

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

New Delhi the 15<sup>th</sup> June. 2009

**Preliminary Findings**

**Subject:- Anti-Dumping Investigation concerning imports of Polypropylene originating in or exported from Oman, Saudi Arabia and Singapore**

No. 14/5/2009-DGAD:- Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred as the AD Rules);

**A. PROCEDURE**

2. The procedure described herein below has been followed:

i The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from M/s Reliance Industries Ltd. on behalf of the domestic industry, alleging dumping of 'Polypropylene (i.e., homo polymers of propylene and copolymers of propylene and ethylene)' (hereinafter also referred to as the subject goods); originating in or exported from Oman, Saudi Arabia and Singapore (hereinafter referred to as subject countries).

ii The Authority notified the High Commission/Embassies of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

iii The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry issued a public notice dated 24th February 2009 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of 'Polypropylene (i.e., homo polymers of propylene and copolymers of propylene and ethylene)' originating in or exported from subject

countries, in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

iv The Designated Authority sent a copy of initiation notification dated 24th February 2009 to the High Commission/Embassies of the subject countries in India, known exporters from subject countries, known importers/ users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

v Request for extension of time to file the questionnaires' response was received from some interested parties. The Authority granted the time extension, keeping in view the time constraints.

vi The Authority provided a copy of the non-confidential version of the application to the known exporters and to the High Commission/Embassies of the subject countries in India in accordance with Rule 6(3) supra.

vii The High Commission/Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to them along with the names and addresses of the known exporters.

viii The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rules 6(4):

1. Advanced Polypropylene Company, Saudi Arabia
2. SABIC Basic Industries Corporation, Saudi Arabia
3. Tasnee – National Industrialization Company, Saudi Arabia
4. ExxonMobil Chemical Co, Singapore 098633
5. Oman Polypropylene LLC, Oman

ix In response to the initiation notification, the following exporters / producers from subject countries have responded:

1. M/s Oman Polypropylene LLC, Oman
2. M/s Advanced Polypropylene Company, Saudi Arabia
3. M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)
4. M/s Saudi Polyolefins Company, Saudi Arabia
5. M/s National Petrochemical Industrialization Marketing Company, , Saudi Arabia
6. M/s Basell International FZE. , Saudi Arabia
7. M/s Exxon Mobil Chemical Asia Pacific, Singapore
8. M/s Itochu Plastics Pte. Ltd.
9. M/s Marubeni Chemical Asia Pacific PTE Ltd., Singapore
10. M/s Sumitomo Chemical Asia Pte Ltd., Singapore
11. M/s Sumitomo Corporation Asia Pte Ltd., Singapore
12. M/s The Polyolefin Company (Singapore) Pte. Ltd.
13. M/s Toyota Tsusho (Singapore) Pte Ltd., Singapore

x Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4):

1. Organization of Plastics Processors Of India, Mumbai
2. All India Plastics Manufacturers Association, Mumbai
3. All India Flat Tape Mfrs. Association, New Delhi
4. P.P. Products Pvt. Ltd., Kolkata
5. Tarajyot Polymers Ltd., Kolkata
6. ITC Ltd., Kolkata
7. Paharpur Cooling Towers Ltd., Kolkata
8. Time Packaging Ltd., Mumbai
9. Petro Plast Industries Limited, Chennai
10. The Supreme Group, Mumbai

11. Big Bags (India) Private Ltd., Bangalore
12. Paramount Communications Ltd., New Delhi
13. Packaging India Pvt Ltd., Chennai
14. Flex Industries Limited, Noida
15. Bishan Saroop Ramkishan Agro, delhi
16. Blow Packaging (India) Ltd. , Chennai
17. Chennai Polypack Private Ltd., Chennai
18. Hydro S & S Industries Ltd., Chennai
19. Exide Industries Ltd., Kolkata
20. Pentadaewha Auto Parts Ltd., Chennai
21. Veekay Polycoats Ltd., New Delhi
22. Machino Plastics Ltd., Gurgaon
23. Dow Chemical International Ltd., Mumbai
24. Hitech Plast Ltd., Mumbai
25. General Commodities Pvt. Ltd., Bangalore
26. Balmer Lawrie-Van Leer Ltd., Mumbai
27. Baxter India Pvt. Ltd., Gurgaon

xi In response thereof, following have responded:

1. Trichy & Pudukkottai Districts Plastic Manufacturers, Traders' Association (TRIPPMA),
2. M/s. P.P. Products Private Limited, Bangalore
3. M/s. Rajyot Polymers Ltd., Bangalore,
4. Chennai Plastics Manufacturers & Merchants Association,
5. Coimbatore Plastic Manufacturers & Trader's Association, Tamilnadu,
6. The Coimbatore District Plastics Manufacturer's Association,
7. PLASMA, Pondy Plastic Manufacturers & Merchants Association,
8. Sivakasi Plastic Manufacturers Association (SIPMA),
9. Tirupur Plastics Manufacturers Association (TIPMA),
10. Veekay Polycoats Limited, Gurgaon/New Delhi,
11. North Orissa Chamber of Commerce & industry,
12. Dindigul District Polythene Bag Manufactures
13. Dealers Welfare Association

14. Salem Plastic Sellers' & Manufacturers' Association.
15. All Pondicherry Plastic Traders & Manufacturers Association (APPTMA)
16. M/s Kanpur Plastipack Ltd.
17. M/s Jolly Containers, India
18. M/s Daman Polyfabs, India
19. M/s Essel Propack Ltd., India
20. All India Plastic Manufacturers' Association (AIPMA)-Mumbai,
21. All India Flat Tape Manufacturers' Association (AIFTMA)-Bangalore,
22. All India Syringes and Needles Manufacturer's Association
23. Indian Plastics Federation (IPF)-Kolkata,
24. Organisation of Plastic Processors of India (OPPI)-Mumbai,
25. Gujarat State Plastics Manufacturers' Association (GSPMA)-Ahmedabad,
26. The Tamil Nadu Plastics Manufacturers' Association (TAPMA)-Chennai.
27. Andhra Pradesh Plastics Manufacturers' Association (APPMA), Hyderabad
28. Ms/ Blow Packaging (India) Ltd. , India
29. M/s Jumbo Bag Ltd., Chennai
30. M/s Hitech Plast Ltd., India

xii Request has been made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and for the period of investigation.

xiii 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;

xiv Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.

xv Investigation was carried out for the period starting from 1st April 2008 to 31st December 2008 (hereinafter also referred to as the POI). The examination of trends, in the context of injury analysis, covered the periods April, 2005–March, 2006, April, 2006–March, 2007, April, 2007–March, 08 and the POI. For assessing the threat of material injury, post POI data has also been considered

xvi \*\*\* in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

## **B. Period of Investigation**

### **Submissions made by the Interested Parties**

3. It has been contended that the period of investigation in the present case is too short and includes the months during which the movement of raw materials and polypropylene prices was erratic due to global recession. The period of investigation should be fixed for a period of 18 months for a fair and proper analysis.

### **Examination by the Authority**

4. The Authority has noted the submissions made by the interested parties regarding period of investigation and is of the view that the period of investigation chosen in the instant matter has been appropriately chosen, covering the most recent available data on the subject.

## **C. PRODUCT UNDER CONSIDERATION AND DOMESTIC LIKE ARTICLE**

5. The product under consideration is ‘Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)’. The subject goods are used as woven sacks for cement, food-grains, sugar, fertilizer, bags for fruits & vegetables, TQ & BOPP films, containers etc.

5.1 The subject goods are classified under Custom Headings 39021000 and 39023000. The Customs classification is indicative only and is in no way binding on the scope of the present investigation.

### **Submissions made by the Interested Parties**

- It has been contended that the Application covers two products i.e. Propylene-homo-polymer and Propylene copolymers as classified under

the subheading 39021000 and 39023000 of the Customs Tariff Act and that these two products are different from each other. Propylene copolymer is \*\*\*% expensive than Poly-propylene homo-polymer and is technically superior to Poly-propylene.

- It has been contended that Domestic industry is neither manufacturing nor has the capability to manufacture certain specific grades of the Propylene copolymer.

### **Submissions made by the domestic industry**

•□**Product under Consideration:** It has been contended that since the product under consideration covers all types of Polypropylene, it cannot be argued that a distinction has to be made out merely because there are some differences in the products. As far as the Domestic Industry is concerned, there is no difference in the cost of production of the two types of Polypropylene. It has been contended that the price difference is also minimal i.e. about \*\*\*%.

Besides, Naphtha and Gas crackers at RIL, Ethylene and Propylene are treated as Joint Products. In view of above, price of Propylene and Ethylene for Polypropylene production will be same. Thus, cost of production of Polypropylene Homo-polymer and Co-polymers is the same. The Domestic Industry further claims that the price difference between the two types of Polypropylene is also minimal (\*\*\*%). It has also stated that from the non-confidential version of the exporters' questionnaire responses, it is not clear whether they have given the information separately for each type of Polypropylene.

•□A specific reference was made to the domestic industry seeking their comments regarding the claims made by some exporters in respect of exclusion of certain grades. The domestic industry has responded by stating that the claims of the exporters are unfounded as the domestic industry indeed offers the subject goods of the specifications claimed to be not manufactured by the domestic industry.

### **EXAMINATION BY THE AUTHORITY**

•□**Product under Consideration:** The Authority notes that the scope of the investigation was clearly defined while initiating the investigation viz. 'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'. It has not been disputed by any party that copolymers of propylene and ethylene are not Polypropylene. Some of the interested parties have contended that there is a price difference

between the homo-polymer and the co-polymer. These claims have, however, been disputed by the domestic industry. The Authority has taken note of the claims and counterclaims and would look into the issue for making adjustments for undertaking appropriate comparisons should these claims be substantiated.

• **Lack of manufacturing capabilities in India:** The Authority notes that the claims regarding exclusion of certain grades of polypropylene has been contested and refuted by the domestic industry. In a reference made to them on the subject, the domestic industry has categorically asserted that they indeed offer the subject goods of the specified grades claimed to be not manufactured by the domestic industry as per the assertion of the exporters. They have provided the details of the equivalent grades manufactured by them. However, the Authority would further investigate and verify the claims and counterclaims made by various interested parties on this issue during the course of the investigation and spot verification.

5.2 With regard to like article, Rule 2(d) of the AD Rules provides as under: -

*"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*

5.3 After considering the information on record, the Authority for the purposes of the preliminary findings holds that there is no significant difference in product under consideration exported from subject countries and the product produced by the Indian industry. Product under consideration produced by the domestic industry are comparable to the imported subject product in terms of characteristics such as physical & chemical characteristics, functions & uses, in respect of manufacturing process & technology, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

5.4 Thus, the Authority is of the view that product under consideration produced by the applicant domestic industry is like article to the subject product under consideration in accordance with the AD Rules.

#### **D. SCOPE OF DOMESTIC INDUSTRY & STANDING**

6. Rule 2(b) of the AD Rules defines domestic industry as under:-

*(b) “Domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry:*

6.1 According to the applicant, there are only two producers of the like Article in the country. The Application has been filed by M/s Reliance Industries Ltd. on behalf of the domestic industry. The other producer that is M/s Haldia Petrochemicals Ltd. has supported the application.

6.2 As per the evidence available on record, production of M/s Reliance Industries Ltd. accounts for a major proportion of the domestic production of like article, being significantly more than 50% of Indian production. The application thus satisfied the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Further, M/s Reliance Industries Ltd. is being treated as “domestic industry” within the meaning of Rule 2(b) read along with Rule 2(d) of the AD Rules for the purpose of the present findings.

## **E. CONFIDENTIALITY**

### **Submissions made by Interested Parties**

7. It has been contended that the Designated Authority must come to a categorical conclusion that confidential treatment contended in the petition is bona fide and germane to the rights of the domestic industry. A bare perusal of the petition indicates that confidentiality has been claimed as a rule rather than exception. It has been contended that that the initiation without disclosing essential details as enumerated below is contrary to the Rules:

### **Submissions made by the domestic industry**

7.2 The exporters have claimed excessive confidentiality without any proper justification. Further, non-confidential version of the questionnaire response has not been given for all the information contained in the confidential version without assigning proper reasons. It is not in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. From the non-confidential version of the questionnaire responses, it is not clear whether

they have given the information separately for each type of Polypropylene. In this context, it is submitted that all the exporters have claimed confidentiality on even the quantum of imports which is not admissible since the Domestic Industry has been made to provide quantity related information even in the non-confidential version of the application.

### **Examination by the Authority**

7.3 The Authority has taken note of the above submissions and is of the view that the domestic industry has made confidentiality claims with respect to certain portions of the application. While doing so, the domestic industry duly submitted the non-confidential version of the application along with the statement of reasons for the same to the satisfaction of the Authority.

### **F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

#### **Normal Value**

8. The Authority sent questionnaire to the known exporters from subject countries, advising them to provide information in the form and manner prescribed. Response to the questionnaires were received from the following companies –

1. M/s Oman Polypropylene LLC, Oman
2. M/s Advanced Polypropylene Company, Saudi Arabia
3. M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)
4. M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia
5. M/s Saudi Polyolefins Company, Saudi Arabia
6. M/s Exxon Mobil Chemical Asia Pacific, Singapore
7. M/s The Polyolefin Company (Singapore) Pte. Ltd.
8. M/s Itochu Plastics Pte. Ltd. , Singapore
9. M/s Marubeni Chemical Asia Pacific PTE Ltd., Singapore
10. M/s Sumitomo Corporation Asia Pte Ltd., Singapore
11. M/s Toyota Tsusho (Singapore) Pte Ltd., Singapore
12. M/s Mitsubishi Chemical Thailand (Co.) Ltd.

13. M/s Sumitomo Chemical Asia Pte Ltd.,  
Singapore

**Submissions made by Interested parties**

9. It has been contended that the Authority should not rely on the dumping calculation given in the application. The exporters have charged fair export prices which are in line with world and Indian prices for the like products type, specifications and quality. As such, the Petitioners' dumping allegations, based on normal value calculated in accordance with figment of imagination of the petitioners, are entirely baseless and that the Authority should refer to the respective questionnaire responses in this regard.

**Methodology adopted for determination of Normal value**

10. Since the following companies have responded to the questionnaire, the Authority has determined individual dumping margin in respect of these companies. The general methodology adopted for determination of Normal value is as follows:

10.1 It was first seen, whether the domestic sales of the subject goods by the responding exporters in their home markets were representative and viable for permitting determination of Normal values on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents, subject to verification. Wherever the respondents have provided transaction-wise details of sales made in their home markets, the information so provided has been relied upon to determine the Normal value for the subject goods, subject to further investigation and verification.

10.2 In other cases, the costs of production claimed by the exporters have been provisionally accepted, pending further investigation, wherever feasible. And where it was not feasible, the Normal value has been determined by the Authority on the basis of facts available on a provisional basis.

10.3 The Authority notes that the Hon'ble Supreme Court of India in the case of M/s Reliance Industries Ltd. Vs. Designated Authority has held that the Normal value is not exporter specific but exporting country specific. Therefore, the Authority first calculated the producer / exporter specific ex-factory Normal value for each of the producers / exporters, wherever feasible; and then determined a separate single weighted average Normal value for each of the subject countries as a whole and the same is compared with the ex-factory export realisation of each co-operative respondent.

**OMAN**

## **M/s Oman Polypropylene LLC**

10.4 The response was perused and it was found that the respondent has provided selling price details of the subject goods for different grades in Appendix 3A and 3B of their response. However, it was noted that the exporter has provided one single cost for all the grades in Appendix 8. In the absence of grade-wise Cost of production data, the Authority is not able to carry out the ordinary course of trade test on a grade-wise basis. Therefore, the Authority is constrained to determine single Normal value for the subject goods as a whole. It was noted that the weighted average domestic selling price so determined was less than the weighted average domestic cost of production; and it was also noted that the loss making transactions were more than 20% of the total sales; therefore the Authority has proceeded to determine the Normal value based on the profitable sales in terms of the provisions of Annexure I of the AD Rules. The adjustments claimed by the exporter on account of service charges and transportation charges have been provisionally accepted subject to further investigation and spot verification. It has also been stated that goods sold in the home market are identical to the goods exported to India. The difference, if any, is in supplying material on pallets in Oman whereas the same is supplied without pallets to India. The impact thereof can be taken as \$\*\*\* / MT. The claim has been provisionally accepted, subject to further investigation and spot verification. Thus, the Normal value of the exporter is worked out as USD \*\*\* per MT.

## **SAUDI ARABIA**

### **M/s Advanced Polypropylene Co.**

10.5 The response was perused and it was noted that the respondent has sold the off-spec material in the domestic market whereas the goods exported to India are of various grades. The details relating to off-spec material sold in the domestic market has been provided in Appendix 1. The Authority notes that the respondent has exported the subjects to India during May 2008 till December 2008, whereas its domestic sales have been made only in November and December 2008 period. Considering the fact that the prices of petroleum products in general and as well as of the subject goods fell significantly during this period when the domestic sales were made; hence the domestic sale made by the respondent cannot be deemed as comparable and representative for the purposes of determination of the Normal value and dumping margin.

Therefore, the Authority has proceeded to construct the normal value on the basis of the unit cost to make and sell as reported in Appendix 8 and added actual profit margin as reported by the respondent subject to further investigation and spot verification. The normal value determined for the exporter is USD \*\*\* per MT.

### **M/s Saudi Polyolefins Company**

10.6 The response was perused and it was found that the respondent has provided selling price details of the subject goods in relevant Appendixes of their response. It was noted that the weighted average domestic selling price so determined was more than the weighted average domestic cost of production; and it was also noted that the loss making transactions were less than 20% of the total sales; therefore the Authority has proceeded to determine the Normal value based on total domestic sales in terms of the provisions of Annexure I of the AD Rules. The adjustments claimed by the exporter on account of inland freight and Credit Cost have been provisionally accepted subject to further investigation and spot verification. Thus, the Normal value of the respondent is worked out as USD \*\*\* per MT.

### **M/s Saudi Basic Industries Corporation (SABIC)**

10.7 The exporter's response was perused and it was noted that SABIC sells the subject goods produced by two related entities namely, M/s IBN ZAHIR and M/s YANPET. The respondent has provided details only in the Appendices 1 & 2, 3A and 3B. No details have been provided in respect of other appendixes viz. Appendixes 4-9. The exporter stated that they would file full details as required in the above-mentioned appendixes by 27th April 2009; but the exporter has not submitted these details till date. Under the circumstances, since there is no information on record for the exporter regarding their cost of production, the Authority is unable to carry out the ordinary course of trade (OCT) test.

It was stated that they procure the subject goods from the above two related producers, who have not co-operated in this investigation. As the respondent has not provided any information/data in some of the Appendixes, including the detailed cost information and the producers of the subject goods have not co-operated in the investigation, the Authority is constrained to treat the respondent exporter as non-co-operative for the purposes of preliminary findings.

### **M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia**

10.8 The response was perused and it was found that the information/data regarding the domestic sales has not been provided except in Appendixes 1, 2 A, 3 A, 3 B and 3 C. The Appendix 1 & 3 B data relates to sales to other countries rather than the domestic sales. Other relevant information has not been provided by the respondent. It was stated that they procure the subject goods from M/s SAUDI YANBU PETROCHEMICAL COMPANY (YANPET), who has not co-operated in this investigation. As the respondent has not provided any information/data in some of the Appendixes, including the detailed cost information and the producer of the subject

goods has not co-operated in the investigation, the Authority is constrained to treat the respondent exporter as non-co-operative for the purposes of preliminary findings.

## **SINGAPORE**

### **M/s Exxon Mobil Chemical Asia Pacific, Singapore**

10.9 The response was perused and it was found that the information/data regarding the domestic sales has not been provided, *inter-alia*, stating that the sales in Singapore were \*\*\* MT whereas exports to India were \*\*\* MT. Therefore, as the sales in Singapore were less than 5% of the exports to India, the Normal value is regarded to be determined based on third country information. The Authority found that the information/data provided in this regard at different places of the response was inconsistent with each other.

10.10 Reference in this regard is invited to the provisions of the Custom Tariff Act and the AD Rules made there under which, *inter-alia*, lay down the modalities for determination of Normal value. In view of these provisions and the interpretation thereof by the Hon'ble Supreme Court in the *Haldor topsoe* case; the Authority is of the view that no discretion lies with the exporters to choose the option of the determination of the Normal Value, if the Normal value is not to be based on the domestic sales criteria. Rather, the choice lies with the Authority to do so. Therefore, the Authority has considered it appropriate to construct the Normal value for the respondent on the basis of facts available.

10.11 Besides, it is also seen that the respondent has not provided any meaningful information/data in different Appendixes, including the detailed cost information. However, information regarding the manufacturing unit cost has been provided in relevant Appendixes. Therefore, the Authority has proceeded to construct the Normal value on the basis of information provided by the exporter to manufacture the subject goods after adding a reasonable profit margin of \*\*\*% thereto and compared the same with the information provided in Appendix 3A wherein the export price of the subject goods to India at ex-factory level has been mentioned, subject to further investigation and spot verification. Thus, the Normal value of the exporter is worked out as USD \*\*\* per MT.

### **M/s The Polyolefin Company (Singapore) Pte. Ltd.**

10.12 The response was perused and it was noted that M/s Polyolefin is a producer of the subject goods and is not directly exporting the goods to India. M/s Sumitomo Corporation, M/s Toyota Tsusho (Singapore) Pte. Ltd., M/s Marubeni Chemical Asia Pacific Pte. Ltd. and M/s Itochu Plastics Pte. Ltd. have exported the subject goods to

India produced by M/s Polyolefin. These four exporters have also given their responses to the exporters' questionnaire.

10.13 The Authority notes that the producer has not given the details for the ex-factory cost for the domestic market in the Appendix 8 B. The producer has also not provided any meaningful details in the costing Appendixes i.e. Appendixes 5, 6, 7, 8, 8 A, 8 B and 9. In the absence of the relevant data, the Authority is not in a position to carry out the ordinary course of trade (OCT) test. The Authority, is therefore, constrained to determine the Normal value for the producer by adopting the relevant data of other co-operating respondent from Singapore, subject to further investigation and spot verification. The Normal value for the producer is, thus, worked out as USD \*\*\* per MT.

#### **M/s Sumitomo Chemical Asia Pte Ltd**

10.14 It has been stated that Sumitomo Chemical Co Ltd of Japan ("SCC") wholly owns Sumitomo Chemical Asia Pte Ltd ("SCA"). SCA is an exclusive distributor of the chemical products (including polypropylene) produced by Rabigh Refining and Petrochemical Company ("PRC") of Saudi Arabia, which is \*\*\*% owned by SCC. It was also stated that polypropylene was purchased from The Polyolefin Company (Singapore) Pte Ltd.(TPC). However, as per the submissions made by TPC separately in their response, it has been stated by them that they are handling exports in India through five different business entities. The respondent's name, viz. Sumitomo Chemical Asia Pte Ltd is not one of them.

10.15 It has been contended by the exporter that although Singapore is the domestic market, the sales recorded was extremely small in quantity and value. Therefore, its sales data would not permit a proper basis for the Normal Value. On the other hand, the sales data for China was more significant in quantity and (nearly two-thirds of SCA's total volume sold) and value, so that it can be used as a basis for the Normal Value for the sales by SCA into India. In addition, the shipment terms to China were comparable to those to India.

10.16 The Authority, however, notes that M/s Rabigh Refining and Petrochemical Company ("PRC") of Saudi Arabia, the producer has not co-operated in the investigation. Since the exporter and the producer being related entities, it would not be possible to determine that the transactions between the two entities are at arm's length. It cannot also be assumed that the procurement of the subject goods by Sumitomo Chemical Asia Pte Ltd has been made in the ordinary course of trade. As the producer of the subject goods has not co-operated in the investigation, the Authority is constrained to treat the respondent exporter as non-co-operative for the purposes of preliminary findings.

## **G. EXPORT PRICE**

### **OMAN**

#### **M/s Oman Polypropylene LLC**

11. The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has claimed adjustments on account of commission, service charge, insurance, freight and inland transportation and the same are provisionally accepted subject to further investigation and spot verification. The Authority also notes that the exporter has not claimed adjustment on account of credit cost and bank charges. However, while the Authority has not made any adjustment on account of these factors at this stage but would look into these aspects during the course of the investigation. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

### **SAUDI ARABIA**

#### **M/s Advanced Polypropylene Co.**

11.1 The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has claimed adjustment on account of internal freight and handling charges and the same are provisionally accepted subject to further investigation and spot verification. The Authority also notes that the sales to India are on FOB basis. Therefore, there would be no adjustments for ocean freight and insurance charges. The Authority also notes that the exporter has not made adjustment on account of credit cost and bank charges. However, while the Authority has not made any adjustment on account of these factors at this stage but would look into these aspects during the course of the investigation. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

#### **M/s Saudi Polyolefins Company through NPIMC / BPC**

11.2 The information/data submitted by the respondents is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has claimed adjustment on account of inland freight, overseas freight, clearance & handling charges and Credit Cost; and the same are provisionally accepted subject to further investigation and spot verification. However, while the Authority has not made any adjustment on account of other factors at this stage but would look into these aspects during the course of the

investigation. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

## **SINGAPORE**

### **M/s Exxon Mobil Chemical Asia Pacific, Singapore**

11.3 The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has claimed adjustments on account of commission, packing, and ocean freight and the same are provisionally accepted subject to further investigation and spot verification. The Authority also notes that the exporter has not claimed adjustment on account of credit cost, bank charges, clearance charges etc. However, while the Authority has not made any adjustment on account of these factors at this stage but would look into these aspects during the course of the investigation. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

### **M/s Mitsubishi Chemical Thailand (Co.) Ltd.**

11.4 The Authority notes that the exporter is a trader and sells the subject goods to India produced by M/s Exxon Mobil Chemical Asia Pacific, Singapore. The exporter has also provided its response to the exporter's questionnaire. The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. It is noted that the exporter in Appendix 2 has given details of gross value only and has not provided any details for the adjustments on account of different expenses such as commission, rebate, credit cost, ocean freight, bank charges, inland transportation etc. The Authority has, therefore, provisionally taken the charges as incurred by another exporter from Singapore. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

### **M/s Sumitomo Corporation Asia Pte. Ltd.**

11.5 The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has claimed adjustment on account of commission, credit cost, bank charges, terminal handling charges and margin of SCAS and the same are provisionally accepted subject to further investigation and spot verification. The Authority also notes that the exporter has not mentioned whether the sales made to India are on CIF basis or FOB basis. However, from the response of the producer i.e. M/s The Polyolefin Company (Singapore) Pte. Ltd., the Authority notes that the sales

to India are on CIF basis. Therefore, the Authority has no option but to proceed to convert these CIF prices to ex-procurement / ex-factory price on the basis of the adjustments mentioned in the application, particularly in the context that these adjustments are on a much higher side as per the submissions of the another exporter from Singapore. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

**M/s Toyota Tsusho (Singapore) Pte. Ltd.**

11.6 The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has claimed a consolidated adjustment on account of commission, rebate, credit cost, ocean freight and inland transportation and did not provide the separate figure for each adjustment. The Authority, however, has provisionally accepted the abovementioned adjustments subject to further investigation and spot verification. The Authority also notes that the exporter has not claimed adjustment on account of bank charges. However, while the Authority has not made any adjustment on account of bank charges at this stage but would look into these aspects during the course of the investigation. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

**M/s Marubeni Chemical Asia Pacific Pte. Ltd.**

11.7 The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has not detailed any adjustment in the appendix 2 for the different expenses such as commission, rebate, credit cost, ocean freight, bank charges, inland transportation etc. The Authority has, therefore, provisionally taken the charges as incurred by another exporter from Singapore. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

**M/s Itochu Plastics Pte. Ltd.**

11.8 The information/data submitted by the exporter is being relied upon provisionally for the determination of the export price subject to further investigation and spot verification. The exporter has claimed adjustments on account of commission and credit cost and the same are provisionally accepted subject to further investigation and spot verification. The Authority also notes that the exporter has stated that the expenses relating to sales to India are borne by the producer. However, while the Authority has not made any adjustment on account of these expenses at this stage but would look into these aspects during the course of the investigation. Thus, the Authority has determined the export price for the exporter as USD \*\*\* per MT.

## **H. DUMPING MARGIN**

12. Considering the Normal values and Export prices as determined above, the dumping margins have been determined as follows:

<b>Name</b>	<b>Country</b>	<b>Dumping Margin</b>	
		<b>USD / MT</b>	<b>%</b>
M/s Oman Polypropylene LLC	Oman	***	29.31%
Non-cooperative Producers and Exporters	Oman	***	243.70%
Sumitomo Corporation Asia Pte. Ltd.	Singapore	***	12.26%
M/s Toyota Tsusho (Singapore) Pte. Ltd.	Singapore	***	27.61%
M/s Marubeni Chemical Asia Pacific Pte. Ltd.	Singapore	***	5.08%
M/s Itochu Plastics Pte. Ltd.	Singapore	***	53.59%
M/s Exxon Mobil Chemical Asia Pacific, Singapore	Singapore	***	12.42%
M/s Mitsubishi Chemical Thailand (Co.) Ltd.	Singapore	***	12.02%
Non-cooperative Producers and Exporters	Singapore	***	235.35%
Advanced Polypropylene Co.	Saudi Arabia	***	53.59%
M/s Saudi Polyolefins Company	Saudi Arabia	***	1.89%
Non-cooperative Producers and Exporters	Saudi Arabia	***	185.68%

## **I. INJURY**

### **Cumulative assessment**

13. The analysis shows that the subject goods are being dumped into India from the subject countries. Attention is invited to Annexure II para (iii) of the AD Rules which provides that in case 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: -

a. the margin of dumping established in relation to the imports from each country is more than two per cent expressed as percentage of export price and the volume of the imports from each country is three per cent of the import of like article or where the export of individual countries is less than three per cent, the imports collectively accounts for more than seven per cent of the import of like article and

b. cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

13.1 The Authority observes that

i. The margins of dumping from each of the subject countries are more than the limits prescribed above;

ii. The volume of imports from each of the subject countries is more than the limits prescribed;

iii. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market. This is evident from the fact that the domestic product and imported product are like Article; imports from each of the subject countries are significant; goods produced by the Indian Producers and imported from subject countries are in direct competition; common parties are resorting to use of imported material and domestic material; Indian Producers' customers are using domestic material and imported material; the exporters from the subject countries and the applicant have sold the same product in the same periods to the same set of customers, etc.

13.2 In view of the above, the Authority considers it would be appropriate to assess injury to the domestic industry cumulatively from the subject countries.

13.3 Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such product. While examining the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, **or** whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

13.4 As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the AD Rules states as follows.

*“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 utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”*

#### **Submissions made by the interested parties**

13.5 The submissions made by the exporters/importers and other interested parties are summarized as follows to the extent they have been found to be relevant for the purpose of these Preliminary Findings. It has been, *inter alia*, stated that:

(i) The market share of the Indian industry has increased from 91.34% in 2005-06 to 92.16% during POI. Hence, it cannot be said that the imports from the subject countries have taken over the entire increase in demand and the fall in domestic industry market share is due to the increase in imports.

(ii) Domestic industry has claimed that the capacity utilization has come down over the injury investigation period due to the severely dumped imports from subject countries. In this regard, it should be noted that the Reliance Industries Ltd. has informed BSE India that it has closed some of its polyester plants for routine maintenance and enhancing product capabilities during the month of Nov'08 and repair for approximately four weeks. Due to this, the capacity utilization has come down during the period of investigation.

(iii) The domestic industry has claimed that it has suffered loss during the Oct-Dec'08 as compared to the April-June '08 due to the increase in the imports. In this regard, it should be noted that the Reliance Industries has informed that its Patalganga site had announced a voluntary retirement scheme on October 05, 2008 as part of its normal cost optimization exercise and over 400 people had opted for the same.

(iv) There is no fall in the sales value as well as volume during the period of investigation as sales volume has increased from 100 indexed units in 2005-06 to 131 indexed annualized units in 2008-09. An analysis of the increase in the sales quantity and sales value indicates that the sales realization per MT has also increased as increase in sales value is more than the increase in sales volume.

(v) The Applicant admits that there is no negative impact on the number of employees and wages paid to them over the injury investigation period. Thus, there is no adverse impact on this factor also.

#### **Submissions made by the domestic industry**

13.6 The domestic industry has stated the following:

(i) As regards the issue of Market Share, the interested parties have failed to appreciate that the Domestic Industry has filed the application exactly in the prescribed format and the submissions with regard to the injury are also in line with the legal provisions with regard to injury analysis. The Domestic Industry has submitted that its market share has declined. It has not been their claim that the share has declined after taking into account the sales of the other producer. The allegation of making false and misleading claims is, therefore, baseless. Besides, the market share movement in either case (i.e., after or before including the entire domestic producers) is not very significant on the basis of the data available to the Domestic Industry in public domain. It has been reiterated that the actual quantum of imports is much higher once the actual import data is made available to the Designated Authority.

(ii) As regards the submission of the interested parties that the output and capacity utilization has come down due to the planned shutdown at RIL, it has been submitted that:

a) The shutdown was only at the Jamnagar complex whereas RIL has as many as five production facilities.

b) The month-wise inventory position of the product under consideration shows that the inventories had gone up from \*\*\* MT in April 2008 to \*\*\* MT at the end of September 2008, which further rose to \*\*\* MT at the end of October 2008. Thus, there was an increase in the closing stocks of more than two times from April to October 2008.

c) The rise in the inventories led to serious practical problems in storing their goods inasmuch as there was a paucity of physical space for storage of goods on account of the increased imports on dumped prices. It was in this context that a planned shutdown was advanced as RIL was unable to sell the product in the domestic market due to surge in imports at dumped prices.

d) As regards the contention of the interested parties that the loss was on account of the "planned" shutdown, it is submitted that the number of days which can be attributed to a maintenance shutdown is less than one day. As explained above, the shutdown for the rest of the period was necessitated due to a huge and unmanageable build-up of inventories at Jamnagar complex. In support of their contention that the number of days of shutdown attributable to planned maintenance, the details of the planned maintenance shutdown over the years needs to be seen.

e) The typical maintenance shutdown over the years has been less than 7 days spread over the full year which can be easily verified by the Authority from the detailed daily records being maintained in their plants. Therefore, the contention that that the production and capacity utilization has suffered on account of the planned shutdown is completely misplaced. It is apparent from the records that the shutdown was on account of the burgeoning inventories and the dumped imports.

(iii) As regards the Voluntary Retirement Scheme at Patalganga, it is submitted that the contention of the interested parties is baseless as no Polypropylene is produced in the Patalganga complex and the costs associated with the voluntary retirement scheme, howsoever small, are also not connected with the production of the subject goods i.e., Polypropylene.

(iv) As regards sales volume and sales value, price effect and the claim of the Domestic Industry that prices have not increased commensurate to the increase in the costs, the Domestic Industry has submitted that the interested parties have analyzed the indexed numbers to arrive at some self-serving conclusions. The actual numbers given by the Domestic Industry in their application clearly prove the point of the Domestic Industry that the increase in costs has not been covered by the increase in prices during the period of investigation.

(v) As regards the inventories, it has been submitted that they have provided the basic information in Proforma IVA as per the prescribed format which calls for the point to point information on stocks. The monthly stocks position of the Domestic Industry given along with the Part VI information clearly demonstrates that the inventories of the Domestic Industry rose to an unprecedented level during the months of September and October and thereafter the stock level came down after the Domestic Industry had no option but to liquidate their stocks at loss. This fact is clearly reflected in the financial performance of the Domestic Industry which shows that the Domestic Industry had suffered losses during October-December 2008 as compared to the period April-September 2008.

(vi) The information on the profitability provided in the table on page 14 is consistent with the Proforma IV A.

### **Examination by the Authority**

13.7 The Authority has examined the injury parameters objectively taking into account the facts and the arguments of the interested parties.

#### **i Volume Effect of dumped imports and Impact on domestic industry**

The details relating to imports from all the subject countries and other countries are given below in the following table:

	<b>POI</b>			
	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	(Annualised)
Imports from Subject Countries (MT)	63159	70454	114022	103677
Imports (Other Countries) MT	53383	46814	79111	35033
Total Imports (MT)	116542	117268	193132	138711
Trend in imports from subject countries	<b>100</b>	<b>111</b>	<b>181</b>	<b>164</b>
Trend in Imports from other countries	100	88	148	66
Trend in total Imports	100	101	166	119
Total Demand (MT)	1345762	1534137	1765778	1769783
% Share of Subject Countries in demand	5%	5%	6%	6%

It is noted that the imports from subject countries in absolute terms have increased from 100 (2005-06) to 164 in POI over the injury investigation period. At the same time, the imports from other countries have declined from 100 in the base year to 66 in the period of investigation. The imports in relation to total demand in India have also increased over the injury investigation period particularly during POI from 5% in the base year to 6% in POI.

#### **ii. Demand and Market share**

The Authority notes that there are only two known producers of the like articles in the country, one of whom is the petitioner who is the domestic industry. The trends in the sales of the domestic industry were rising till 2007-08 but fell during POI. At the same time, the sales of the other producer continued on rise even during POI. Notwithstanding this, the demand for product under consideration went up nearly by 32% over the base year. In a scenario of rising demand, the market share of imports from subject countries remained in the range of 5% to 6% and, therefore, the market share of the domestic industry improved.

This, however, needs to be seen with a caveat. There is always a choice with a business entity to either retain the market share by reducing the sales realisation or to lose the market share by retaining the sales realisation. It appears that the domestic industry has chosen to retain the market share at the cost of its sales realisation.

#### **POI**

<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	(Annualised)
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Domestic Industry Sales (MT)	***	***	***	***
Sales of Other Domestic Producer	***	***	***	***
Total Domestic Sales in India (MT)	1229221	1416870	1572646	1631072
Imports from Subject Countries (MT)	63159	70454	114022	103677
Imports from Other Countries (MT)	53383	46814	79111	35033
Total Imports (MT)	116542	117268	193132	138711
Total Demand (MT)	1345762	1534137	1765778	1769783
Market Share of Total Domestic Sales in demand	91%	92%	89%	92%
Market Share of Imports from Subject Countries in demand	5%	5%	6%	6%
Market share of Imports from other countries	4%	3%	5%	2%

### **iii. Capacity, production & capacity utilization**

The details for the capacity and production for the injury investigation period are given in the following table

	<b>POI</b>			
	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	(Annualised)
Capacity (MT)	1400000	1700000	1700000	1700000
Production (MT)	1285511	1639199	1710002	1517688
Capacity Utilization%	92%	96%	101%	89%

It is noted that the capacity utilization of the domestic industry was rising till 2007-08 when it was able to use full capacity but it fell drastically during POI i.e. from 101% (2006-07) to 89%. In short, capacity utilization of the domestic industry during POI has come down as compared to both base year 2005-06 as well as previous year primarily due to plant shut down at Jamnagar.

The domestic industry has claimed that the plant was primarily shut down on account of burgeoning inventory levels during the months of September and October and thereafter the stock level came down because the Domestic Industry liquidated their stocks at loss.

#### **iv. Sales**

As noted earlier, the product under consideration has witnessed rising demand in the country and domestic industry was able to enhance its sales volume in tandem with increase in demand. In fact, domestic industry enhanced its capacity during 2006-07 by over 20%.

	<b>POI</b>			
	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	<b>(Annualised)</b>
Total Sales Volume (MT) – Domestic	***	***	***	***
Sales Value (Rs Lacs) – Domestic	***	***	***	***
Indexed	<b>100</b>	<b>135</b>	<b>155</b>	<b>166</b>

#### **v. Effect of Dumped Imports on domestic prices**

The Authority notes that the landed value from subject countries over the injury investigation period has increased from 100 (Base year 2005-06) to 131 during POI. The trends in the selling price of the domestic industry show similar rising trends. The landed prices of imports from subject countries have always been higher than the domestic selling prices of the domestic industry and hence imports were not undercutting the prices of the domestic industry. During 2007-08, both the landed prices and domestic selling prices were higher by 17% over base year 2005-06. During POI, while the landed prices were higher by 12.5% over 2007-08, the domestic selling prices could go up only by 9%. Domestic industry has however, claimed that increase in the selling prices of the domestic industry could not be commensurate with increase in cost. The trends in increase in cost vis-à-vis corresponding increase in selling prices show that domestic industry has suffered price-suppression.

Since there has been negative price undercutting throughout the injury period, the domestic industry was asked to clarify as to why they could not raise its domestic selling prices at least to the level of the landed prices of the alleged dumped imports. The Domestic industry responded by alleging that the exporters have extended heavy discounts post-shipments, for which the domestic industry has submitted a few documents supporting the allegation. However, this aspect will be cross-checked during the course of the investigation and exporter's verification.

	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	<b>POI</b>
Landed Value Rs. / MT	51687	59386	60370	67940
Indexed	100	115	117	131
Net Domestic Selling Price Rs. / MT	***	***	***	***
Indexed	<b>100</b>	<b>114</b>	<b>117</b>	<b>127</b>
Cost Rs. / MT	***	***	***	***
Indexed	<b>100</b>	<b>109</b>	<b>112</b>	<b>148</b>

#### **vi. Price Undercutting**

The Authority notes that there is a negative price undercutting for each of the subject countries throughout the injury period. The Domestic industry has alleged that the exporters have extended heavy discounts post-shipments, for which the domestic industry has submitted a few documents supporting the allegation. Considering the claims made by the domestic industry regarding post-shipment discounts offered by the exporters/producers of the subject goods from subject countries; there appears to be a rationale for the same as the domestic industry claims to have kept its sales realisation considering the market scenario impacted due to these post-shipment discounts. However, the claims and counter-claims relating to post-shipment discounts would be cross-checked during the course of the investigation and spot verification.

**vii. Price Underselling**

The Authority notes that there is a positive price underselling for each of the subject countries. The details relating to the price underselling are given in the following table:

**Price Underselling**

	<b>POI</b>
Desirable Selling Prices (Rs./MT)/NIP	***
<b>Landed Value (Rs./MT)</b>	
<b>Subject Countries</b>	67940
Oman	67113
Saudi Arabia	66383
Singapore	70236
<b>Price Underselling (Rs./MT)</b>	
<b>Subject Countries</b>	***
Oman	***

Saudi Arabia \*\*\*

Singapore \*\*\*

**Price Underselling (%)**

**Subject Countries** \*\*\*

Oman \*\*\*

Saudi Arabia \*\*\*

Singapore \*\*\*

**Price Underselling (%) - Ranges**

**Subject Countries** 5 - 10

Oman 5 - 10

Saudi Arabia 5 - 10

Singapore 2 - 5

**viii. Profitability**

The details relating to profitability are given in the following table.

**2005 - 2006**

**2006 - 2007**

**2007 - 2008**

**POI**

(Annualised)

Total Sales (MT)	***	***	***	***
Indexed	<b>100</b>	<b>118</b>	<b>133</b>	<b>131</b>
Sales Value (Rs Lacs)	***	***	***	***
Indexed	<b>100</b>	<b>135</b>	<b>155</b>	<b>166</b>
Selling Price/Unit	***	***	***	***
Indexed	<b>100</b>	<b>114</b>	<b>117</b>	<b>127</b>
Cost (Rs. Lacs)	***	***	***	***
Cost /Unit	***	***	***	***
Indexed	<b>100</b>	<b>109</b>	<b>112</b>	<b>148</b>
Profit/MT	***	***	***	***
Indexed	<b>100</b>	<b>141</b>	<b>140</b>	<b>20</b>

The Authority notes that the profitability of the domestic industry has been adversely affected during the period of investigation. During the Period of investigation, while the cost of Sales was 148 (indexed) as compared to 100 in the period 2005-06 but the selling prices could rise only from 100 to 127 during the corresponding period. In short, the domestic industry could not raise the prices commensurate with the increase in the costs during the period of investigation; as a consequence thereof there was a sharp decline in the profitability. The decline in profitability of the domestic industry is more severe as compared to immediate previous year. The trend analysis demonstrates significant price suppression during the period of investigation.

**ix. Return on capital employed**

It is noted that the ROCE of the domestic industry has also drastically come down over the injury investigation period.

	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	<b>POI</b>
Capital Employed	***	***	***	***
Profit Before Interest	***	***	***	***
ROCE (%)	***	***	***	***
Indexed	<b>100</b>	<b>145</b>	<b>182</b>	<b>30</b>

**x. Cash Flow**

The Authority notes that the cash flow position of the domestic industry deteriorated during the period of investigation and followed the same trend as that of profitability and ROCE.

	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	<b>POI</b>
Profit/ Loss (Rs. Lacs)	***	***	***	***
Add: Depreciation (Rs. Lacs)	***	***	***	***
Cash Flow (In Rs. Lacs)	***	***	***	***
Indexed	<b>100</b>	<b>155</b>	<b>169</b>	<b>48</b>

### **xi. Employment and Wages**

It is noted that the number of employees as well wages have increased over the injury investigation period.

### **xii. Productivity**

The productivity per employee has also increased over the injury investigation period. It is noted that productivity is not a cause of injury to the domestic industry.

### **xiii. Growth**

It is noted that the demand in the country has increased during the injury investigation period whereas the market share of the domestic industry has come down over the same period. The capacity utilization, profitability, ROCE and cash flow have also deteriorated over the injury investigation period. It indicates that the growth the domestic industry has been affected.

	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	<b>POI (Annualised)</b>
Growth as compared to the base year				
Demand	100	114	131	132
Cash Profit	100	155	169	148
Return on capital employed	100	145	182	30

### **xiv. Inventory**

Based on the data contained in the application, the Authority notes that average inventories have declined from 100 (Base year 2005-06) to 73 in POI showing an improved off-take.

	<b>2005 - 2006</b>	<b>2006 - 2007</b>	<b>2007 - 2008</b>	<b>POI</b>
Opening Stock (MT)	***	***	***	***
Indexed	<b>100</b>	<b>136</b>	<b>153</b>	<b>132</b>
Closing Stock (MT)	***	***	***	***
Indexed	<b>100</b>	<b>112</b>	<b>97</b>	<b>29</b>
Average Stock (MT)	***	***	***	***
Indexed	<b>100</b>	<b>122</b>	<b>121</b>	<b>73</b>

The domestic industry has subsequently submitted month-wise stock position, which clearly demonstrates their claim that inventories had piled up significantly during the months of September and October and thereafter the stock level came down because the Domestic Industry liquidated their stocks at loss.

<b>Months</b>	<b>Closing Stocks</b>	<b>Indexed</b>
April 2008	***	100
May 2008	***	83

June 2008	***	61
July 2008	***	100
August 2008	***	142
September 2008	***	158
October 2008	***	204
November 2008	***	71
December 2008	***	29

**xv. Ability to raise capital / investment**

The Authority notes that the domestic industry has increased its capacity. The capacity increase was last effected in the year 2006-07. The Authority also notes that since the demand of the subject goods in India is rising and is more than the capacity of the domestic industry, the imports are inevitable when domestic industry is also exporting the subject goods. But that does not mean that such imports should be at dumped prices.

In a scenario of demand outstripping the domestic capacity, the domestic industry would be keen to increase capacity. However, the profitability parameters do not favourably support that the domestic industry would be able to raise capital from market for investments.

**Conclusion on material injury**

13.8 As regards the volume of the dumped imports, in terms of Article 3.2 of the WTO's Anti-dumping Agreement and para (ii) of Annexure II of the AD Rules, it is an obligation of the Authority to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member. However, this cannot be analysed in isolation, because it is common practice of business entities to take impact of any competition either on its market share or on its sales realisation. Apparently, the domestic industry in the instant matter has chosen to take the impact on its sales realisation. As regards the effect of the dumped imports on prices, the Authority has to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, 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. It is to be noted that no one or several of these factors can necessarily give decisive guidance.

13.9 The Authority notes that neither the WTO's Agreement on Antidumping nor the Municipal Law envisages that the domestic industry should first incur losses before approaching the designated authority for relief under antidumping provisions. Besides, the Authority notes that an injury analysis is essentially a trend analysis and no single factor in this analysis can be construed as decisive for the determination of injury to the domestic industry.

13.10 It is seen that there is a negative price undercutting in the instant matter. But the Domestic industry has alleged that the exporters have extended heavy discounts post-shipments, for which the domestic industry has submitted a few documents supporting the allegation. Considering the claims made by the domestic industry (as indicated in sub-para v of para 13.7 of these findings) regarding post-shipment discounts offered by the exporters/producers of the subject goods from subject countries; there appears to be a rationale for the same as the domestic industry claims to have kept its sales realisation considering the market scenario impacted due to these post-shipment discounts offered by the exporters from the subject countries. These claims and counter-claims relating to post-shipment discounts, however, would be cross-checked during the course of the investigation and spot verification.

13.11 The Authority notes that the domestic industry has suffered material injury on account of significant price suppression thereby adversely affecting profitability, ROCE and Cash Flow. The price underselling is also seen to be significant. Further, if the allegations of the domestic

industry regarding post-shipments discounts turn out to be true during further investigation, there is likelihood of positive price undercutting as well.

13.12 It is also seen that the domestic industry could retain its market share at the cost of its sales realization. During the period of investigation, while the cost of sales was 148 (indexed) as compared to 100 in the year 2005-06 but the selling prices could rise only from 100 (2005-06) to 127 during the POI. In short, the domestic industry could not raise the selling prices commensurate with the increase in costs and as a consequence thereof there was a sharp decline in the profitability. The profitability of the domestic industry has significantly deteriorated to the level below the reasonable levels though it continues to make a little profit. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. As regards the threat of material injury claims, the Authority would examine the same during the course of the investigation.

#### **J. CAUSAL LINK**

14. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It was found as follows:

Imports from Third Countries: - The imports of subject goods from sources other than the subject countries except Korea are de minimis during the period of investigation. However, the prices from Korea are more than the prices offered by the subject countries.

Contraction in Demand: - It is noted that there is no contraction in the demand during the period under consideration. On the contrary, the overall demand has increased by 32% over the injury investigation period.

Pattern of consumption: - No significant change in the pattern of consumption is observed.

Conditions of competition: - The applicant has claimed that conditions of competition or trade restrictive practices are not responsible for the claimed injury to the domestic industry. No interested party has refuted this claim.

Developments in technology: - The applicant has claimed that there is no significant change in technology, which could have caused injury to the domestic industry.

Export performance of the domestic industry: - The export performance of the domestic industry in no way has affected the financial and economic situation of the petitioner in the domestic market. The injury analysis in the preceding paragraphs does not include the figures for export.

14.1 The Authority notes that while listed known other factors do not show injury to the domestic industry, following parameters show that injury to the domestic industry has been caused by dumped imports.

a. Imports from subject countries have increased in absolute terms as well as in relation to total imports, total demand and domestic production in India.

b. Market share of the domestic industry has come down over the period of investigation while the demand increased.

c. The prices of the domestic industry have been suppressed despite increase in demand.

d. There is a significant dumping margin from each of the subject countries and also there is a significant price underselling from each of the subject countries.

14.2 From the above, it appears that injury to the domestic industry has been caused by dumped imports.

**K. Conclusions:**

15. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that:

- (a) The product under consideration has been exported to India from the subject countries below associated Normal values.
- (b) The domestic industry has suffered material injury in the product under consideration.
- (c) The material injury has been caused by the dumped imports from the subject countries.

**L. Indian industry's interest & other issues**

16. 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 countries in any way, and, therefore, would not affect the availability of the product to the consumers.

16.1 It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti- dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

**M. Recommendations**

17. 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 aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods from the subject countries 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 the margin of dumping and the margin of 'injury', so as to remove the 'injury' to the domestic industry. Accordingly, provisional antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed from the date of the notification to be issued by the Central Government, on all imports of subject goods originating in or exported from subject countries.

Sl. No	Heading / Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Oman	Oman	M/s Oman Polypropylene LLC	M/s Oman Polypropylene LLC	Nil	MT	US\$
2	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Oman	Oman	Any combination other than as specified at Sr. No.1		977.67	MT	US\$
3	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Oman	Any other than Oman	Any	Any	977.67	MT	US\$
4	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Any country other than countries attracting Anti-dumping duty		Any	Any	977.67	MT	US\$
5	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Saudi Arabia	Saudi Arabia	Advanced Polypropylene Co.	Advanced Polypropylene Co.	440.48	MT	US\$
6	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Saudi Arabia	Saudi Arabia	Saudi Polyolefins Company	National Petrochemical Industrialization Marketing company/ Basell Polyolefins company	Nil	MT	US\$
7.	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Saudi Arabia	Saudi Arabia	Any combination other than as specified at Sr. No.5 and 6		820.55	MT	US\$
8.	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Saudi Arabia	Any other than Saudi Arabia	Any	Any	820.55	MT	US\$
9.	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Any country other than countries attracting Anti-dumping duty		Any	Any	820.55	MT	US\$
10.	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Sumitomo Corporation Asia Pte. Ltd.	81.20	MT	US\$
11.	39021000 and 39023000	*Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)*	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Toyota Tsusho (Singapore) Pte.	119.32	MT	US\$

12.	39021000 and 39023000	'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Marubeni Chemical Asia Pacific Pte. Ltd.	Nil	MT	US\$
13.	39021000 and 39023000	'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Itochu Plastics Pte. Ltd.	472.29	MT	US\$
14.	39021000 and 39023000	'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	Exxon Mobil Chemical Asia Pacific	Exxon Mobil Chemical Asia Pacific	44.43	MT	US\$
15.	39021000 and 39023000	'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	Exxon Mobil Chemical Asia Pacific, Singapore	Mitsubishi Chemical Thailand (Co.) Ltd.	Nil	MT	US\$
16.	39021000 and 39023000	'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	Any combination other than as specified at Sr. nos.10-15.		1033.65	MT	
17.	39021000 and 39023000	'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Any other than Singapore	Any	Any	1033.65	MT	US\$
18.	39021000 and 39023000	'Polypropylene (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Any country other than Singapore attracting Anti-dumping duty	Singapore	Any	Any	1033.65	MT	US\$

#### **N. Further Procedure**

18. 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 findings;
- (b) Exporters, importers, the applicant 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 these Preliminary findings. 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 hold a hearing to hear the views of various interested parties orally;
- (d) The Authority would conduct further verification to the extent deemed necessary;
- (e) The Authority would disclose essential facts as per the AD Rules before announcing final findings.

(R. Gopalan)  
Designated Authority