

# Ministry of Commerce

## Notification

New-Delhi, the 26th June, 2003

### PRELIMINARY FINDINGS

**Subject:** Anti-Dumping investigations concerning imports of Methylene Chloride originating in or exported from Korea RP.

**No. 14/52/2002-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 South Korea;
  - 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.
  - iii. 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 South Korea;
  - iv. The Authority notified the Embassies of the subject country about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules.
  - v. The Authority issued a Public Notice dated 19th February, 2003 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 South Korea.
  - vi. 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.

- vii. 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.
- viii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Methylene Chloride.
- ix. The Authority provided copies of the non-confidential Petition to the known exporters in accordance with Rule 6(3) supra.
- x. The Authority sent a questionnaire, to elicit relevant information to the following known exporters in South Korea in accordance with Rule 6(4);
  - M/s Unid Company Ltd.,  
50, Songang-dang, Chung-ku,  
Seoul
  - M/s Oriental Chemical Industries,  
OCI Building, 50 30 Kong-dung,  
Chung-gu,  
Seoul
  - Chemical Sales Department,  
Samsung Fine Chemicals Co. Ltd.,  
19th Floor, Namdaemun Bldg. 25,  
1 Ka Bongrae-Dong, Chung-Ku, Seoul

A request was received from M/s Samsung Fine Chemicals Co., Ltd, Seoul Korea to extend the deadline to respond to the questionnaire which was considered by the Authority.

The Embassy of the Republic of Korea 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
- Hareh 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
- 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, 2002 to 31st December, 2002 (9 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 Soda 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.
- 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 8010 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 has commenced recently. Methylene Chloride is being dumped by the producers/exporters in Korea RP. The material is also being dumped by the producers in European Union, South Africa and Singapore. According to the petitioner's information, Methylene Chloride is being exported directly from the subject country.
- 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 DGCIS.
- viii. The petitioner has claimed that there is no difference in Methylene Chloride produced by two technologies. Further there is no difference in Methylene Chloride exported from the subject country and Methylene Chloride produced by the petitioners. Methylene Chloride produced by the Indian industry and Methylene Chloride imported from the subject country 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. The petitioner submits that the injury to the domestic industry must be seen with reference to the preceding years 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**

##### Samsung fine Chemicals Co., Ltd., South Korea

1. Samsung Fine Chemicals Co., Ltd. ("SFC") was incorporated on August 27, 1964 under the laws of the Republic of Korea, to engage in the manufacture and sale of chemical products such as urea-fertilizer, ammonia, melamine and demethylformamide. SFC's stock is publicly traded and has been listed on the Korean Stock Exchange since April 15, 1976. No structural change has happened for the last 3 years including investigation period. SFC has two factories, one in Woolsan and the other in Incheon.
2. Samsung Group Companies own 35.1% of the SFC shares. SFC is a subsidiary company of Samsung Electronics Co., Ltd., (SEC). SEC prepares consolidated financial statements later than March each year. Hence, SFC is affiliated with all the other subsidiaries of SEC. SFC provides affiliation chart appeared in SEC's consolidated financial statements for affiliation list in Exhibit-A2. Among the affiliated companies, Samsung Corporation is involved in export sales to India, and [Samsung Japan Co]. is involved in procurement procedure. Accordingly, SFC hereby provides detailed information for those two affiliates below. As explained above, Samsung Corporation, a Korean trading company is involved in export sales to India. It is related with SFC through stock ownership, and the details of stock ownership are provided in Exhibit-A2.
3. Samsung Japan Co., Ltd is involved in the procurement of [methanol, one of raw materials used to produce methane chloride, which in turn is used as raw material to produce product concerned]. As [Samsung Japan] plays only a brokerage role in the trades, SFC purchases this material at arm's length price, which is determined directly between SFC and manufacturer by a formula.
4. SFC exported the product under investigation to India through its affiliate trading company (Samsung Corporation) in most cases (85%). The remaining (15%) is direct export from SFC. Samsung Corporation is related with SFC through stock ownership (details have been provided).
5. The subject product, Methylene Chloride ("MCL" hereunder) is a clear, colorless and volatile liquid with unique pungent odor. MCL is used successfully in foam blowing, pharmaceuticals and cosmetics, paint and varnish remover, plastics processing, aerosols, metal degreasing and cleaning. MCL is used as a process solvent in its own right and as a highly versatile solvent for formulation work when mixed with other chemicals. MCL's excellent combination of chemical and physical properties, including high

solvency power, stability, non-flammability and a low boiling point, have led to its use in a wide variety of applications and industries.

6. MCL is one identical product and no physical difference exists between the products sold in home market and exports to India. SFC maintains two types of specifications of MCL depending on packing type: MCL without packing and MCL with drum packing.
7. SFC's fiscal year is from January 1st to December 31st. SFC maintains its accounts in Korean won. Transactions in foreign currencies are recorded in Korean won based on the prevailing rates of exchange on the transaction date.
8. SFC has two channels of distribution in the export sales to Indian market through investigation process as follows:

**< Channel 1 >**

SFC ® Indian

Customer

SFC report this distribution channel as "Channel B" in Appendix - 2A.

**< Channel 2 >**

SFC.	Samsung	Indian
	Corporation	Customer

This distribution channel is recorded as "Channel A" in export sales file, Appendix -2, and SFC uses Samsung Corporation's price to unaffiliated Indian customer as starting price, and reports that price as invoice value in the same appendix.

**Examination by Authority:**

1. Samsung Fine Chemicals has submitted their Financial Statements as of December 31, 2002 and 2001 together with independent public accountant's report with notes to financial statements. They have also submitted non consolidated balance sheets for the period ending December 31, 2002 and 2001 with notes to non consolidated financial statement. They have also submitted their balance sheets as of December 31, 2000 and 1999 with notes to financial statement. Audit reports for the years 2000, 2001 and 2002 have been submitted.
2. Samsung Fine Chemical has submitted information relating to domestic sales in Appendix I; information relating to exports to India in Appendix 2; sales of goods of the company in Appendix 2A; customer -wise export sales to India in

Appendix 2B; operating statistics in Appendix 3; sales price structure for exports to India in Appendix 3A; sales price structure for domestic sales in Appendix 3B; statement showing installed/rated capacity, production and sales in Appendix 4; statement of raw materials and packing materials consumption and reconciliation in Appendix 5; statement of raw material consumption in Appendix 6; allocation and apportionment of expenditure in Appendix 7; statement of cost of production in Appendix 8; factory cost and profit of exports to India in Appendix 8A; factory cost and profit of domestic sales in Appendix 8B; statement of allocation of selling, general and administrative overheads in Appendix 9.

3. SFC has also provided through exhibits major shareholder's list; affiliation chart; sample documents (export and domestic); cost ledger for MCL products; cost centre list; monthly inventory movement schedule; average credit period calculation; short-term interest rate; inland freight/pipeline depreciation; loading charge; transportation and monthly packing cost calculation.
4. The data on imports effected by SFC of MCL bulk have been reflected in Appendix 2.

#### **EXAMINATION OF THE ISSUES RAISED**

5. The submissions made by the petitioner and exporter 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 South Korea, 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 country both commercially and technically. Methylene Chloride produced by the domestic industry has been treated as Like Article to the product exported from South Korea 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:

<b>Producer</b>	<b>1998-99</b>	<b>1999-2000</b>	<b>2000-2001</b>	<b>2001-2002</b>	<b>POI (April-Dec 2002 -9 months)</b>
Gujrat Alkali - Petitioner	8572	8721	9559	8975	4625
Chemplast Sanmar -Supporter	14054	14151	15518	15245	7869

Petitioner + Supporter	22626	22872	25077	24220	12494
SRF Ltd.	2465	3266	6661	7244	3724
Indian production	25091	26138	31738	31464	16218
Share of petitioner	34.16%	33.36%	30.12%	28.52%	28.52%
Share of petitioner + Supporter	90.18	87.50	79.01	76.97	77.04%

The petitioner accounts for 28.52% of the total production in 2001-02 and the petitioner and the supporter accounts for 77.04% 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 country in terms of section 9 A (1). M/s Samsung Fine Chemicals Co., Ltd., South Korea, responded to the questionnaire forwarded by the Authority.

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

### **i. NORMAL VALUE**

#### **(A) M/s Samsung Fine Chemicals Co., Ltd.,**

The exporter has furnished transaction-wise data on domestic sales of the subject goods in Appendix 2 , Sales of Goods of the Company in Appendix 2A, Statement on Cost of Production in Appendix 8 and Sales Price Structure for Domestic Sales in Appendix 3B.

In Appendix 2A, the total sales of MCL B (bulk) in the domestic market is reported as \*\*\* MT for the POI. The Authority notes that the total reported for MCL B for the POI is \*\*\* MT and that for MCL 1-C (drum) is \*\*\* MT.

The rate reported in Appendix 2A for domestic sales of MCL-bulk in the domestic market is \*\*\* (KRW) and that for MCL - drum is \*\*\* (KRW). The average rate is \*\*\* (KRW).

The rate reported in Appendix 3B for domestic sales of MCL-bulk in the domestic market is \*\*\* (KRW). Adjustments claimed are discounts/commissions- nil; charges after ex-factory are on account of packing - nil as MCL (bulk) is not packed; inland

freight \*\*\* KRW (charges paid to inland trucking company); insurance is reported in the inland freight charge, accordingly no amount is reported in this field; storage - nil (no storage charges incurred in the POI); handling - nil; taxes - selling price is already VAT excluded, accordingly no amount included in this field; credit expense - \*\*\*KRW (imputed expense incurred between sales and payment). The total cost on account of adjustments claimed is \*\*\* KRW. The price at ex-factory level is \*\*\* KRW/MT for MCL-bulk in the domestic market.

The rate reported in Appendix 3B for domestic sales of MCL- drum is \*\*\* (KRW). Adjustments claimed are discounts/commissions- nil; charges after ex-factory are on account of packing - \*\*\* KRW as MCL (drum) is packed into drums and the packing cost is the sum of drum costs and packing labour; inland freight \*\*\* KRW (charges paid to inland trucking company); insurance is reported in the inland freight charge, accordingly no amount is reported in this field; storage - nil (no storage charges incurred in the POI); handling - nil; taxes - selling price is already VAT excluded, accordingly no amount included in this field; credit expense - \*\*\* KRW (imputed expense incurred between sales and payment). The total cost on account of adjustments claimed is \*\*\* KRW. The price at ex-factory level is \*\*\* KRW/MT for MCL- drum in the domestic market.

In Appendix 8, the cost of production claimed for the product under consideration is KRW \*\*\*/MT for MCL bulk and KRW \*\*\*/MT for MCL drum during the period of investigation.

The normal value is therefore considered to be \*\*\* KRW/MT or USD \*\*\*/MT or Rs \*\*\*/MT for the 'bulk' product and \*\*\* KRW/MT or USD \*\*\*/MT or Rs \*\*\*/MT for the drum product at an exchange rate of 1USD=1200.4 KRW during the POI for the purpose of these preliminary findings.

## ii. Export Price

In Appendix 2A, the total exports of MCL B (bulk) to India is reported as 4030 MT for the POI. The Authority notes that the total reported for MCL B for the POI is 2405 MT and that for MCL 1-C (drum) is 1589 MT which totals up to 3994 MT and not to 4030 MT as reported. Appendix 2 (information relating to exports to India) has reported this quantity of 3993.50 MT of a cif value of \*\*\*USD. Out of the total number of invoices a quantity of 610 MT of MCL bulk against a single invoice of a CNF value of USD \*\*\* has been sold directly by SFC. The balance quantities against all other invoices have been sold through by SFC through Samsung Corporation in CIF basis.

### (A) Exports of MCL - Bulk

### Export Sales by SFC through Samsung Corporation:

The rate reported in Appendix 3A for export sales of MCL-bulk is \*\*\* KRW/MT. The Authority notes that the total sales of MCL bulk to India is 2405 MT of a cif value of \*\*\* KRW which amounts to USD (cif) \*\*\*. The sales made by SFC through Samsung Corporation the trading company is 1795 MT of a cif value of USD \*\*\* which amounts to KRW \*\*\* (at an average exchange rate of 1200.4 as reported by SFC). The average selling price therefore works out to \*\*\* KRW.

Adjustments claimed are discounts/commissions- nil; charges after ex-factory are on account of packing - nil as MCL (bulk) is not packed; inland freight \*\*\* KRW (MCL bulk is transported through pipelines and does not incur any inland freight charges); loading charge - \*\*\* KRW for loading MCL bulk on board and wharfage; survey and investigation \*\*\* KRW for surveying MCL bulk to check the quantity; brokerage \*\*\* KRW customs agents commission; charges after fob are overseas freight \*\*\* KRW charges paid to shipping companies for overseas transportation; overseas insurance - \*\*\* KRW insurance for overseas transportation; credit - \*\*\* commissions paid to banks for fx transactions; indent commission \*\*\* KRW; others \*\*\* KRW miscellaneous expenses such as postage, printing etc. The total cost on account of adjustments claimed is \*\*\* KRW. The ex-factory export price is therefore \*\*\* KRW/MT for MCL-bulk or USD \*\*\*/MT at an exchange rate of 1USD=1200.4 KRW during the POI for the purpose of these preliminary findings.

### Export Sales by SFC of MCL - Bulk

SFC has sold a quantity of 610 MT of a cnf value of USD \*\*\* which amounts to \*\*\* KRW at an exchange rate of 1284.80 KRW=1 USD. The average selling price therefore works out to \*\*\* KRW. After considering the adjustments as claimed excluding charges on account of overseas freight, the ex-factory export price is \*\*\* KRW/MT for MCL-bulk or USD \*\*\*/MT.

### **(B) Exports of MCL - Drum**

The rate reported in Appendix 3A for export sales of MCL-drum is \*\*\* KRW/MT. Adjustments claimed are discounts/commissions- nil; charges after ex-factory are on account of packing - \*\*\* as MCL (drum) is packed into drums and the packing cost is the sum of drum costs and packing labour; inland freight \*\*\* KRW (for inland transportation normally using truck); loading charge - \*\*\* KRW for loading MCL drum on board; survey/investigation \*\*\*KRW for investigation of MCL drum for security check; brokerage \*\*\*KRW (customs agents commission); charges after fob are overseas freight \*\*\* KRW charges paid to shipping companies for overseas transportation; overseas insurance - \*\*\*KRW insurance for overseas transportation;

credit - \*\*\* commissions paid to banks for fx transactions; indent commission \*\*\* KRW; others \*\*\*KRW miscellaneous expenses such as postage, printing etc. The total cost on account of adjustments claimed is \*\*\* KRW. The ex-factory export price is therefore \*\*\*KRW/MT for MCL-drum or USD \*\*\*/MT at an exchange rate of 1USD=1200.4KRW during the POI for the purpose of these preliminary findings.

### **(C) Non-cooperating Exporters**

The weighted average cif price as per the information available with the Authority is determined at Rs \*\*\*/MT or USD \*\*\*/MT from Korea RP for the packed product and Rs \*\*\*/MT or USD \*\*\*/MT for the bulk product. The ex-factory export price has been determined after considering charges as claimed by the co-operating exporter from Korea RP. After adjustments the ex- factory fob export price is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT for the packed form of the subject goods and Rs \*\*\*/MT or USD \*\*\*/MT for the bulk product for all non-cooperating exporters from Korea RP at an average exchange rate of Rs 48.82= 1USD during the POI for the purpose of these preliminary findings.

### **iii. Dumping margin**

#### **(A) MCL - Bulk**

##### 1. M/s SFC and Samsung Corporation

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 19.91% of export price) for the purpose of these preliminary findings.

##### 2. Direct exports by M/s SFC

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 15.52% of export price) for the purpose of these preliminary findings.

#### **(B) MCL - Drum**

##### All exports by SFC through Samsung Corporation

Considering the normal value 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 7.36% of export price) for the purpose of these preliminary findings.

## **2. All Other Non-operative Exporters**

Considering the normal value at USD \*\*\*/MT and the ex-works export price at USD \*\*\*/MT for the packed product, the dumping margin determined by the Authority comes to USD \*\*\*/MT (which is 11.83% of export price) for the purpose of these preliminary findings, as per 'facts available' in terms of Rule 6(8).

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 78.99% of export price) for the purpose of these preliminary findings, as per 'facts available' in terms of Rule 6(8).

## **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.

The Authority notes that the margin of dumping and quantum of imports from the subject country 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.	1999-2000	April 2000-March 2001	April 2001 - March 2002	April to December 2002 - 9 months (POI)
Korea RP	---	508,000	304,927	15,63,210 39,94,000 (as reported by SFC)
Other sources	103,81,534	33,46,700	30,68,304	32,39,323
Total imports	103,81,534	38,54,700	33,73,231	48,02,533

The increase in the total imports of Methylene Chloride from the subject country was significant in the POI as compared with the quantum of imports in 2000-01. The subject country accounted for 32.55% of the total imports in the POI.

The share of South Korea in total imports was 13.18%, 9.04% and 83.16% respectively in 2000-2001, 2001-2002 and in the POI.

### b. Production and Capacity Utilisation

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

GACL (MT)	2000-2001	2001-2002	April-Dec 2002 (POI)	POI (annualised)
Installed Capacity	8910	8910	6682.5	8910
Production	9559	8975	6727	8969
Capacity Utilisation (%)	107.28	100.73	100.67	100.67

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-02	Quarter 2 July - Sept. 02	Quarter 3 Oct.-Dec. 02	POI
Installed Capacity (MT)	2227.5	2227.5	2227.5	6682.5
Production (MT)	2396	2276	2055	6727
Capacity Utilisation %	107.56	102.18	92.26	100.67

From the above, it is seen that production has declined in the third quarter. 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)

	2000-2001	2001-2002	April-Dec 2002 (POI)	POI (annualised)
Sales of Petitioner	9414	8825	6741	8988
Sales of other dom. Producers				
Chemplast Sanmar	14396	14557	10543	14057

SRF	6586	7448	5586	7448
Total Sales	30396	30830	22870	30493
Demand	34251	34203	27672	36896
Share of petitioner	27.48%	25.80%	24.36%	24.36%
Share of petitioner + supporter in demand	69.51%	68.36%	62.46%	62.46%
Share of imports in demand	11.25%	9.86%	17.35%	13.01%
Share of dumped imports	1.48%	0.89%	5.65%	10.82%

It is seen that total and dumped imports in the POI (April-December 2002) have increased in absolute terms as compared to the previous year (2000-01). While the market share of imports from the subject country have increased in demand the share of the domestic industry has declined in the POI.

#### d. Price undercutting and price depression

Rs/kg

Year	Sales Realisation (Rs/kg) Bulk Packed		Landed Price of Imports South Korea DGCIS SFC Bulk Packed		
2000-2001	***	***		---	---
2001-2002	***	***	***	---	---
Apr-Dec 2002 (POI)	***	***	***	***	***

It is evident from the above table that significant price undercutting exists for the bulk product forcing the domestic industry to correspondingly reduce its selling prices to respond to the low import prices in the market.

#### e. Profitability:-

(Rs. per MT)

Petitioner	2000-2001	2001-2002	April-Dec 2002 (POI)
Cost of Production	***	***	***
Selling price	***	***	***
Profit & Loss	(***)	(***)	(***)

From the above table it is seen that the unit cost of production has increased (between 2001-02 and the POI) but the selling price has declined. 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-02	Quarter 2 July - Sept. 02	Quarter 3 Oct.-Dec. 02	POI
--	------------------------	---------------------------	------------------------	-----

Sales Volume	2045	2123	8079	12247
Selling Price Rs/MT	***	***	***	***
Selling Price Indexed	100	105.27	96.43	
Cost of Production Rs/MT	***	***	***	
Cost of Production Indexed	100	111.45	119.25	
Profit/Loss Rs/MT	_* **	_* **	_* **	_* **
Profit/Loss Indexed	-100	-175.17	-354.60	

The profitability of the domestic industry has deteriorated very significantly in the investigation period. The per unit losses have increased significantly in the period of investigation.

#### f. Closing stocks:-

(MT)

2000-2001	2001-2002	April-Dec 2002 (POI)
237	248	228

#### g. Cash Flow

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

#### h. Wages

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. Employee

Employment level of the domestic industry remained largely constant during the period as the domestic industry is a multi product company and the company has a policy to retain its people even in these conditions.

#### j. Market Share

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.

#### **k. Growth**

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

#### **l. Ability to raise funds for investment**

The petitioner is a multi product company. Therefore, its overall performance which is more relevant for assessing its ability to raise funds is not materially linked to the subject goods.

#### **m. Return on capital employed**

Domestic industry is making losses and return on capital employed is negative.

#### **n. Dumping Margin**

Dumping margin in respect of imports from Korea RP is not only more than de-minimis but also substantial.

#### **o. Price Effect**

The landed value of the imported subject goods is significantly below the selling price and cost of production of the domestic industry resulting in price undercutting, price suppression/depression in the market.

### **J. CONCLUSION ON INJURY**

In view of the foregoing it is observed that:-

- a. the quantum of imports from the subject country has increased in absolute terms;
- 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.

### **K. CAUSAL LINK**

8.The Authority holds that the material injury to the domestic industry has been caused by imports from the subject country that is a major exporter of Methylene Chloride to India. The Authority notes that the volume and value of imports of Methylene Chloride from other countries are either de-minimis 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 62.46% in the period of investigation, the share of dumped imports has increased from 1.48% in 2000-01 to 10.82% in the period of investigation. The Authority notes that import prices from the subject country 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.

## **L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

9. 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.

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

11. 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.

## **M. LANDED VALUE**

12. 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.

## **N. CONCLUSIONS**

13. It is seen after considering the foregoing that:

- a. Methylene Chloride described under para 6 originating in or exported from South Korea has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered material injury;
- c. material injury has been caused by imports from the subject country.

14. 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 South Korea, 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.9.

Sl. No	Sub-Heading or Tariff Item	Description of Goods	Specification	Country of Origin	Country Of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	2903.12	Methylene Chloride	Bulk	Korea RP	Any Country Other than Korea RP	Samsung Fine Chemicals	Samsung Fine Chemicals	47.12	MT	USD
2.	2903.12	Methylene Chloride	Bulk	Korea RP	Any Country Other than Korea RP	Samsung Fine Chemicals	M/s Samsung Corporation	58.24	MT	USD
3.	2903.12	Methylene Chloride	Bulk	Korea RP	Any Country Other than Korea RP	Samsung Fine Chemicals	Any other exporter	47.12	MT	USD
4.	2903.12	Methylene Chloride	Packed	Korea RP	Any Country Other than Korea RP	Samsung Fine Chemicals	M/s Samsung Corporation	22.96	MT	USD
5.	2903.12	Methylene Chloride	Packed	Korea RP	Any Country Other than Korea RP	Samsung Fine Chemicals	Any other exporter	22.96	MT	USD

6.	2903.12	Methylene Chloride	Bulk	Korea RP	Any Country Other than Korea RP	Any other Producer	M/s Samsung Corporation	35.42	MT	USD
7.	2903.12	Methylene Chloride	Bulk	Korea RP	Any Country Other than Korea RP	Any other Producer	Any other exporter	35.42	MT	USD
8.	2903.12	Methylene Chloride	Packed	Korea RP	Any Country Other than Korea RP	Any other Producer	M/s Samsung Corporation	154.8	MT	USD
9.	2903.12	Methylene Chloride	Packed	Korea RP	Any Country Other than Korea RP	Any other Producer	Any other exporter	154.8	MT	USD
10.	2903.12	Methylene Chloride	Bulk	Any Country Other than Korea RP	Korea RP	Samsung Fine Chemicals	Samsung Fine Chemicals	47.12	MT	USD
11.	2903.12	Methylene Chloride	Bulk	Any Country Other than Korea RP	Korea RP	Samsung Fine Chemicals	M/s Samsung Corporation	58.24	MT	USD
12.	2903.12	Methylene Chloride	Bulk	Any Country Other than Korea RP	Korea RP	Samsung Fine Chemicals	Any other exporter	58.24	MT	USD
13.	2903.12	Methylene Chloride	Packed	Any Country Other than Korea RP	Korea RP	Samsung Fine Chemicals	M/s Samsung Corporation	22.96	MT	USD
14.	2903.12	Methylene Chloride	Packed	Any Country Other than Korea RP	Korea RP	Samsung Fine Chemicals	Any other exporter	22.96	MT	USD
15.	2903.12	Methylene Chloride	Bulk	Any Country Other than Korea RP	Korea RP	Any other producer	M/s Samsung Corporation	35.42	MT	USD
16.	2903.12	Methylene Chloride	Bulk	Any Country Other than	Korea RP	Any other producer	Any other exporter	35.42	MT	USD

				Korea RP						
17	2903.12	Methylene Chloride	Packed	Any Country Other than Korea RP	Korea RP	Any other producer	Any other exporter	154.8	MT	USD
18	2903.12	Methylene Chloride	Packed	Any Country Other than Korea RP	Korea RP	Any other producer	Any other exporter	154.8	MT	USD

## O. FURTHER PROCEDURE

15. 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