

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

Notification

New-Delhi, the 24th December, 2002

Subject: Anti-Dumping investigations concerning imports of Methylene Chloride originating in or exported from European Union, South Africa and Singapore Preliminary Findings.

No.17/1/2001- DGAD – Having regard to the Customs Tariff Act 1975 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury), Rules 1995, thereof:

A. PROCEDURE:

1. The procedure given below has been followed with regard to the investigations:

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s Gujarat Alkalies & Chemicals Ltd., Vadodara alleging dumping of Methylene Chloride originating in or exported from European Union, South Africa and Singapore;ii) The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was thereafter considered as properly documented.
- ii. The Authority on the basis of sufficient evidence submitted by the petitioner decided to initiate investigations against alleged dumping of imports of Methylene Chloride originating in or exported from the European Union, South Africa and Singapore;
- iii. The Authority notified the Embassies of the subject countries/territory about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules.
- iv. The Authority issued a Public Notice dated 19th August 2002, published in the Gazette of India Extraordinary initiating anti-dumping investigations concerning imports of Methylene Chloride. classified under customs sub-heading no. 2903.12 of Chapter 29 of the Customs Tariff Act 1975 and 29031200 of the ITC (HS) Code originating in or exported from European Union, South Africa and Singapore

- v. The Authority forwarded a copy of the Public Notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing within forty days from the date of the letter.
- vi. The Authority forwarded a copy of the Public Notice to the known importers (whose details were made available by the petitioner) of Methylene Chloride and advised them to make their views known in writing within forty days from the date of the letter.
- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Methylene Chloride.
- viii. The Authority provided copies of the non-confidential Petition to the known exporters in accordance with Rule 6(3) supra.
- ix. The Authority sent a questionnaire, to elicit relevant information to the following known exporters in European Union, South Africa and Singapore in accordance with Rule 6(4);

European Union

- M/s ICI Chemicals & Polymers Limited,
Chlor-Chemicals Business
P.O.Box 14, The Heath
Runcorn, Cheshire, WA7 4QC
United Kingdom
- M/s Solvay A.G.
Rue du Prince Albert
33-B-1050 Brussels,
Belgium
- M/s. Akzo Nobel NV,
76 Velperweg, P.O. Box 9300
6800 Sb Arnhem,
Netherlands
- M/s Elf Atochem, S.A.
La Defense 10-4 El 8
Cours Michelet 92800 Puteaux
Hauts-de-Seine
France
- Helm Ag.,
Nordkanalstransee
28-D-20097
Hamburg
Germany

- Larouche Industries International L.I.I.
Frankfurt am Main
Germany

South Africa

- M/s Byer South Africa,
P.O. Box 143,
Isando, 1660,
27 Wrench Road Isando 1660,
Johannesburg
Singapore
- Ethylene Glycoles (S) Pte Ltd.,
1, International Business Pk # 04 -14A
The Synergy
Singapore 609917
- Singa - Chem Treatment Techno Pte Ltd.,
46 Taus Cres
Singapore 638728

A request from LII Europe GmbH, Marketing & Sales, Industriepark Höchst C 526, 65926 Frankfurt am Main was received to extend the deadline to respond to the questionnaire which was considered by the Authority. Another request to extend the deadline to respond to the exporters questionnaire was also received from M/s Ineos Chlor Limited, a manufacturer cum exporter of Methylene Chloride from UK who had acquired a majority stake and ownership in M/s ICI Chlor Chemicals which was also considered by the Authority.

The Delegation of the European Commission in India, the High Commission of South Africa and the Singapore High Commission, were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters was also sent to them, alongwith the name and addresses of the exporters.

A questionnaire was sent to the following known importers/users of Methylene Chloride calling for necessary information in accordance with Rule 6(4);

- C.J.Shah & Co.,
Mumbai - 400 021
- Haresh Kumar & Co.,
Mumbai

- Ranbaxy Laboratories Ltd.,
New Delhi
- Lupin Laboratories Ltd.,
Mumbai - 400 098
- Koprana Ltd.,
Mumbai - 400 018
- Dr. Reddy's Laboratories Ltd.,
Hyderabad - 500 016
- Traxpo Trading Pvt. Ltd.,
Mumbai 400 001
- Aurobindo Pharma Ltd.,
Hyderabad 500 038
- Indosol Drugs Pvt. Ltd.,
Gujarat
- Siris Ltd., Hyderabad
Hyderabad 500 074
- Rallis, Bombay
Mumbai 400 001
- United Phosphorus Ltd.,
Mumbai 400052
- Cipla Ltd.,
Maharashtra
- J.K. Drugs & Pharmaceutical Ltd.,
New Delhi - 110001
- Max G.B. Ltd.,
Chandigarh - 150008
- Surya Medicare Limited,
Patiala Punjab
- Vardhaman Trading Corporation,
Chandigarh
- Harsh Kumar & Company,
Mumbai
- Sun Pharmaceuticals Industries Ltd.,
Ankleshwar
- United Phosphorus Limited,
Ankleshwar
- Morpen Lead Acid Batteries Ltd.,
Baddi - Sola HP
- Indsol Drugs Limited,
Ankleshwar

- Meghmani Organics Limited,
Ahmedabad
- Alembic Limited,
Vadodara
- KDL Biotech Limited,
Worli Mumbai
- Hindustan Chemicals Industries,
Mumbai
- Rallis India Limited,
Fort Mumbai

A request to despatch the enclosures/questionnaire to M/s LII Europe GmbH was received from their representative in India M/s ReSan Chemie, B-212, Crystal Plaza, New Link Road, Andheri (West), Mumbai-400 053.

- xi. The Authority made available the 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.
- xii. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) on the information furnished by the petitioner so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xiii. *** In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xiv. Investigations were carried out for the period 1st April, 2001 to 31st March, 2002 (12 months).

B. PETITIONERS VIEWS

2. The petitioner has raised the following major issues in their petition and in their subsequent submissions:

- i. The product under investigation in the present case is Methylene Chloride. Methylene Chloride is a solvent belonging to the Chloromethane family of solvents. Methylene Chloride is a colorless, volatile liquid with a chloroform - like odour. The chemical formula of Methylene Chloride is CH_2Cl_2 . There are two technologies/routes for the production of Methylene Chloride and the product produced through the two routes has similar technical specifications. Methylene Chloride is used in the photo films, bulk drugs and pharmaceutical industries. It is also consumed for manufacture of foam, resin casting,

fumigants and agrochemical. It is mainly used as a paint stripper.

Methylene Chloride is classified under customs sub-heading 2903.12 of Chapter 29 of the Customs Tariff Act and 29031200 of the ITC (HS) Code. The classification is however indicative only and in no way binding on the scope of the present investigations.

- ii. There are two technologies for production of Methylene Chloride. These are known by the basic raw material which is used in these technologies - Methane route and Methanol route. Detailed process of manufacturing through the two routes has been enclosed in the petition.
- iii. Methane route requires the following raw materials:-
 - Natural Gas,
 - Chlorine,
 - Sulphuric Acid,
 - Caustic Soa Lye,
 - Stabilizers.

Methanol route requires the following major raw materials:-

- Methanol,
- Chlorine,
- Sulphuric Acid

Even though the raw material required for production of Methylene Chloride through two technologies are different, the product produced has essentially similar technical specifications. Thus, the difference in raw material consumed through two different technology does not result in different product.

- iv. Methylene Chloride is used in the photo films, bulk drugs and pharmaceutical industries. It is also consumed for manufacture of foam, resin casting, fumigants and agrochemical. It is mainly used as a paint stripper. Its general use is now being restricted in Europe and USA due to stringent European and American Environmental Regulations. Consequently, European producers have been forced to look at newer markets for their surplus production.
- v. Packing forms an important role in the cost and price of Methylene Chloride. Methylene Chloride is in liquid form. The product is normally transported in loose form in dedicated tankers. However, the volume of material involved in such shipments being quite high in terms of individual requirements of some of the sectors of user industry, the material is packed and sold in drums. Such packing form very substantial portion in the cost and price of the product, as the cost of such packing is in the region of US \$ *** - *** PMT (as against

selling price in the region of US \$ *** - *** PMT).

Imports of Methylene Chloride are in both the forms - packed and loose. The packed shipments have to be, however, in the region of 2000 MT and above, as the shipment of small volumes in loose forms - packed and loose. The loose consignments would be economically viable in full tanker loads, which would be in the region of *** MT.

Bulk and loose shipment of imports can be handled only at Kandla Port in the Country, as the special facilities required for its unloading and further shipment are available only at this port. However, packed product can be imported at any port. It is normally not difficult to judge whether the material imported is in loose form or packed form. The volume of imports alone is a good indicator to judge the form of import. The petitioners have identified the imports in terms of loose and packed imports.

- vi. Methylene Chloride is being imported in India for the past many years. However, dumping from these countries has commenced recently. In particular, the producers in European Union, South Africa and Singapore have reduced the prices significantly within the period April-Nov., 2001. This has resulted in intensified dumping of Methylene Chloride in India.
- vii. Since the product is classified under dedicated customs classification, volume and value of imports have been considered based on the information provided by the DGCI&S. Since DGCI&S has not released the data for the period after February , 2001 and further since the dumping has in fact intensified after this period, the petitioners have collected information from the Port Trust Authorities, Kandla.

The volume shown by Kandla port is significantly higher than volume shown by the DGCI&S. Therefore, the petitioners have considered volume given by the Kandla port for the countries from where material has been imported at Kandla Port. With regard to other countries, the volume shown by the DGCI&S has been considered. It is pertinent to note that on an average, the Kandla Port handles more than 75% of all imported quantities of Methylene Chloride.

- viii. The petitioner has claimed that there is no difference in Methylene Chloride produced by two technologies. Both the producers in India and producers in EU, South Africa and Singapore have facilities to produce Methylene Chloride with both the technologies. Further there is no difference in Methylene Chloride exported from the subject countries and Methylene Chloride produced by the petitioners. Methylene Chloride produced by the Indian industry and Methylene Chloride imported from the subject countries are comparable in

terms of their physical and chemical characteristic, manufacturing process and technology, functions and uses, product specifications, distribution and marketing, pricing and tariff clarification. The two are technically and commercially substitutable and consumers have used Methylene Chloride imported from these countries and Methylene Chloride produced by the domestic industry interchangeably. Goods produced by the petitioner are being treated as Like Articles to the goods imported from the subject countries/territory within the meaning of the Rules.

- ix. The petitioner has never imported the subject goods.
- x. The domestic industry had earlier suffered serious injury in the year 1999-2000 consequent upon which the industry filed a petition seeking imposition of safeguard duty. It was found by the DG (Safeguard) that the domestic industry had suffered serious injury in the period 1999-2000 which was investigated by the DG (Safeguard) . The final findings were notified on 15th Dec 2000. In view of the same, the petitioner submits that the injury to the domestic industry must be seen with reference to the immediate preceding year and inter-se investigation period.

C. VIEWS OF IMPORTERS, EXPORTERS AND OTHER INTERESTED PARTIES

3. Importers views

None of the known importers responded to the questionnaire forwarded by the Authority.

4. Exporters Views

European Union

(A) M/s LII Europe GmbH

1. This company filed only a confidential response to the exporters questionnaire response with out a non-confidential summary thereof. They have given information on the following:-
 - i. List of Exports to India within the POI;
 - ii. Average Sales Prices within the POI;
 - iii. Average freight charges within the POI;
 - iv. ICIS-LOR Report examples and comment;
 - v. Brief Introduction, Management, etc., of LII Europe GmbH;

vi. Annual Report as per 31st December 2001 in the German language.

Examination by Authority

1. The Annual Report of LII Europe GmbH till 31st December 2001 is in German and a translation thereof has not been made available.
2. Information relating to sales in the home market have not been furnished. Only the average domestic i.e., western Europe price has been given.
3. Information relating to exports to India have not been furnished as per format specified in Appendix 2. Sample LII Europe GmbH invoices, freight invoice and airway bill have also not been furnished.
4. Information on sales of goods of the company during the POI and the preceding two years (Exports to India, Domestic Market Sales, Exports to Other Countries) as per Appendix 3 has not been furnished.
5. Information on the Sales Price Structure for Exports to India (Appendix 4) has not been submitted.
6. Information on the Sales Price Structure for Domestic Sales (Appendix 5) has and for Exports to Countries Other than India (Appendix 6) has not been submitted.
7. No data as per Appendix 7 has been provided (Statement showing Licensed Capacity, Installed Capacity, Production and Sales);
8. No information has been provided in Appendix 8, 9 and 10 namely, Factory Cost and Profit of Export to India and Factory Cost and Profit of Domestic Sales.

In the absence of transaction wise information on domestic sales, the cost of production of the subject goods and costs incurred after fob, the Authority is not in a position to determine the sales price in the ordinary course of trade in the domestic market of the exporter and the ex-factory export price. The Authority is therefore unable to come to any material conclusion with regard to normal value and export price.

(B) Ineos Chlor Ltd.

1. Ineos Chlor has submitted a confidential and a non confidential response to the exporters questionnaire.
2. Ineos Chlor took over the ownership of ICI Chlor Chemicals on 9th January, 2001. It is a private Ltd. company incorporated under the laws of England and Wales.
3. They have stated that export sales are not liable to value added tax (VAT).
4. The accounting period of Ineos Chlor Ltd. is the calendar year.

5. There is no difference in the physical characteristics. The company sells pharmaceutical grade standard across all markets.
6. The company has provided transactionwise information on domestic sales in EU as per Annexure 1A (Bulk) and Annexure 1B (Pack).
7. Information relating to exports to India has been provided in Annexure 2A (Grade : Bulk) and Annexure 2B (Grade:Pack).
8. In Annexure 3 Sales of the goods of the company for the period of investigation and preceding 2 years has been provided for both bulk and pack products.
9. In Annexure 4 (Sales price structure for exports to India) and Annexure 5 (Sales price structure for domestic sales) the CIF price and the price at ex factory level have been stated for both bulk and pack products.
10. The exporter has furnished some data in Annexure 7 (Statement showing the licensed capacity, installed capacity, production and sales), Annexure 8, (Factory costs and profit of exports to India) and Annexure 9 (Factory costs and profit of domestic sales).

Examination by the Authority

1. In Annexure 4 (Sales price structure for exports to India) and Annexure 5 (Sales price structure for domestic sales) the CIF price and the price at ex factory level have been stated for both bulk and pack products without giving details on costs incurred before and after fob. Data in Appendix 6 (Sales price structure for exports to countries other than India) has not been provided.
2. In Annexure 7 (statement showing the licensed capacity, installed capacity, production and sales) the data furnished is only for the product under investigation and not for other products. Moreover, only the quantity data has been provided and not the value thereof.
3. In Annexure 8, some data on the factory costs and profit of exports to India of both bulk and packed grades of the product under investigation has been given. The information has not been provided for unit, quantity, rate. The total cost has not been indicated. The Authority notes that the exporter has incurred loss on both bulk and pack grades in their export sales to India.
4. In Annexure 9, some data on factory costs and profit of domestic sales has been given for both bulk and pack products. The information required under unit, quantity and rate has not been provided. The total cost has not been indicated. The Authority notes that the exporter has incurred loss on bulk products in its domestic sales.
5. The Authority notes that the exporter has not provided copies of its trading and profit and loss account and balance sheets for the period of investigations and previous two financial years showing the determination of gross profit, details

of selling and administration and other costs and net profit as per the requirement of part F of the exporters questionnaire.

(C) South Africa

Bayer (Pty) Ltd., 27 Wrench Road, Isando, 1600, Republic of South Africa

1. Bayer (Pty) Ltd., in the Republic of South Africa is not a manufacturer of Methylene Chloride.
2. During the period of investigation, being 1st April 2001 to 31st March 2002, no product was exported from the Republic of South Africa to India. This is confirmed from information given by the petitioner in annexures 4 and 5 to the Petition.
3. Under the circumstances we believe that it is not necessary for us to complete the questionnaire but cordially invite you to provide us with proof should it appear from your records that importation of the Product did take place during the investigation period.

Examination by the Authority:

From the import data available with the Authority, it is seen that a quantity of 1501 MT of the subject goods was imported from South Africa during the period of investigation.

(D) Singapore

Ethylene Glycols (Singapore)private Ltd.

1. This company does not manufacture nor is involved in the selling or exporting of any Methylene Chloride whatsoever.
2. Hence the company's name may please be removed from the list.

Views of other Interested Parties

High Commissioner for the Republic of Singapore

1. We would like to inform the Government of India that Singapore's trading statistics show that there were zero exports of Methylene Chloride from Singapore to India during the stipulated period of investigation (1 April 2001 to 31 March 2002). We have also verified that the Singapore companies (Ethylene Glycols Pte Ltd and Singa-Chem Treatment Techno Pvt Ltd) named in the

investigation are not involved in the manufacture or export of Methylene Chloride from Singapore into India.

2. In light of these facts, we request that the Government of India remove Singapore from the AD proceedings.

Examination by the Authority:

From the import data available with the Authority, it is seen that a quantity of 520MT of the subject goods was imported from Singapore during the period of investigation.

EXAMINATION OF THE ISSUES RAISED

5. The submissions made by the petitioner and importers to the extent they are relevant under the Rules and have a bearing upon the case, have been examined and dealt with at appropriate places hereunder.

D. PRODUCT UNDER INVESTIGATION

6. The product under investigation in the present case is Methylene Chloride. Methylene Chloride is a solvent belonging to the Chloromethane family of solvents. Methylene Chloride is a colorless, volatile liquid with a chloroform - like odour. The chemical formula of Methylene Chloride is CH_2Cl_2 . There are two technologies/routes for the production of Methylene Chloride and the product produced through the two routes has similar technical specifications. Methylene Chloride is used in the photo films, bulk drugs and pharmaceutical industries. It is also consumed for manufacture of foam, resin casting, fumigants and agrochemical. It is mainly used as a paint stripper.

There are two technologies for production of Methylene Chloride. These are known by the basic raw material which is used in these technologies - Methane route and Methanol route. Even though Methylene Chloride can be produced through two distinctly different technology, the product produced through the two routes has essentially similar technical specifications. Thus, the difference in technology or production process does not result in different product.

Methylene Chloride is used in the photo films, bulk drugs and pharmaceutical industries. It is also consumed for manufacture of foam, resin casting, fumigants and agrochemical. It is mainly used as a paint stripper.

Methylene Chloride is classified under customs sub-heading 2903.12 of Chapter 29 of the Customs Tariff Act and 29031200 of the ITC (HS) Code. The classification is

however indicative only and in no way binding on the scope of the present investigations.

E. LIKE ARTICLES

In order to establish that Methylene Chloride is a Like Article to that exported from European Union, South Africa and Singapore, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority also finds that there is no argument disputing that Methylene Chloride produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Methylene Chloride imported from the subject countries/territory both commercially and technically. Methylene Chloride produced by the domestic industry has been treated as Like Article to the product exported from European Union, South Africa and Singapore within the meaning of Rule 2(d).

F. DOMESTIC INDUSTRY

The petition has been filed by M/s Gujarat Alkalies & Chemicals Ltd., Vadodara. The petitioner has stated that the following companies are the producers of Methylene Chloride in India:-

- a. M/s Gujarat Alkalies & Chemicals Ltd., Vadodara
- b. M/s Chemplast Sanmar, Chennai
- c. M/s SRF Limited, Mumbai

M/s Chemplast Sanmar, Chennai has supported the petition. The total Indian production of the subject goods during 1998-99, 1999-2000, 2000-2001 and 2001-2002 was as follows:

Producer	1998-99	1999-2000	2000-2001	2001-2002
Gujarat Alkali	8572	8721	9559	8975
Chemplast Sanmar - Supporter	14054	14151	15518	15245
Petitioner + Supporter	22626	22872	25077	24220
SRF Ltd.	2465	3266	6661	7244
Indian production	25091	26138	31738	31464

The petitioner accounts for 28.52% of the total production in 2001-02 and the petitioner and the supporter accounts for 76.97% of the total Indian production in 2001-02. The petitioner therefore satisfies the standing to file the petition and constitutes domestic industry.

G. DUMPING

7. The Authority sent questionnaires to the known exporters from the subject countries/territory in terms of section 9 A (1).

There are no claims made by the exporters in South Africa and Singapore with regard to Normal Value and Export Price. The Authority has therefore been constrained to rely upon constructed price and best available information with regard to Normal Value and Export Price respectively.

H. 8. EXAMINATION OF NORMAL VALUE AND EXPORT PRICE BASED ON CONSTRUCTED VALUE AND ON AVAILABLE INFORMATION WITH THE AUTHORITY

i. NORMAL VALUE

1. European Union

(A) LII Europe,GmbH

As stated above this exporter has given an incomplete response which is grossly lacking in vital data/information. In the absence of transaction wise information on domestic sales, the cost of production of the subject goods and costs incurred after fob, the Authority is not in a position to determine the sales price in the ordinary course of trade in the domestic market of the exporter. The Authority is therefore unable to come to any material conclusion with regard to normal value.

The petitioner has stated that Chlor Alkali is a leading journal publishing information with regard to a number of products one of which is Methylene Chloride. The petitioner has been able to trace the selling price of Methylene Chloride in the European Union with the help of this journal. However, it is noted that the prices in this journal are export prices and hence indicative only.

It has been submitted by the petitioner that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and methanol on the basis of the prevailing prices in European Union and have constructed cost of production for the producers in this territory, considering consumption norms of the Indian producers which, as has been

claimed, cannot vary significantly for the Indian producers and producers in the subject countries.

The normal value as per the constructed cost method is therefore considered to be USD ***/MT or Rs ***/MT for the 'bulk' product and USD ***/MT or Rs ***/MT for the 'packed' product for LII Europe, GmbH at an average exchange rate during the POI of 1USD=Rs.47.76.

(B) Ineos Chlor

The Authority notes that the cost of production stated by the exporter for the product under investigation is USD ***/MT. The selling price for the bulk product in the EU market is USD ***/MT and that for packed product is USD ***/MT. The ex-factory domestic selling price stated for the Bulk product sold in the domestic market is USD ***/MT while that for packed product is USD ***/MT. The adjustments considered for arriving at the ex-factory prices for both bulk and packed grades have not been furnished and are hence not known.

The export price for the bulk product to India is USD ***/MT and that for packed product is USD ***/MT. The ex-factory export price to India for bulk is USD ***/MT while that for packed is USD***/MT. The adjustments considered for arriving at the ex-factory export prices for both bulk and packed grades have not been furnished and are hence not known.

The deficiencies in the exporters response have been brought out in Para 4(B) above. Considering the ex-factory normal value of USD ***/MT claimed for the bulk product and ex-factory export price of USD ***/MT claimed by the exporter, the dumping margin for Methylene Chloride (bulk) is USD***/MT (which is 43.41% of the export price).

Considering the ex-factory normal value of USD ***/MT claimed for the packed product and ex-factory export price of USD***/MT claimed by the exporter, the dumping margin for Methylene Chloride (pack) is USD ***/MT (which is 21.68% of the export price).

However, due to the deficiencies in the exporters response brought out in Para 4(B) above, the information/data submitted by the exporter is not acceptable and the Authority has been constrained to reject the exporters response for the purpose of these preliminary findings. It has been submitted by the petitioner that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and methanol on the basis of the prevailing prices in European Union and have constructed cost of production

for the producers in this territory, considering consumption norms of the Indian producers which, as has been claimed, cannot vary significantly for the Indian producers and producers in the subject countries.

The normal value as per the constructed cost method is therefore considered to be USD ***/MT or Rs ***/MT for the 'bulk' product and USD ***/MT or Rs ***/MT for the 'packed' product for M/s Ineos Chlor at an average exchange rate during the POI of 1USD=Rs.47.76.

2. Singapore

For Singapore the petitioner submits that prices in the domestic market are not published in Chlor Alkali. There is no other reasonably sufficient evidence of the prices in the domestic market in Singapore. The petitioner has therefore claimed the normal value on the basis of constructed cost of production.

It has been submitted that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and methanol on the basis of the prevailing prices in European Union, South Africa and Singapore and have constructed cost of production for the producers in these countries, considering consumption norms of the Indian producers which, as has been claimed, cannot vary significantly for the Indian producers and producers in the subject countries. The normal value as per the constructed cost method comes USD ***/MT for Singapore.

The normal value in Singapore is therefore considered to be USD ***/MT or Rs ***/MT for the 'bulk' product and USD ***/MT or Rs ***/MT for the 'packed' product at an average exchange rate during POI of 1USD=Rs 47.76.

3. South Africa

8.The Authority observes that the exporters from South Africa have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers the exporters to be non-cooperative and has proceeded on best available information.

For South Africa the petitioner submits that prices in the domestic market are not published in Chlor Alkali. There is no other reasonably sufficient evidence of the prices in the domestic market in these countries. The petitioner has therefore claimed the normal value on the basis of constructed cost of production. It has been submitted that in the methanol route the cost of methanol and chlorine constitute about 50% of the total cost of production. The petitioner has considered prices of chlorine and

methanol on the basis of the prevailing prices in European Union, South Africa and Singapore and have constructed cost of production for the producers in these countries, considering consumption norms of the Indian producers which, as has been claimed, cannot vary significantly for the Indian producers and producers in the subject countries. The normal value as per the constructed cost method comes to USD ***/MT or Rs ***/MT for South Africa.

The normal value in South Africa is therefore considered to be USD ***/MT or Rs ***/MT for the 'bulk' product and USD ***/MT or Rs ***/MT for the 'packed' product at an average exchange rate during POI of 1USD=Rs 47.76.

ii. **Export Price**

1. European Union

The weighted average cif price as per the information available with the Authority is determined at Rs ***/MT for the European Union. The ex-factory export price has been determined after taking USD ***/MT as ocean freight, ***% as marine insurance charges, commission @ **%, ***% for inland freight and ***% for port expenses as per the petitioners information. After adjustments on these accounts the ex-factory fob export price is estimated to be Rs ***/MT or USD ***/MT for the European Union at an average exchange rate of 1USD=Rs 47.76 during the POI.

The petitioner has stated that bulk and loose shipment of imports can be handled only at Kandla Port in the country, as the special facilities required for its unloading and further shipment are available only at this port. It is seen that a quantity of ***/MT of the subject goods have been imported at Kandla port from the EU at a cif price of Rs ***or Rs ***(USD ***/MT). After adjustments on the aforesaid accounts the ex-factory fob export price for bulk shipments of the subject goods is estimated to be Rs ***/MT or USD ***/MT for the European Union at an average exchange rate of 1USD=Rs 47.76 during the POI.

A quantity of ***MT of imports of the subject goods at ports other than Kandla of a cif value of Rs ***or Rs ***/MT (USD ***/MT) were imported. After adjustments on the aforesaid accounts the ex-factory fob export price for packed shipments of the subject goods is estimated to be Rs ***/MT or USD ***/MT for the European Union at an average exchange rate of 1USD=Rs 47.76 during the POI

2. South Africa

The weighted average cif price as per the information available with the Authority is determined at Rs ***/MT for South Africa. The ex-factory export price has been

determined after taking USD ***/MT as ocean freight, ***% as marine insurance charges, commission @ **%, ***% for inland freight and ***% for port expenses as per the petitioners information. After adjustments on these accounts the ex- factory fob export price is estimated to be Rs ***/MT or USD ***/MT for South Africa at an average exchange rate of 1USD=Rs 47.76 during the POI.

3. Singapore

The weighted average cif price as per the information available with the Authority is determined at Rs ***/MT for Singapore. The ex-factory export price has been determined after taking USD ***/MT as ocean freight, ***% as marine insurance charges, commission @ **%, ***% for inland freight and ***% for port expenses as per the petitioners information. After adjustments on these accounts the ex-factory fob export price is estimated to be Rs ***/MT or USD ***/MT for Singapore at an average exchange rate of 1USD=Rs 47.76 during the POI.

iii. **Dumping margin**

European Union

(1) LII, Europe GmbH

Considering the normal value at USD ***/MT and the ex-works export price at USD ***/MT for bulk shipments, the dumping margin determined by the Authority comes to USD ***/MT (which is 85.32% of export price).

Considering the normal value at USD ***/MT /MT and the ex-works export price at USD ***/MT for packed shipments, the dumping margin determined by the Authority comes to USD***/MT (which is 55.75% of export price).

(2) Ineos Chlor

Considering the normal value at USD ***/MT and the ex-works export price at USD ***/MT for bulk shipments, the dumping margin determined by the Authority comes to USD ***/MT (which is 85.32 % of export price).

Considering the normal value at USD ***/MT and the ex-works export price at USD ***/MT for packed shipments, the dumping margin determined by the Authority comes to USD***/MT (which is 55.75% of export price).

South Africa

Considering the normal value at USD ***/MT and the ex-works export price at USD***/MT for the 'bulk' product, the dumping margin determined by the Authority comes to USD ***/MT (which is 99.92 % of export price).

Singapore

Considering the normal value at USD ***/MT and the ex-works export price at USD ***/MT for the 'bulk' product, the dumping margin determined by the Authority comes to USD ***/MT (which is 62.42 % of export price).

I. INJURY

Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the 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 article..." In considering the effect of 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 increase, which otherwise would have occurred, to a significant degree.

Annexure II(iii) under Rule 11 supra further provides that in case 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, only when it determines that the margin of dumping established in relation to the imports from each country is more than two per cent expressed as a percentage of export price and the volume of the imports from each country is three per cent of the imports of the like article or where the export of the individual countries is less than three per cent, the imports cumulatively account for more than seven per cent of the imports of the like article, and cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

The Authority notes that the margin of dumping and quantum of imports from the subject countries/territory are more than the limits prescribed in Rule 11 Supra.

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

sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra.

a. Quantum of Imports

Qty : kg

S.No.	1998-99	1999-2000	2000-01	2001-02 (Kandla port and other ports Apr'01- Nov'01 qfor subject countries; for others DGCIS - April '01-March'02)
Individual country imports				
European Union	74,87,054	10,175,660	32,23,999	6,177,880
South Africa	---	25,378	---	1,501,000
Singapore	12,600	---	1000	5,20,000
Total subject Countries	74,99,654	102,01,038	32,24,999	81,98,880
Other sources	17,69,054	1,80,496	6,29,701	6,49,475 (as per DGCIS)
Total imports	92,69,054	103,81,534	38,54,700	88,48,355

The Authority notes that DGCIS data shows no imports from South Africa and Singapore. The DGCIS data shows lower imports from the EU as compared to the data from Kandla port.

The increase in the total imports of Methylene Chloride from the subject countries was significant in the POI as compared with the quantum of imports in 2000-01. The subject countries accounted for 92.80% of the total imports in the POI.

The share of EU, South Africa and Singapore in total imports was 69.82%, 16.96% and 5.87% respectively in the POI.

b. Production and Capacity Utilisation

The production and capacity utilisation of the petitioner was as follows:-

GACL (MT)	1998-99	1999-2000	2000-01	2001-02 (POI)
Installed Capacity	8910	8910	8910	8910
Production	8572	8721	9559	8975
Capacity Utilisation (%)	96.21	97.88	107.28	100.73

The quarterwise projection based on the monthwise details on production and capacity utilisation of the domestic industry is given in the table below:-

	Quarter 1 Apr.-June-01	Quarter 2 July - Sept. 01	Quarter 3 Oct.-Dec. 01	Quarter 4 Jan.-Mar.-02
Installed Capacity	2227	2227	2228	2228
Production	2159	2191	2463	2162
Capacity Utilisation	96.95	98.38	110.55	97.03

From the above, it is seen that production has declined. The petitioner in order to distribute fixed costs and minimize injury operated at high capacity which is not an indicator of improved performance of the petitioner.

c. Sales and Market Share

Qty (MT)

	1998-99	1999-2000	2000-01	2001-02 (POI)
Sales of Petitioner	8207	8152	9415	9158
Sales of other dom. Producers				
Chemplast Sanmar	14,059	12,822	14,396	14,557
SRF	2465	3306	6586	7448
Total Sales	24731	24280	30397	31163
Demand	34,000	34,661	34,252	40,011
Share of petitioner	24.14%	23.52%	27.47%	22.89%
Share of petitioner + supporter in demand	65.49%	60.51%	69.51%	59.27%
Share of imports in demand	27.26%	29.95%	11.25%	22.11%
Share of dumped imports	22.06%	29.43%	9.41%	20.49%

It is seen that total and dumped imports in the POI (2001-02) have increased in absolute terms as compared to the previous year (2000-01). While the market share of imports from the subject countries have increased in demand the share of the domestic industry has declined in the POI. The petitioner's share in demand has fallen sharply from 27.49% in 2000-01 to 22.11% in the POI.

d. Price undercutting and price depression

Rs/kg

Year	Sales Realisation Bulk Packed (Rs/kg)		Landed Price of Imports EU South Africa Singapore Others			
1998-99	***	***	***	---	***	***
1999-2000	***	***	***	***	---	***
2000-2001	***	***	***	---	***	***
2001-02 (POI)	***	***	***	***	***	***

It is evident from the above table that the exporters from the subject countries/territory have reduced their prices significantly in the POI. The domestic industry has been forced to reduce its selling prices to respond to the low import prices in the market.

e. Profitability:-

(Rs. per MT)

Petitioner	1998-99	1999-2000	2000-01	2001-02 (POI)
Cost of Production	***	***	***	***
Selling price	***	***	***	***
Profit & Loss	***	_* **	_***	_***

From the above table it is seen that even though the unit cost of production has declined (between 2000-01 and 2001-02) the selling price has declined more than decline in the unit cost of production. A quarterwise projection based on the month wise details on sales volume, selling price, cost of production and profit and loss of the petitioner shows that the selling price and losses incurred by the petitioner have increased as shown below: -

	Quarter 1 Apr.-June-01	Quarter 2 July - Sept. 01	Quarter 3 Oct.-Dec. 01	Quarter 4 Jan.-Mar.-02
Sales Volume	2270	2145	2431	2312
Selling Price	***	***	***	***
Cost of Production	***	***	***	***
Profit/Loss	***	_***	_***	_***

The profitability of the domestic industry has deteriorated very significantly inter-se in the investigation period. From a situation of profits in the beginning of the investigation period, the industry has been left to a situation of losses towards the end of the investigation period. Further, the losses increased gradually within the investigation period.

f. Closing stocks:-

1998-99	1999-2000	2000-01	2001-02
64	472	237	248

The petitioner's closing stocks have increased.

g. The continuous losses being suffered by the domestic industry are adversely affecting the cash flow of the domestic industry.

h. Even though the petitioner is a public sector company with little control to reduce employment, the petitioner is forced to take all possible steps to keep employment at the lowest level. At the same time, the petitioner is forced to resort to minimum wage increase which the petitioner is obliged to under the legal provisions.

i. Given the previous history of imports and decline in export prices, there would have been further decline in sales had the domestic industry not reduced prices.

j. Imports are retarding the growth of the domestic industry. Growth has been negative in 2002-02 as compared to the previous year even though demand has increased.

J. CONCLUSION ON INJURY

In view of the foregoing it is observed that:-

- a. the quantum of imports from the subject countries/territory have increased in absolute terms and in relation to consumption in India;
- b. the market share of the petitioner has gone down while that of imports has increased;
- c. the petitioners have been forced to sell at prices below their non-injurious price.

A. CAUSAL LINK

9. The Authority holds that the material injury to the domestic industry has been caused by imports from the subject countries that are major exporters of Methylene Chloride to India. The Authority notes that the volume and value of imports of Methylene Chloride from other countries are either de-minimus or the prices are significantly higher. There is no decline in demand of Methylene Chloride in India which could have contributed to any injury to the domestic industry. While the domestic industry's share in demand has decreased from 69.51% in 2000-01 to 59.27% in 2001-02., the share of dumped imports has increased from 9.41% in 2000-01 to 20.49% in 2001-02. The cif and landed values have declined significantly in 2001-02 as compared with 2000-01. The Authority notes that import prices from the subject countries/territory have undercut the prices of the domestic product forcing the domestic industry to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The material injury to the domestic industry was therefore caused by the dumped imports from the subject countries/territory.

B. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

10. The purpose of anti-dumping duties, in general, is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

11. It is recognised that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the anti-dumping 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 Methylene Chloride. 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.

12. To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority relied upon reasonable selling price of Methylene Chloride in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

C. LANDED VALUE

13. The landed value of imports is determined on the basis of export price of Methylene Chloride determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one per cent landing charges.

D. CONCLUSIONS

14. It is seen after considering the foregoing that:

- a. Methylene Chloride described under para 6 originating in or exported from EU, South Africa and Singapore has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury has been caused by imports from the subject countries/territory.

15. It was decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less which if levied, would remove the injury to the domestic industry. Accordingly, it is proposed that provisional anti-dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on Methylene Chloride originating in or exported from EU, South Africa and Singapore,

falling under customs sub-heading no. 2903.12 of Chapter 29 of the Customs Tariff Act 1975 and 29031200 of the ITC (HS) Code pending final determination. The anti-dumping duty shall be the amount mentioned in Col.3.

Country	Name of the producer/exporter	Amount (USD/MT)	
		Bulk	Packed
European Union	(a) M/s LII, Europe GmbH	159.20	43.33
	(b) M/s Ineos Chlor	159.20	43.33
	(c) All others	159.20	43.33
South Africa	All producers/exporters	181.74	181.74
Singapore	All producers/exporters	77.87	77.87

O. FURTHER PROCEDURE

16. 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, 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 of the despatch of this notification. 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 provide opportunity to all interested parties for oral submissions.
- d. The Authority would disclose essential facts before announcing the final findings.

L.V.SAPTHARISHI
DESIGNATED AUTHORITY