 (i) of the Agreement.

As far as the applicant is concerned, it is a multi-product manufacturer of organic chemicals. The Authority notes that the plant capacity of the petitioner, for the individual products under consideration, is dedicated. Authority notes that taking into consideration the production of the individual chemicals of the petitioner company and after disallowing the production of the producers who have substantial imports of respective products, the petitioner company commands a major proportion of the total domestic production of the products under consideration. In view of the above the Authority holds that the petitioner satisfies the standing requirement to file the application as the domestic industry, under Rule 5.3 (a) of AD Rules.

E. De Minimis Limits

Imports have been reported from several EU member countries. However, for the purpose of this investigation the EU has been taken as a single customs territory. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources the imports of the individual products from the USA, EU, China and Taiwan are above the de minimis level.

F. Other submissions and issues raised

F.1 Domestic Industry

The domestic industry has submitted that there is no dedicated head of classification of the products under consideration and MOR, PX-13 and TDQ have been reported under several Custom Subheadings under the Customs Tariff Act. Since the customs classification is not dedicated to the product under consideration, petitioner has compiled import information from transaction wise information on imports provided

by International Business Information Service (IBIS), Mumbai. They have also submitted that dumping has intensified after initiation of the investigation and a preliminary determination and provisional duty is essential in view of continued injury suffered by them.

F.2 M/s. LANXESS N.V Belgium and M/s LANXESS GmbH, Germany

M/s. LANXESS N.V Belgium and M/s LANXESS GmbH, Germany have filed their respective questionnaire responses against the initiation of this investigation and have inter alia submitted that

- That due to a strategic reorientation Bayer has transferred large parts of its' chemicals activities from Bayer Chemicals AG and parts of its polymer business (including the Business Unit Rubber Chemicals) from Bayer Material Science AG to LANXESS Deutschland GmbH with effect from 1st October 2004.
- Therefore in regard to the respective rubber chemicals products LANXESS Deutschland GmbH has become by law the legal successor of Bayer Material Science AG, and LANXESS NV has become by law the legal successor of Bayer Antwerp NV.
- That M/s LANXESS N.V. Belgium is only concerned with the export of MOR to India. LANXESS_Deutschland GmbH is concerned with the export of PX13 to India. Neither company exported TDQ to India during the relevant period of investigation and is not concerned with the same for the purposes of this proceeding.
- That MOR is an accelerator used to enhance the rate of vulcanization of rubber. The said article is primarily used in the production of rubber for automotive tyres of a non-radial type. By its very nature the global market for non-radial tyres is limited and the market for the same in, for example, the EU is so minute that it could be considered to be virtually non-existent. Countries using these articles in material quantities are India and Iran. Other smaller users include the U.S., Columbia, Indonesia, etc. Insofar as PX13 is concerned, the same has wide usage in various areas and is exported to several countries.
- That with respect to MOR Lanxess's share in the Indian market is static, and regarding PX13, there has been an increase in the export volumes to India due to the switch from production of one of the Indian producers to imports from Germany. However there has been no change in the petitioners' market share.
- That there is de facto no domestic market for MOR in the EU and market prices must necessarily be determined on the basis of prices in countries where there is a market. If this is done, the difference in prices is marginal.
- That essentially, the EU domestic market for PX13 entails prices, which are comparable to the export prices.

- That the petitioner is running a plant, which is far too small for it to offer sustainable economies of scale in the market or achieve the numerous others cost advantages.
- That, the manufacturing process for MOR described by the petitioner in the petition is economically disadvantageous in comparison to the process used by Lanxess.

In addition to these general submissions these two exporters have made specific submissions in respect of their normal values and export prices. As far as determination of the normal value is concerned these two exporters have inter alia submitted:

- That in terms of the WTO Agreement the normal value is the comparable price at which the goods are sold in the ordinary course of trade in the domestic market of the exporting country or territory. If it cannot be so determined, it may be determined by (a) the comparable representative export price to an appropriate third country; or (b) the cost of production in the country or origin with reasonable additions for administrative, selling and general costs and for profits;
- That so far as MOR is concerned; there is no reliable comparable price at which the goods are sold in the course of ordinary trade in the domestic EU market. At best, there are minor transactions, which are not representative, nor would these sales constitute sales in the course of ordinary trade as the term is commonly understood. In view of the same, there is no question of any reliable data or trade pricing available upon which the normal value in the EU can possibly be ascertained.
- That being the case, regarding MOR the remaining two options the most accurate and representative price would necessarily be that of comparable export prices to third countries. The exporter claims that on the basis of relevant details provided by them establishes that the normal value would be similar to the export price to India.
- That regarding PX13, it is clear from the material provided that the prices in the domestic market and the export prices are, after adjustments, are essentially comparable.
- That the common belief that fixed costs are higher in the EU is not correct. The scale of operations at Lanxess facilities, the output per person employed, the cost of utilities (water, electricity, both of which are significantly higher in India in absolute comparison), enable them to deliver many times the output of the petitioners using a tiny fraction of the manpower and utilities (and utility costs) of the petitioners.

- That therefore, the commonly repeated statement that production costs are higher in the EU requires to be qualified by a proper comparison of the scale of the competing operations. Lanxess's capacities are in fact approximately much higher compared to that of the petitioners. This, coupled with their ability to efficiently leverage its' strength with respect to backward integration, produce key raw materials and intermediates on site effectively results in their costs of production being significantly more cost efficient than the petitioners'.
- That the entire methodology followed in the petition for assessing normal value is erroneous and contrary to the rules.
- In respect of MOR, there has been no attempt whatsoever to ascertain comparable export prices to third countries. Had this been done, it would have become clear that the export prices to India are in fact the normal value of the goods in the ordinary course of trade.
- In respect of PX13, there is an active market for the same in the EU, and the prices in the same are broadly in consonance with the export price, after adjustments.
- That the method adopted in the petition for determination of the cost of production is both erroneous and illegal. No details whatsoever have been provided regarding the calculations, which are, on the petitioner's own showing, based on "best estimates". Such estimates cannot possibly be considered to be confidential.
- That the statement that fixed costs are known to be higher in developed countries is misleading and fails to take into account the fact that their manufacturing unit operates on world scale manufacturing capacities and economies of scale and has therefore several cost advantages, including in the purchasing of base raw materials and its base raw material capacity.
- That they are in a unique position, in that they are able to make direct comparisons regarding the overall manufacturing costs in India and in Europe as they operate rubber chemical manufacturing units in both places.
- While there is no disagreement over the fact that the cost per operator is lower in India than in Europe, it is also a fact that other major components of manufacturing costs in India, such as for example the cost of energy and utilities are substantially higher.
- That the manufacturing process for MOR is not the same as that used by Lanxess in that Lanxess technology permits them to not to carry out certain reactions at all.
- That as far as the manufacturing process for PX13 is concerned they are in a position to efficiently leverage their strength with respect to backward integration, with key raw materials and intermediates being produced on site.

- That there would be only a very marginal reduction in the price of the exported article was it not the fact that customs duty rates have been dropped from 30% to 25% during the period of investigation, and thereafter to 20%.
- That there is no significant difference whatsoever between the packing required in the case of exports and in other case.

F.3 Other Interested parties

Other interested parties have raised general issues of product classification, period of investigation, initiation and product coverage etc. in their submissions in response to the investigation. The Authority has taken note of these submissions to the extent they are relevant and substantiated.

F.4 Examination of the Authority

The Authority has taken note of the submissions made by the exporters in respect of determination of their normal values and export prices of the products under consideration. The basic arguments extended by the exporters in their general submissions with regard to the normal value and export prices have been that they have comparable sales either in their home markets or in appropriate third countries, which should be accepted by the Authority for normal value purpose and these prices are not higher than the export prices to India. They have also raised the issue of their plant sizes and efficiencies in manufacture of the subject goods, which keeps their production, cost lower and enables them to compete in the world market, including India.

The Authority notes that the claims of plant size and efficiencies should be corroborated with evidence and data in the form and manner prescribed for a meaningful examination of their cost of production and conducting an ordinary course of trade test on their home market or third country sales data to arrive at an appropriate normal value. Therefore, to the extent this information has been produced by the exporter these aspects shall be examined by the Authority in appropriate places.

As far as estimation of the normal value by the petitioner is concerned, the obligation on the petitioner is to provide the information to the Authority about the Normal value in the country of export as reasonably available to the petitioners. Thereafter the onus is on the responding exporters to refute the claim and produce credible evidence to counter this. Therefore, to the extent such information has been provided by the interested parties the same shall be examined by the Authority subject to verification.

G. Determination of Dumping Margin

G.1 Product: PX-13

The Authority notes that only two exporters from the European Union i.e., M/s Flexsys NV, Belgium and M/s Lanxess GmbH, Germany, have filed their questionnaire response in respect of this product. Though the product is allegedly dumped from Chinese Taipei also, no response has been received from any exporter from Chinese Taipei in respect of this product.

For the purpose of the preliminary determination the Authority has examined the data submitted by the responding exporters as follows:

G.1.1 M/s Flexsys NV, Belgium

M/s Flexsys NV Belgium has filed a detailed questionnaire response to the investigation and based on their response and deficiencies therein certain additional information were also called for. In response to the questionnaire and in its reply to various queries the exporter has inter-alia submitted that they manufacture number of rubber chemicals, including the subject goods involved in this investigation. MOR or Santocore MBS and Santoflex 6PPD or PX 13 are manufactured as their production facility in Antwerp, Belgium. TDQ or Flectol EMQ is produced at their production facility in UK. However, they have filed questionnaire response only in respect of 6 PPD or PX 13 and submitted that based on their market intelligence, they do not intend to market MBS and TDQ in Indian market on a long term basis. Therefore, they have not submitted their responses in respect of these two products.

The Authority notes that this exporter produces the product 6PPD and sales the same in the domestic market as well as in the Indian market. The product is equivalent of the PX13 manufactured and sold by the domestic producer in India. Therefore, 6PPD constitutes the like product for this exporter and domestic sales data of 6PPD has been provisionally accepted for the purpose of determination of the normal value for this exporter.

Normal Value

On the basis of the questionnaire response submitted, the exporter has **** domestic transactions (****MTs) of the product i.e. 6PPD to various users in the European Union The exporter has also produced certain information on the cost of production of the subject good. Pending verification of the cost of production and ordinary course of trade examination of the domestic sales transactions, the weighted average domestic sales price has been accepted provisionally as their normal value. The applicant has claimed certain adjustments on the domestic sales on account of level of trade adjustments. Pending verification the adjustments claimed has been accepted by

the Authority provisionally for the purpose of working out the normal value at the ex-works level. Based on this, the normal value for the above exporter has been determined at US\$****Per Kg

Export Price

The exporter has reported **** export transactions (**** MT) of export sales of the subject goods to India at weighted average export price of USD****Per Kg. The exporter has not shown adjustments towards ocean insurance and shipping charges. After provisionally allowing for adjustments towards inland freight, handling and ocean freight as claimed the net ex-works export price works out to USD ****Per Kg.

Dumping Margin

For the purpose of determination of dumping margin the ex-works normal value and export prices so determined provisionally have been compared at the same level of trade. No other adjustment towards other factors affecting price comparability has been claimed. Accordingly, the dumping margin for this exporter has been provisionally determined as follows:

Exporter	Normal Value USD/Kg	Export Price USD/Kg	Dumping Margin USD/Kg	Dumping Margin %
Flexsys NV	****	****	****	23.36%

G.1.2 M/s Lanxess GmbH, Germany

M/s Lanxess GmbH has filed its response for only one product i.e PX-13 and confirmed that they are not involved in manufacture and sale of MOR. The third product i.e TDQ is produced by them and sold in their domestic EU market but not exported to India. However, they have provided certain information on their domestic sales price of this product also in the spirit of cooperation so that Authority can determine the Normal Value of this product for the EU exporters.

The exporter has filed their domestic sales details of the product Volkanox 4020 (equivalent to PX-13) in the German Market. However, the information provided is not in the form and manner prescribed. In response to the deficiencies communicated to them in this regard the exporter has clarified that it is not possible to transform the data available in their computer system to the questionnaire format. Therefore, they have requested the Authority not to take a rigid and inflexible approach to the mode and the format of information provided. They have further clarified that some of these information and data are extremely sensitive for them because of their world-wide operations. However, they have submitted that all these information shall be provided during the in-situ verification of the data and Authority is free to examine their data

from their system. The Authority notes that it is the responsibility of the exporter concerned to provide the data in the form and manner prescribed so as to make an objective examination and determination of margin of dumping, if any. Therefore, pending verification of the data required for determination of the normal value for this exporter, the Authority has provisionally determined the normal value based on the data provided by the exporter as follows:

Normal Value: Lanxess GmbH

The exporter has reported **** MT of sale of the product in the domestic German market during the POI at an average price of ****Euro (Equivalent to US\$****) Per Kg. The exporter has not claimed any adjustment on this price and therefore, it is presumed that the price is at the ex-factory level. Accordingly the normal value of PX-13 is provisionally determined as US\$****Per Kg.

Export Price: Lanxess GmbH

The exporter has reported export of **** MT of PX-13 to India during the POI. Though the exporter has mentioned that part of this export is through M/s lanxess India, no details of those subsequent sales have been provided. Therefore, for the purpose preliminary determination the Authority has worked out the weighted average export price of all comparable transaction in respect of imports from the subject countries to arrive at the CIF export price to India, which works out to US\$****per Kg. The exporter has also indicated that a commission of **% is payable on all transactions. The export price so assessed, being the CIF export price, adjustments towards ocean freight, insurance and commission totaling to US\$ ****/Kg based on the facts available, have been considered. Accordingly, net export price at the ex-factory level works out to US\$**** Per KG.

DUMPING MARGINS (Lanxess GmbH) PX-13

For arriving at the dumping margin the export price has been compared with the normal value at the same level of trade, i.e. at ex-works level, during the POI. The exporter has not claimed any adjustments towards the differences which affect price comparability, including differences in conditions and terms of sales, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability.

Accordingly, the dumping margins for the producers/exporters of the subject goods in the subject countries have been determined as under:-

(PX-13)	NORMAL VALUE	EXPORT PRICE	DUMPING MARGIN	DUMPING MARGIN
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	(\$/Kg)	(\$/Kg)	(\$/Kg)	(%)
Lanxess GmbH Lanxess GmbH	****	****	****	30%

The dumping margins so assessed are above the de-minimus limits and are considered significant.

G.1.3 All other exporters from EU: PX-13

For the non-cooperative exporters from the European Union the Authority has determined the dumping margin based on facts available. Normal Value for the non-cooperative exporters has been determined as US\$****Per Kg based on facts available. Similarly, export price has been determined as US\$****per Kg based on the average CIF export price after allowing for adjustments towards Commissions, inland transportation, ocean freight and insurance as applicable. Accordingly, dumping margin for all other exporters from the EU has been provisionally determined as US\$****Per Kg (36%).

G.1.4 All exporters from Chinese Taipei

The Authority notes that none of the exporters/producers from Chinese Taipei has provided any response or information on the normal value as per the prescribed questionnaire. Therefore, for the purpose of the preliminary determination the Authority has constructed the normal value based on estimated cost of production with reasonable profit of the subject good in the Chinese Taipei as per the best information available as per the Rules above. Accordingly, the Normal Value of MOR for all exporters from the Chinese Taipei has been determined as US\$ **** per Kg.

The Authority has worked out the weighted average export price of all comparable transaction in respect of imports from the Chinese Taipei to arrive at the CIF export price to India which works out to US\$****PMT. The export price so assessed, being the CIF export price, adjustments towards inland transportation, ocean freight, insurance and commission totaling to US\$ ****/Kg based on the facts available, have been considered in view of complete non cooperation by the concerned exporters. Accordingly, net-export price at the ex-factory level has been provisionally determined as US\$ ****Per Kg.

The ex-works normal value has been compared with the ex-works export price so determined at the same level of trade to determine the dumping margin which works out to US\$ ****Per Kg for all exporters from Chinese Taipei.

G.2 **Product: MOR**

The Authority notes that though the subject goods are allegedly being dumped from the European Union, USA and China PR, only one exporter from the European Union i.e M/s Lanxess NV, Belgium has filed a questionnaire response in respect of this product. No response has been received from any exporter from the other countries i.e. USA and China PR in respect of this product. For the purpose of the preliminary determination the Authority has examined the data submitted by the responding exporters as follows:

G.2.1 M/s Lanxess NV, Belgium

M/s Lanxess NV, Belgium has filed its questionnaire response for only one product i.e. MOR. On the basis of their questionnaire response which was incomplete in certain respects, particularly their domestic sales and cost of manufacturing, certain additional information were called for. In its submissions the exporter has stated that MOR is no longer in active use in the Tyre industry in the European Union and therefore, they have very little sale of this product in the domestic EU market. A total sale in this market is less than 1% of their total sales which do not reflect correct market price for the purpose of normal value determination. They have not provided the data on these sales transactions and claimed normal value on the basis of their third country sales price. However, they have submitted that the Authority may verify the details of domestic sales during the on-the spot verification of the data if required.

In view of the lack of sufficient domestic sales of the above product within the EU the exporter has proposed that their export to an appropriate third country be accepted as their normal value. In this respect they have pleaded that their exports to Iran be examined as the appropriate third country for this purpose. They have argued that for the following reasons Iran should be treated as the most appropriate third country:

- a. the next largest country by sales volumes for the product
- b. end customer structure is similar to that in India
- c. Sales to Iran are denominated in USD and therefore, the currency difference is eliminated.
- d. Local tyre manufacturing facilities are broadly comparable in both the countries.

Examination by the Authority

The Authority has examined the submissions made by M/s Lanxess NV in respect of its claim of normal value for MOR. The Authority notes that as per Section 9A (1) (c), and Article 2.1 of the Agreement normal value in relation to an article means:-

“2.1 For the purpose of this Agreement, a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal

value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

2.2 When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

2.2.1 Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price and may be disregarded in determining normal value only if the authorities determine that such sales are made within an extended period of time in substantial quantities and are at prices which do not provide for the recovery of all costs within a reasonable period of time. If prices which are below per unit costs at the time of sale are above weighted average per unit costs for the period of investigation, such prices shall be considered to provide for recovery of costs within a reasonable period of time.“

The Authority provided opportunity to the exporters from subject countries to furnish information relevant to the investigations and offer comments, if any, in accordance with the Section cited above. The sole responding exporter from the EU in respect of the above product i.e M/s Lanxess NV, Belgium has pleaded that in view of insufficient domestic sale volume of this product in the domestic EU market their normal value for this product should be determined with reference to their exports to Iran as the appropriate third country. In this regard they have argued that Iran is the most appropriate third country comparable to the market condition in India as well as in terms of volume of exports.

The Authority notes that the provisions quoted above provide the Authority the option to adopt an appropriate method of determination of normal value when the domestic sales of the exporter is not representative for determination of normal value. However, the sales to the appropriate third country can be adopted for the determination of normal value provided they pass the sufficiency test and ordinary course of trade as much as that “the sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price”.

The responding exporter in the instant case has not provided adequate information in the questionnaire response to conduct a reasonable ordinary course of trade test on the proposed third country sales transactions. In their questionnaire response the exporter has claimed significant cost advantage over its competitors on account of process adopted and sourcing of the major raw material for the subject goods, which are manufactured in their own plant. However, these claims have not been substantiated with proper cost data though the exporter has suggested that such information shall be provided during the on the spot investigation. Therefore, for the purpose of the preliminary determination the Authority has provisionally determined the Normal value for this exporter based on third country export sales strictly subject to verification of various claims made and admissibility of these exports for the purpose of normal value determination.

Normal Value: Lanxess NV

The responding exporter has reported export of **** MT of the product to Iran during the POI with an average CIF export price of Euro **** (equivalent to US\$****) per Kg. The exporter has also indicated an agent commission of ***% on this price and adjustment towards transportation and insurance @ US\$****per Kg. Accordingly the Ex-works Normal Value based on their third country export price works out to US\$****per Kg.

Export Price: Lanxess NV

The responding exporter has reported export of ****MT of the subject good to India during the POI at an average CIF price of US\$****per Kg. Against this CIF price commission of ****% has been admitted and the exporter has also claimed further adjustment of US\$****per Kg towards transportation and insurance. However, in their general submissions the party has submitted that against all their sales Lanxess NV pays a commission of ****% to Lanxess GmbH out of which ****% is paid to Lanxess India for the business transacted through them. Accordingly the entire amount of commission @ ****% has been deducted from the CIF value to arrive at the ex-factory export price provisionally which works out to US\$****per Kg.

Dumping Margin: Lanxess NV (Product MOR)

Since no other adjustments have been claimed or substantiated by the exporter ex-works Normal Value so determined provisionally with reference to the third country export price, has been compared with the ex-works export price to India at the same level of trade and the dumping margin works out to US\$****per Kg i.e. 26.3% of the export price.

G.2.2 All other exporters from EU

Normal value for all other exporters from the EU has been determined provisionally based on constructed normal value on facts available basis (taking into account the transaction values of the subject goods by the cooperating exporter) and for the purpose of this provisional determination the normal value for all other exporters from the EU has been estimated as US\$ **** per Kg.

Ex-works Export Price has been determined provisionally on the basis of average export price from the European Union after allowing for adjustments towards commissions, inland freight, ocean freight and insurance. Average CIF price of the subject goods from the EU has been determined as US\$****per Kg. After allowing adjustments towards ocean freight, inland freight, insurance commission etc. the net ex-work export price works out to US\$****per Kg

Accordingly, dumping margin for all non-cooperative exporters from the EU works out to US\$ ****per Kg

G.2.3. All exporters from the USA

The Authority notes that none of the exporters/producers from the USA has provided any response or information on the normal value as per the prescribed questionnaire. The Authority therefore, holds that none of the exporters from USA has cooperated with the Authority as envisaged under the Rules. Article 6.8 of the Agreement read with the Annex II to the same provides that in the case of complete non-cooperation by the exporters the Authority shall be free to make determinations based on facts available, including those available in the application filed by the domestic industry for the initiation of the investigation. Under the circumstances, for the purpose of the preliminary determination the Authority has constructed the normal value based on estimated cost of production with reasonable profit of the subject good in the USA as per the best available information in terms of the Rules 6(8) supra. Accordingly, the Normal Value of MOR for all exporters from the USA has been determined as US\$ ****per Kg.

The Authority has worked out the weighted average export price of all comparable transaction in respect of imports from the USA to arrive at the CIF export price to India which works out to US\$****per Kg. The export price so assessed, being the CIF export price, adjustments towards inland transportation, ocean freight, insurance and commission totaling to US\$ ****/Kg have been applied based on the facts available, in view of complete non cooperation from that country. Accordingly, net-export price at the ex-factory level has been provisionally determined as US\$**** Per Kg.

The ex-works normal value has been compared with the ex-works export price so determined at the same level of trade and the dumping margin is provisionally determined as US\$****Per Kg for all exporters from the USA.

G.2.4 All exporters from China

The Authority notes that none of the exporters/producers from China PR has provided any response or information on the normal value as per the prescribed questionnaire or rebutted the non-market economy presumption against Chinese exporters. The Authority therefore, holds that none of the exporters from China PR has cooperated with the Authority as envisaged under the Rules. Para 8 of Annex II of the Rules provides that for the exporters from the non-market economy countries the normal value can be determined on the basis of cost of production and a reasonable profit for the product under consideration in an appropriate third country including India. Under the circumstances, for the purpose of the preliminary determination the Authority has constructed the normal value based on estimated cost of production with reasonable profit of the subject good in the China PR as per the best available information available under the Rules above. Accordingly, the Constructed Normal Value of MOR for all exporters from China has been provisionally determined as US\$ ****per Kg.

The Authority has worked out the weighted average export price of all comparable transactions in respect of imports from the China PR to arrive at the CIF export price to India which works out to US\$****/Kg. The export price so assessed, being the CIF export price, adjustments towards inland transportation, ocean freight, insurance and commission totaling to US\$ ****per Kg has been applied on the facts available basis in view of complete non cooperation from that country. Accordingly, net-export price at the ex-factory level has been provisionally determined as US\$****Per Kg.

The ex-works normal value has been compared with the ex-works export price so determined at the same level of trade and provisional dumping margin works out to US\$ ****Per Kg for all exporters from China PR.

G.3 **Product TDQ**

The Authority notes that TDQ is allegedly dumped from the European Union and Chinese Taipei. However, only one exporter from the European Union i.e. M/s General Quimica SA, has filed its questionnaire response in respect of this product. M/s Lanxess GmbH, Germany has provided only data regarding their domestic selling price of the product in the EU market and has submitted this product is not exported by them to India but their domestic sales prices have been provided to help the Authority for an objective determination in respect of this product. No other exporter from Chinese Taipei has filed any response to the initiation in respect of this product.

For the purpose of the preliminary determination the Authority has examined the data submitted by the responding exporters as follows:

G.3.1 M/s General Quimica SA

M/s General Quimica SA, Spain has filed a questionnaire response in respect of its product Rubatan 184 which is equivalent to the product TDQ and has argued that based on their domestic sales and export price to India there is no question of any dumping from that country. The responding exporter was asked to supplement its response with adequate data on home market sales and exports to India. Based on the revised response filed by the exporter provisional assessments have been done by the Authority as follows:

Normal Value

This exporter has ***** MT of domestic sale of the subject good in the domestic market with average selling price of Euro ***** per MT. After applying level of trade adjustments as per the response the ex-works selling price works out to Euro***** per MT (Equivalent to US\$*****Per MT. Therefore, the normal value of the product for this exporter has been provisionally determined as US\$*****per MT (US\$*****per) Kg subject verification of its cost data and other adjustments claimed.

Export Price

The exporter has reported ***** MT of export of the subject goods to India during the POI at a total CIF value of US\$*****. After allowing the adjustments towards ocean freight, inland freight, insurance and handling expenses the ex-works export price has been provisionally determined as US\$***** Per MT (US\$*****per Kg)

Dumping margin

Since no other adjustments have been claimed or substantiated by the exporter ex-works Normal Value so determined provisionally with reference to their domestic sales has been compared with the ex-works export price to India at the same level of trade and the dumping margin works out to US\$*****Per MT (US\$*****per Kg) i.e. 31% of the export price.

G.3.2 All other exporters from EU

The Authority notes that M/s laxness GmbH, has provided certain information about its sale of TDQ in its home market as a proof of normal value in the European Union. However, this information has not been substantiated and the levels of trade for these

transactions are not known. The domestic sales price of the cooperating exporter has also been considered for the purpose of provisional estimation of the normal value for non-cooperating exporters from the EU. Based on the best information available the ex-works Normal value for the no-cooperating exporters from the EU has been provisionally determined as US\$**** Per MT (US\$****per Kg).

For the purpose of the provisional determination the ex-works export price of the subject goods for the non-cooperating exporters have been estimated based on the cooperating exporter's transaction data after adjusting for ocean freight, inland freight, insurance, handling charges and commission at the rate of **% . Accordingly, the net export price for the non-cooperating exporters has been provisionally assessed as US\$****Per MT (US\$****per Kg). On the basis of the above provisional estimation the dumping margin for all non-cooperating exporters from the European Union works out to US\$**** Per MT (US\$****Per KG) i.e. 34.8% of the export price.

G.3.3 All exporters from Chinese Taipei

The Authority notes that none of the exporters/producers from Chinese Taipei has provided any response or information on the normal value as per the prescribed questionnaire. Therefore, for the purpose of the preliminary determination the Authority has constructed the normal value based on estimated cost of production with reasonable profit of the subject good in the Chinese Taipei as per the best information available as per the Rules above. Accordingly, the Normal Value of TDQ for all exporters from the Chinese Taipei has been determined as US\$ ****Per Kg.

The Authority has worked out the weighted average export price of all comparable transaction in respect of imports from the Chinese Taipei to arrive at the CIF export price to India which works out to US\$****Per Kg. The export price so assessed, being the CIF export price, adjustments towards inland transportation, ocean freight, insurance and commission based on the facts available, have been considered in view of complete non cooperation by the concerned exporters. Accordingly, net-export price at the ex-factory level has been provisionally determined as US\$ ****Per Kg.

The ex-works normal value has been compared with the ex-works export price so determined at the same level of trade and the dumping margin has been provisionally assessed as US\$****Per Kg (****%) for all exporters from Chinese Taipei.

G.4 **Dumping Margins: Summary**

Product	Country/Territory	Exporter	Normal Value US\$/KG	Export Price US\$/KG	Dumping Margin US\$/KG	Dumping Margin %
PX-13	EU	Flexsys NV	****	****	****	23.18%

	EU	Lanxess GmbH	****	****	****	32%
			****	****	****	
	EU	All Others	****	****	****	36.02%
	Taiwan	All Exporters	****	****	****	35.38%
MOR	EU	Lanxess	****	****	****	32.48%
		NV	****	****	****	
	EU	All others	****	****	****	41.12%
	USA	All Exporters	****	****	****	34.20%
	China	All Exporters	****	****	****	43.72%
TDQ	EU	General Quimica SA	****	****	****	30.51%
	EU	All other Exporters	****	****	****	34.86%
	Chinese Taipei	All Exporters	****	****	****	32.48%

H. injury determination

H.1 Views of the Exporters and other interested parties

H.1.1 M/s Lanxess NV and M/s Lanxess GmbH

M/s Lanxess NV and M/s Lanxess GmbH in their respective submissions have argued that the parameters of injury require an examination of actual decline in (i) sales (ii) output (iii) profits (iv) price (v) market share (vi) productivity (vii) capacity utilization (viii) return on investment (ix) employment (x) ability to raise capital or investment (xi) an adverse effect on inventories /stock, etc. Quoting the injury data submitted by the petitioner they have further argued that

- i. The Petitioner's capacity, productions, domestic sales volumes, exports sales volumes have increased substantially from the base year to the POI;
- ii. Demand for the subject goods in the Indian market has also increased;
- iii. The petitioner's market share in the demand has declined slightly;
- iv. Regarding PX13, it is significant that the utilization of the installed capacity of the petitioner has declined only marginally despite a huge increase in capacity;
- v. It is admitted in the petition itself that the petitioners have made an actual profit in the proposed investigation period though the same was lower than what it would have been;
- vi. The petitioner has comprehensively failed to meet almost all the parameters for evaluating injury.

Causal Link

M/S Lanxess has further argued that the petitioners have failed to establish any link between injury faced by the petitioner and their exports of the product to India. They have further argued that

- The export performance of the petitioners have deteriorated for reasons unconnected with alleged dumping;
- That the Authority should examine the injury caused due to adverse export performance of the petitioner and the injury claims due to alleged dumped imports.
- Quoting the Annual reports of the petitioner company the exporter has argued that the cause of alleged injury to the petitioner is due to the problem in its Petrochemical Division, which in their own admission has severely affected the liquidity of the Company. Further as per the Annual Reports of the petitioner the assets of the Petrochemicals Division were to be separated and disposed of. The remaining liabilities were to be taken over by the Rubber Chemical Division and cleared from its profits over a period of time. However, the petitioner chose to enhance its Rubber Chemical Division capacity at a time when all business logic suggested otherwise.
- That in view of the above, if the petitioners have suffered any injury, the same is not the result of any alleged dumping of the article by them, or by any other party.
- That the petitioners are the acknowledged market leaders in the MOR market in India, and are therefore in the best position to drive price patterns upward or downward.
- With respect to the price effect of imports, the exporters have denied that the petitioners had to respond to reductions in price of import. The prices of the said article in the ordinary course of trade in the global market have from time to time fallen and it is abundantly clear that the petitioners have found the normal market prices uneconomical to sell their products.

H.1.2 Views of M/s Flexsys NV

M/s Flexsys NV in its preliminary submissions have argued that in terms of Article 3.1 of the Agreement a determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products. They have argued that even from the analysis of injury assessment on account of certain parameters, the Petitioner has not suffered any “material injury” as a result of the alleged dumped imports from EU.

They have further argued that the Petitioner has not suffered “material injury” from the alleged dumped exports from EU. Article 3.4 provides that The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. They have argued that the petitioner has failed to assess and examine all the listed factors of injury as mandated under Article 3.4 of the WTO Anti-Dumping Agreement.

The exporter has also submitted that the petitioner has given confusing and misleading information on the state of the company in its Annual Reports and the petition. Therefore, the Authority should verify in detail whether the Petitioning Industry is suffering injury. If the finding is positive, then the Designated Authority should further analyse whether this injury is in any way linked to the alleged dumped imports or is it self inflicted due to the status of the Petitioner Company being declared “sick”.

Causal Links

Further the exporter argues that there is no causal link between the alleged dumped imports and injury suffered by the domestic industry, as there are other producers of the subject goods in the country, which compete with the petitioner. They have also argued that Petitioners claim of its inability to raise fresh capital investment has nothing to do with exports of the subject goods from the EU, but is directly related to the status of the company being declared as a “sick industrial company” by BFIR.

As far as TDQ is concerned the exporter has argued that acetone and aniline, which are important raw materials for the manufacture of TDQ, have been subject to anti-dumping and safeguard duties for the period 2002-2003. It is likely that by virtue of these duties, the impact on the production of TDQ by the Petitioner would have impacted the cost of manufacturing and thus would have rendered them unviable.

H.2 Examination by the Authority:

The Authority has noted the views expressed by the interested parties in respect of the injury claims of the domestic industry and examined the mandatory factors for the purpose of provisional injury determination and causal link analysis in these findings.

H.2.1 Cumulative assessment of injury

The Annexure II (iii) of the Anti Dumping Rules requires that where imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that

- i. the imports from individual countries are above de minimis or cumulatively account for more than 7% of imports;
- ii. the dumping margin against individual countries are above 2%; and
- iii. cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles

The Authority notes that the dumped imports in respect of the individual products covered in this investigation are entering the Indian market simultaneously from several countries/territories. Therefore, the issue of cumulative assessment of the injury caused to the domestic industry due to dumped imports from these sources has been examined with respect to the above parameters and it was observed that:

- i. The margins of dumping of individual products from each of the subject countries/territories are more than the de minimis limit;
- ii. The volume of imports of individual products from each of the subject countries/territories is more than the limits prescribed;
- iii. The domestic products and products supplied by producers in various countries are like articles;
- iv. Imported products and domestically produced subject goods are interchangeable and are being interchangeably used. Transaction wise information on imports from various countries shows that the imports are being made by actual users in the Rubber industry as well as traders who have purchased the material for reselling. Goods supplied by the countries involved are entering the Indian markets through the same channels of distributions and directly competing in the same market;
- v. Products supplied from the subject countries are being marketed in India during the same period through comparable sales channels and under similar commercial conditions;
- vi. Imports of individual products from each of the subject countries have increased;
- vii. The domestic producer and exporters in the subject countries are selling the product to the same category of consumers;
- viii. Imports from the subject countries are significantly undercutting the prices of the domestic industry in the market;

Therefore, the Authority holds that cumulative assessment of injury is appropriate in this case since the exports of individual products from the subject countries are directly competing amongst themselves as well as with the like goods offered by the domestic industry in the Indian market. However, the Authority notes that injury analysis has been done on individual product basis.

H.3 Examination of Injury Parameters:

Rule 11 of Antidumping Rules read with Annexure –II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” In considering the effect the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

The Authority notes that the investigation covers three distinct rubber chemicals used in the rubber industry. Therefore, for the purpose of injury determination also these products have been treated as three different and distinct products and injury caused to the domestic industry on account of individual products have been examined separately. However, overall condition of the industry and effects of the imports on the rubber chemical business of domestic industry has also been examined to the extent relevant.

For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

All economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization, sales volume etc. have been examined as under:-

H.3.1 Comparison methodology adopted

The products under consideration i.e. MOR, PX-13 and TDQ are three distinct products and are not inter se like products within the meaning of Rule 2(d). Therefore, Authority has assessed injury to the domestic industry individually for each of the subject rubber chemicals. The injury examination has been carried out considering

data for the years 2000-2001, 2001-2002, 2002-2003 and Jan.-Dec., 2003 (POI). The Authority notes that the domestic industry is found to be having significant export activities. However, for the purpose of the injury analysis the performance of the domestic industry has been assessed only in respect of domestic market.

H.4 Injury and Causal Links

H.4.1 Volume Effects of Dumped Imports: Import volumes and market shares

a) Import Volumes

With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

Volume of imports for each of the subject rubber chemicals from each of the subject countries have been analysed based on the data reported in the DGCI&S data. The transaction-wise data reported in DGCIS for all Rubber Chemicals have been compared with IBIS data for identifying individual products and compilation of data for the individual products. Though certain anomalies in respect of volume of imports have been noticed while the data is compared to IBIS data for the purpose of the preliminary determination the data reported in DGCI&S has been relied upon and has been used after pruning the same for unrelated products to the extent possible. On the basis of this examination the import figures are as under:-

Qty in MT	2000-01	2001-02	2002-03	POI
Import volumes				
MOR				
Dumped Imports (EU+ USA+ China)	996	943	1284	2017
Trend	100	95	129	203
Total Imports MOR	1106	1001	1354	2057
Trend	100	91	122	186
PX-13				
Dumped Imports (EU + Taiwan)	1070	962	3050	3152
Trend	100	90	285	295
Total Import PX-13	1418	1106	3456	3396
Trend	100	78	244	239
TDQ				
Dumped Imports (EU + Taiwan)	246	75	285	655
Trend	100	30	116	266
Total Imports TDQ	281	274	450	702
Trend	100	98	160	250

Data Source: DGCI&S

The above data indicates that total imports and dumped imports of the subject goods from the subject countries have increased substantially during the injury examination period. The growth in import volume from the subject countries is significantly higher than the growth in total imports. It also shows that there is a quantum jump in dumped imports compared to the previous year.

b) Actual and potential effect on sales:

The volume of domestic sales and effects of dumped imports on the domestic sales have been examined in terms of absolute sales of the domestic industry, demands and market shares

MOR	2000-01	2001-02	2002-03	POI
Domestic sales	*****	*****	*****	*****
Trend	100	116	139	134
Sales others	*****	*****	*****	*****
Trend	100	100	131	112
Total Domestic sales	1925	2144	2626	2457
Trend	100	111	136	128
Imports	1106	1001	1354	2057
Trend	100	91	122	186
Demand	*****	*****	*****	*****
Trend	100	104	131	149
Dumped Imports	996	943	1284	2017
Trend	100	95	129	203
Share of dumped imports in total imports	90.04	94.21	94.83	98.09
Market shares in Demand				Indexed
Domestic Industry	100	111.11	104.44	88.89
Dumped Imports	100	90.91	96.97	136.36
Others	100	90.91	95.45	68.18

As far as MOR is concerned there is a substantial increase in the demand in the domestic market and the sales of the domestic industry shows substantial increase in absolute volume terms. But the domestic industry has lost substantial market share to the dumped imports which has more than doubled compared to the base year while the demand has gone up by only 50%.

PX-13	2000-01	2001-02	2002-03	POI
Domestic sales	****	****	****	****
Trend	100	103	110	122
Sales others	****	****	****	****
Trend	100	87	83	66

Total Domestic sales	3550	3393	3467	3437
Trend	100	96	98	97
Imports	1418	1106	3456	3396
Trend	100	78	244	239
Demand	****	****	****	****
Trend	100	91	139	138
Dumped Imports	1070	962	3050	3152
Trend	100	90	285	295
Market shares in Demand				Indexed
Domestic Industry	100	113.21	78.97	88.95
Dumped Imports	100	99.28	204.55	214.18
Others	100	87.28	63.69	48.51

The above data in respect of PX-13 shows that while the demand for the product has increased by only 38% the dumped imports has increased by almost 200% and the sales of domestic industry has increased by only 22%. The market share of the domestic industry has declined significantly compared to the previous years, while the market share of dumped imports has doubled in the injury period.

TDQ	2000-01	2001-02	2002-03	POI
Domestic sales	*****	*****	*****	*****
Trend	100	117	139	146
Sales others	*****	*****	*****	*****
Trend	100	108	132	138
Total Domestic sales	3141	3528	4256	4447
Trend	100	112	135	142
Imports	281	274	450	702
Trend	100	98	160	250
Demand	*****	*****	*****	*****
Trend	100	111	138	150
Dumped Imports	246	75	285	655
Trend	100	30	116	266
Market shares in Demand				Indexed
Domestic Industry	100	104.55	100.00	95.45
Dumped Imports	100	28.57	85.71	185.71
Others	100	106.12	102.04	91.84

As far as TDQ is concerned, it is seen that the imports increased over the period in absolute terms by 150% whereas the dumped imports increased by 166% but the sales of the domestic industry increased only by 46%. The market share of the domestic industry has dropped marginally, whereas the share of dumped imports increased significantly.

The dumped imports in respect of all three products have increased in absolute term as also in relation to imports into India, production in India and consumption in India. It is also seen that the volume of imports have increased more than the increase in demand. In other words, rate of increase of imports was more than rate of increase of demand.

H.4.2 Price effect of dumped imports

With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The Authority finds that the CIF import prices from the subject countries have been as under:-

Landed Price Rs Per KG				
MOR	2000-01	2001-02	2002-03	POI
EU	215.5	193.82	160.89	152.61
US	198.7	193.33	153.19	143.89
China	231.8	172.82	163.47	146.77
Subject Countries	214.25	193.72	160.41	151.18
CIF Price subject countries	157.14	142.07	122.17	119.74
% decline (with reference to base year) Landed Price				
EU	-	10	25	29
US	-	3	23	28
China	-	25	29	37
Subject Countries	-	10	25	29
PX-13				
EU	204.8	199.51	152.86	134.72
Taiwan	213.3	190.2	155.5	135.09
Subject Countries	205.84	196.78	153.29	134.79
CIF Price subject Countries	150.96	144.32	116.75	106.76
% decline (with reference to base year) Landed Price				
EU	-	3	25	34
Taiwan	-	11	27	37
Subject Countries	-	4	26	35
TDQ Landed value				
EU	88.38	83.75	85.79	80
Taiwan	-	-	-	75.52
Subject Countries	88.38	83.75	85.79	79.2
CIF Price Subject Countries	64.82	61.42	65.34	62.73
% decline (with reference to base year) Landed Price				
EU	-	5	3	9

Taiwan	-	-	-	-
Subject Countries	-	5	3	10

The Authority notes that the CIF price and Landed price of each of the subject rubber chemical substantially declined over the injury period.

H.4.3 Price undercutting, suppression and depression

The Authority determined net sales realization of the domestic industry considering selling price, excluding taxes & duties, rebates, discounts & commissions and freight & transportation. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty.

Net sales realization of the domestic industry declined over the period as shown in the table below. It is observed that the net sales realization has declined significantly over the injury period.

(Figures are in Rs./ KG)

	2000-01	2001-02	2002-03	POI
Net sales realization (Rs./kg.)				
MOR	*****	*****	*****	*****
Decline over base year (%)		11.35	32.14	28.28
PX-13	*****	*****	*****	*****
Decline over base year (%)		17.72	40.43	56.64
TDQ	*****	*****	*****	*****
Decline over base year (%)		3.64	8.7	7.94

The net sales realization of the domestic industry was compared with the landed value of the dumped imports to examine whether the dumped imports have significant price undercutting effect on the domestic industry. The landed value of dumped imports was also compared with the non-injurious prices of the subject goods to determine the price underselling effect of the dumped imports as follows:

Rs Per KG

Rs. Per Kg

MOR	2000-01	2001-02	2002-03	POI
Net Sales Realisation of DI	*****	*****	*****	*****
NIP	*****	*****	*****	*****
Landed Price EU	215.5	193.82	160.89	152.61
Undercutting EU	(*****)	(*****)	*****	5-15%
Underselling EU				5-15%

Landed Price- US	198.7	193.33	153.19	143.89
Undercutting- US	(*****)	(*****)	(*****)	10-20%
Underselling - US				15-25%
Landed Price- China	231.8	172.82	163.47	146.77
Undercutting-China	(*****)	*****	(*****)	10-20%
Underselling-China				15-25%
MOR-Subject Countries				
Landed Price	214.25	193.72	160.41	151.18
Undercutting	(*****)	(*****)	*****	5-15%
Underselling				10-20%

The above data indicates that the landed value of the dumped imports of MOR individually from the subject countries and also cumulatively undercut the domestic prices significantly. The landed value from the subject countries are also significantly below the non-injurious price of the domestic industry affecting the prices. It is also noticed that due to decline in the landed values the price undercutting, which was negative in the previous years has become positive in respect of most of the countries.

The data in respect of PX-13 also shows a similar trend as can be seen from the table below. The price undercutting of the landed prices have become positive only during the POI or in the previous year due to significant decline in the CIF prices and landed value of dumped imports.

Rs. Per Kg

PX-13	2000-01	2001-02	2002-03	POI
Net Sales Realisation of DI	*****	*****	*****	*****
NIP				*****
Landed Price-EU	204.8	199.51	152.86	134.72
Undercutting-EU	(*****)	(*****)	*****	0-10%
Underselling--EU				15-25%
Landed Price-Taiwan	213.3	190.2	155.5	135.09
Undercutting- Taiwan	(*****)	(*****)	(*****)	0-10%
Underselling- Taiwan				15-25%
Landed Price- Subject Countries	205.84	196.78	153.29	134.79
Undercutting- Subject Countries	(*****)	(*****)	(*****)	0-10%
Underselling				15-25%

The data in respect of TDQ also shows a similar trend. The decline in the landed price and price undercutting has been significant.

Rs. Per Kg

TDQ	2000-01	2001-02	2002-03	POI
Net Sales Realisation	*****	*****	*****	*****

NIP				*****
Landed Price-EU	88.38	83.75	85.79	80
Undercutting-EU	*****	*****	(*****)	0-10%
Underselling-EU				5-15%
Landed Price-Taiwan	-	-	-	75.52
Undercutting-Taiwan	-	-	-	5-15%
Underselling- Taiwan				10-20%
Landed Price- Subject Countries	88.38	83.75	85.79	79.2
Undercutting-Subject Countries	*****	*****	(*****)	0-10%
Underselling Subject Countries				5-15%

The above data indicates that landed price of imports from the subject countries have been significantly below the net sales realization of the domestic industry, thus resulting in significant price undercutting.

Price suppression and depression

To examine the price suppression effect of the dumped imports on the domestic prices the trend of net sale realization of the domestic industry has been compared with the cost of production. The data indicates that though there is a marginal decline in the cost of production of the subject goods during the injury investigation period the fall in sales realization has been significantly higher than the decline in cost of production. It therefore, appears that the price effect of the dumped imports have forced the domestic industry to keep its prices lower in order to retain its market share.

	2000-01	2001-02	2002-03	POI
Decline in net sales realization (%) Decline over base year				
MOR		5.88	16.64	14.64
PX-13		9.12	20.80	29.14
TDQ		4.04	9.66	8.81
Decline in Cost of production (%) Decline over base year				
MOR		3.43	6.55	5.46
PX-13		9.40	4.24	8.21
TDQ		11.09	5.28	2.98

The above analysis shows that the dumped imports have adverse volume and price effect on the domestic industry in terms of increase in volume of dumped imports both in absolute terms and market shares and by depressing the prices of the domestic market and eroding its market share.

H.4.4 Examination of other injury factors

After examining some of the injury factors i.e. actual and potential decline in sales and market share; actual and potential increase in volume of imports etc. in the previous section, the Authority has examined the other mandatory injury parameters as follows:

a) Capacity, Production, Capacity Utilization and Sales

Performance of the domestic industry in terms of capacity, production, capacity utilization and sales has been as under:-

MOR	2000-01	2001-02	2002-03	POI
Capacity(MT)	*****	*****	*****	*****
Indexed	100	100	119	124
Production(MT)	*****	*****	*****	*****
Indexed	100	119	140	137
Capacity utilization (%)	*****	*****	*****	*****
Indexed	100	118.75	117.50	110.00
Domestic Sales(MT)	*****	*****	*****	*****
Indexed	100	116	139	134
Export Sales(MT)	*****	*****	*****	*****
Indexed	100	105.67	120.57	139.01
Demand(MT) Indexed	100	103.76	131.31	148.93
Market share in Demand (%) Indexed	100	111.97	105.57	90.07
Inventory(MT) Indexed	100	166.10	206.78	194.92
PX-13				
Capacity(MT)	*****	*****	*****	*****
Indexed	100	108	177	177
Production(MT)	*****	*****	*****	*****
Indexed	100	112	125	155
Capacity utilization(%)	*****	*****	*****	*****
Indexed	100	103.49	69.77	87.21
Domestic Sales(MT)	*****	*****	*****	*****
Indexed	100	103	110	122
Export Sales(MT)	*****	*****	*****	*****
Indexed	100	123.35	131.89	198.06
Demand(MT)	*****	*****	*****	*****
Indexed	100	90.56	139.35	137.54
Market share in Demand (%) Indexed	100	113.23	78.97	88.95
Inventory(MT) Indexed	100	42.25	59.15	84.51
TDQ				
Capacity(MT)	****	****	****	****
Indexed	100	100	148	167
Production(MT)	****	****	****	****
Indexed	100	139	172	201

Capacity utilization(%)	****	****	****	****
Indexed	100	137.88	115.15	119.70
Domestic Sales(MT)	*****	*****	*****	*****
Indexed	100	117	139	146
Export Sales(MT)	*****	*****	*****	*****
Indexed	100	139.59	195.27	250.52
Demand(MT)	*****	*****	*****	*****
Indexed	100	111.10	137.52	150.47
Market share in Demand(%) Indexed	100	105.53	101.26	96.76
Inventory (MT) Indexed	100	321.35	340.45	279.78

The Authority notes that the domestic industry has increased its capacity in respect of the individual products through de-bottlenecking of the existing capacities and by addition of additional equipments. The increase in capacity is line with the increase in demand. The capacity and capacity utilization has in fact helped the company to improve its production efficiency and cost of production. The Authority also notes that

- a. Production of the domestic industry has increased over the injury period. However, even though the production has increased, it is seen that the increase in production is less than increase in demand and a significant part of the capacity remained unutilized. In other words, the domestic industry has been prevented from increasing the production to the extent it could in spite of good demand in the domestic market.
- b. While addition of capacity is proportionate to increase in demand, the capacity utilization after improving has fallen. In other words, the domestic industry has not been able to utilize adequately the enhanced capacities.
- c. Sales of the domestic industry increased. However, the market share of the domestic industry declined. Thus, it is seen that while the domestic industry was able to increase its sales in response to increase in demand, such increase in sales was not proportionate to the increase in demand. In spite of increase in demand and sales of the domestic industry its inventories has increased and capacity utilization has fallen.
- d. Profits

Profits earned by the domestic industry from the sales of the subject goods in the domestic market were as follows:-

Indexed

MOR	2000-01	2001-02	2002-03	POI
Rs. Lacs	100	84.72	-5.62	7.78
Rs/kg	100	72.92	-4.05	5.81

% of selling price	100	80.00	-5.00	7.00
PX-13				
Rs. Lacs	100	96.78	-76.78	-143.65
Rs/kg	100	94.44	-69.80	-117.44
% of selling price	100	100.00	-90.00	-170.00
TDQ				
Rs. Lacs	100	24780.00	-18040.00	-25213.33
Rs/kg	100	21266.67	-13033.33	-17433.33
% of selling price	100	23333.33	-16666.67	-20000.00

It is seen that the profits of the domestic industry have declined and the domestic industry has moved to a situation of financial losses from a situation of profits in spite of higher production and sales volumes achieved by the domestic industry over this period.

c) Employment

Number of employees in each subject rubber chemical has been as examined to analyse the productivity of the domestic industry during the investigation period.

Indexed

	2000-01	2001-02	2002-03	POI
No. of employee				
MOR	100	100	92.86	85.71
PX-13	100	93.33	80.00	73.33
TDQ	100	100.00	154.55	163.64
Productivity Per Employee				
MOR	100	118.67	150.36	159.75
PX-13	100	120.42	155.79	211.08
TDQ	100	139.31	111.36	122.54
No. of employee per KT production				
MOR	100	88.89	66.67	66.67
PX-13	100	83.33	66.67	50.00
TDQ	100	75	100.00	75.00

The above data shows that the productivity of the domestic industry has increased in terms of its labour productivity.

d) Wages

Wages paid by the company and incidence of wage per unit of production has been as under:-

	2000-01	2001-02	2002-03	POI
Wages Per KG				
MOR	100	99.43	80.74	88.10
PX-13	100	95.90	86.15	71.79
TDQ	100	91.61	111.19	112.59

It is seen that overall wages per kg have reduced due to higher labour productivity and higher production.

e) Return on Investment

ROI has been calculated by considering capital employed in each rubber chemical and profit before interest, which shows as under:-

Indexed

	2000-01	2001-02	2002-03	POI
Capital employed (Rs. Lacs)				
MOR	100	106.61	106.42	101.51
PX-13	100	92.78	103.68	92.76
TDQ	100	94.30	110.36	103.83
Return On Investment (%)				
MOR	100	83.33	25.00	37.50
PX-13	100	100.00	-27.78	-83.33
TDQ	100	300.00	-16.67	-66.67
Profit on investment (%)				
MOR	100	82.35	-5.88	5.88
PX-13	100	108.33	-75.00	-158.33
TDQ	100	30000.00	-17500.00	-27500.00

It is seen that capital employed for each of the subject goods has declined, and return on investment has declined to become negative for PX-13 and TDQ.

f) Inventories

Indexed

Inventory (MT)	2000-01	2001-02	2002-03	POI
MOR	100	166.10	206.78	194.92
PX-13	100	42.25	59.15	84.51
TDQ	100	321.35	340.45	279.78

Authority finds that the inventory of the domestic industry has increased substantially for MOR and PX-13 whereas there is a drop in inventory in case of TDQ. However,

the Authority notes that domestic industry has significant exports of the products under consideration. Inventory levels of the product under consideration are therefore not reflective of any consistent pattern and have been influenced by the pattern of export shipments and volumes.

g) Cash Flow

Cash profits of the domestic industry over the injury period have been as under:-

Indexed

	2000-01	2001-02	2002-03	POI
Cash profits Rs. Lacs				
MOR	100	88.68	12.09	24.77
PX-13	100	97.26	-34.33	-86.77
TDQ	100	381.62	-102.41	-182.33

It is seen that the cash profits of the domestic industry has deteriorated over the period. This deterioration in cash profits was directly attributable to decline in the selling prices in response to landed price of imports.

h) Productivity

As noted earlier the productivity of each of the subject rubber chemicals has increased, as may be seen from the table below.

Indexed

	2000-01	2001-02	2002-03	POI
Production per employee(MT)				
MOR	100	118.67	150.36	159.75
PX-13	100	120.42	155.79	211.08
TDQ	100	139.31	111.36	122.54

However, the improvement in productivity has not translated into profitability for the domestic industry. It is found that even when productivity of the domestic industry significantly improved, which helped in reduction in unit cost of production, profits of the domestic industry significantly declined from a situation of profits to losses due to decline in selling prices.

i) Growth

Even though growth of the domestic industry in terms of parameters, such as capacity, production, sales, and productivity was positive, the same was negative in terms of market share, profits, cash flow, and return on investments.

j) Ability to raise fresh Investment

The Authority notes that the domestic industry has made fresh investments in each of the subject goods, in the injury period more as an indicator of past profitability and future expectations of demand and market share. However, it is found that the financial performance of the domestic industry is significantly eroding, which may have adverse impact on its future ability to raise fresh investments.

Overall assessment

The above analysis of the factors shows that in spite of the improvement in capacity, production, and sales in absolute terms and reduction in its cost of production, improvement in productivity, the industry suffers injury on account high unutilized capacity while there is a healthy demand for the products in the domestic markets, low net sales realization, higher inventory built up, negative or low return on investments and profits. The injury suffered is material and significant. Therefore, the arguments of the interested parties that the petitioner domestic industry does not suffer any material injury does not appear to be valid.

H.5 Causal link

The Authority notes that other interested parties have argued that the injury caused to the domestic industry is on account of its petrochemical unit and has nothing to do with the dumped imports. In this connection they have argued that petrochemical division being a sick unit the overall financial situation of the company has been affected. However, the Authority notes that the petrochemical unit is already in the process of de-merger and the injury analysis as above has been carried out only for the rubber chemical division and in respect of the specific rubber chemicals named in this investigation. Therefore, the arguments of the interested parties that the injury cause to the petitioner is on account of its petrochemical unit do not appear to be valid.

The interested parties have also argued that since some of the major raw materials like Aniline required for production of the subject goods are attracting antidumping duty in India it might have affected the cost structure of the domestic industry and therefore, caused injury to the domestic industry. However, the Authority notes that the purpose of the antidumping duty on the raw materials is to remove the distortion of price caused by dumping of that product. The antidumping duty on those products also indicates that those products are being sold in the home markets or international

markets at a higher price than in India. Therefore, the antidumping duty on raw materials cannot be treated as a cause of injury to the domestic industry.

Having examined the existence of material injury and volume and price effects of dumped imports on the prices of the domestic in terms of its price undercutting, price underselling and price suppression, and depression effects the Authority has also examined whether other indicative parameters listed under the Indian Rules and Agreement on Anti Dumping could have contributed to injury to the domestic industry. Therefore, the following parameters have been examined:

a) Imports from Third Countries: - Imports from countries not under investigation are either insignificant or at prices higher than the import prices from the subject countries and therefore, do not affect the prices in the domestic industry;

b) Contraction in Demand: - Demand for the subject goods have increased substantially during the injury examination period. Therefore, possible contraction in demand cannot be attributed to the injury to the domestic industry.

c) Pattern of consumption: - No significant change in the pattern of consumption has been alleged by any interested party.

d) Conditions of competition: - The goods are freely importable. The petitioner is the major producer of the subject goods as the other viable producers have either stopped significant production or turned traders of the subject goods. Therefore, domestic competition could not be attributed to the injury to the domestic industry. No other evidence of conditions of competition or trade restrictive practices has been brought to the knowledge of the Authority.

e) Developments in technology:- There is no allegation of significant changes in technology which could have caused injury to the domestic industry. The exporter have claimed substantial cost advantage due to in situ availability of certain raw materials or different production process which could have a bearing on their own cost of production and Normal Values. However, no cost disadvantage to the domestic industry due to technological difference has been claimed.

f) Export performance of the domestic industry:-

Indexed

Exports					
MOR	MT	100	105.67	120.57	139.01
PX-13	MT	100	123.35	131.89	198.06

TDO	MT	100	139.59	195.27	250.52
-----	----	-----	--------	--------	--------

The export sale of the domestic industry is substantial and shows significant growth. But the profitability from the export has been negative. However, for the injury analysis the price and profitability in the domestic and export markets have been segregated. And injury if any caused due to the company's export performance has not been attributed to the dumped imports.

g) Productivity: - Productivity of the domestic industry has improved in terms of total output and productivity per employee. Therefore, this cannot be attributed to the injury of the domestic industry.

The non-attribution analysis as above shows that no other factor other than the dumped imports has affected the domestic industry.

H.5.1 Factors establishing causal link

Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from subject countries. Therefore, the causal links between dumped imports and the injury to the domestic industry is established on the following grounds:

1. The dumped import prices and consequently the landed price of imports from the subject countries steeply declined, resulting in significant price undercutting. As a direct consequence, the domestic industry was forced to reduce the prices.
2. Reduction in the selling prices by the domestic industry adversely affected the profits, cash flow and return on investments of the company.
3. Even though the domestic industry responded to decline in import prices, significant positive price undercutting resulted in increase in market share of imports from the subject countries. As a direct consequence, market share of the domestic industry declined.
4. Existence of significant price undercutting and consequent decline in market share of the domestic industry resulted in capacity utilization not reaching the earlier levels. Domestic industry could not increase sales and consequently production and capacity utilization in spite of increase in demand.
5. In spite of increase in demand and reduction in selling prices by the domestic industry, market share of the domestic industry declined due to significant reduction in landed price of imports. This retarded the growth of the domestic industry.

Therefore, the Authority provisionally concludes that the domestic industry suffers material injury and the injury has been caused by the dumped imports from the subject countries/territories.

I. Magnitude of Injury and injury margin

The non-injurious price determined by the Authority has been compared with the landed value of the exports for determination of injury margin. The weighted average landed price of the exports from the subject countries and the injury margins have been worked out as follows:

Product	Country/ Territory	Exporter	Injury Margin %
PX-13	EU	Flexsys NV	*****
	EU	Lanxess, GmbH	*****
	EU	All Others	*****
PX-13	Taiwan	All Exporters	*****
MOR	EU	Lanxess, NV	*****
	EU	All others	*****
	USA	All Exporters	*****
	China	All Exporters	*****
TDQ	EU	General Quimica SA	*****
	EU	All other Exporters	*****
	Chinese Taipei	All Exporters	*****

J. Conclusions

After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding the authority provisionally concludes that:

- i. The subject goods have entered the Indian market from the subject countries/territories at prices less than their normal values in the domestic markets of the exporting countries;
- ii. The dumping margins of the subject goods imported from the subject countries/territories are substantial and above de minimis;
- iii. The domestic industry suffers material injury in terms of loss of market share, low capacity utilization and profitability;
- iv. And the injury has been caused to the domestic industry both by volume and price effect of dumped imports of the subject goods originating in or exported from the subject countries/territories.

K. Indian industry's interest & other issues

The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

L. Recommendations

The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject countries, and having concluded that the domestic industry suffers material injury due to such dumped imports the Authority is of the opinion that provisional measure is required to prevent injury being caused to the domestic industry during the investigation period.

Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject countries/territories in the form and manner described hereunder.

Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount indicated in Col 9 of the duty table annexed herewith is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries/territories.

M. Further Procedures

The following procedure would be followed subsequent to notifying the preliminary findings:-

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;
- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make

known their views, within forty days from the date of the dispatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;

- c. The Authority would conduct further verification to the extent deemed necessary;
- d. The Authority would disclose essential facts before announcing final findings.

Christy L. Fernandez
Designated Authority

File No. 14/13/2004-DGAD

Annexure

Duty Table

Sl.No	Sub Heading or Tariff Item	Description of Goods	Specification	Country of origin	Country of Export	Producer	Exporter	Duty Amount	Unit of Measure	Currency
PX-13										
1	Any Head of Customs	Rubber Chemical PX-13	See Para- C	European Union	European Union	M/s Flexsys NV, Belgium	Any	501	MT	US\$
2	-Do-	-Do-	-Do-	European Union	European Union	M/s Lanxess GmbH, Germany	Any	590	MT	US\$
3	-Do-	-Do-	-Do-	European Union	European Union	Any other than above	Any	706	MT	US\$
4	-Do-	-Do-	-Do-	European Union	Any (Other than EU)	Any	Any	706	MT	US\$
5	-Do-	-Do-	-Do-	Any (Other than EU)	European Union	Any	Any	706	MT	US\$
6	-Do-	-Do-	-Do-	Taiwan	Taiwan	Any	Any	740	MT	US\$
7	-Do-	-Do-	-Do-	Taiwan	Any Other than Taiwan	Any	Any	740	MT	US\$
8	-Do-	-Do-	-Do-	Any Other than Taiwan	Taiwan	Any	Any	740	MT	US\$
MOR										
9	-Do-	Rubber Chemical MOR	-Do-	European Union	European Union	M/s Lanxess NV, Belgium	Any	350	MT	US\$
10	-Do-	-Do-	-Do-	European Union	European Union	Any other than above	Any	490	MT	US\$

11	-Do-	-Do-	-Do-	European Union	Any (Other than EU) Union	Any	Any	490	MT	US\$
12	-Do-	-Do-	-Do-	Any (Other than EU)	European Union	Any	Any	490	MT	US\$
13	-Do-	-Do-	-Do-	USA	USA	Any	Any	510	MT	US\$
14	-Do-	-Do-	-Do-	Any other than USA	USA	Any	Any	510	MT	US\$
15	-Do-	-Do-	-Do-	USA	Any other than USA	Any	Any	510	MT	US\$
16	-Do-	-Do-	-Do-	China	China	Any	Any	450	MT	US\$
17	-Do-	-Do-	-Do-	China	Any other than China	Any	Any	450	MT	US\$
18	-Do-	-Do-	-Do-	Any other than China	China	Any	Any	450	MT	US\$
TDQ										
19	-Do-	Rubber Chemical TDQ	-Do-	European Union	European Union	M/s General Qumica SA, Spain	Any	295	MT	US\$
20	-Do-	-Do-	-Do-	European Union	European Union	Any other than above	Any	327	MT	US\$
21	-Do-	-Do-	-Do-	European Union	Any other than EU	Any	Any	327	MT	US\$
22	-Do-	-Do-	-Do-	Any other than EU	European Union	Any	Any	327	MT	US\$
23	-Do-	-Do-	-Do-	Taiwan	Taiwan	Any	Any	270	MT	US\$
24	-Do-	-Do-	-Do-	Taiwan	Any other than Taiwan	Any	Any	270	MT	US\$
25	-Do-	-Do-	-Do-	Any other than Taiwan	Taiwan	Any	Any	270	MT	US\$

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