

MINISTRY OF COMEMRCE GOVERNMENT OF INDIA

NOTIFICATION

New Delhi, the 7th May, 1997

Subject:-Anti-dumping investigation concerning import of Hydro-desulpherisation Catalyst (HDS), Zinc Oxide Desulpherisation Catalyst (ZnODS), High Temperature Shift Catalyst (HTS), Low Temperature Shift Catalyst (LTS), Secondary Reforming Catalyst (SR), Methanation Catalyst (Meth) from Denmark - Preliminary Findings.

ADD/IW/39/95-96- Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 – thereof.

A. PROCEDURE

1. The procedure described below has been followed with regard to the present investigation:

- a. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s United Catalysts India Ltd. (UCIL) and project & Development India Ltd. (PDIL), alleging dumping of the following catalysts originating in or exported from Denmark:
 - i. Hydrodesulpherisation Catalyst (HDS);
 - ii. Zinc Oxide Desulpherisation Catalyst (ZnODS);
 - iii. High Temperature Shift Catalyst (HTS);
 - iv. Low Temperature Shift Catalyst (LTS);
 - v. Secondary Reforming Catalyst (SR);
 - vi. Methanation Catalyst (Meth).

The above catalysts have been referred to as subject catalysts in this notification.

- b. The preliminary scrutiny of the application revealed certain deficiencies, which were pointed out to the petitioners.
- c. The Authority, on the basis of sufficient evidence submitted by the petitioners, decided to initiate investigations against import of subject catalysts originating in or exported from Denmark. The Authority notified the Embassy of Denmark

about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules;

- d. The Authority issued a public notice dated 6.9.1996, published in the Gazette of India, extraordinary, initiating anti-dumping investigation concerning imports of the subject catalysts, classified under chapter 38 and 98 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from Denmark;
- e. The Authority forwarded copy of the public notice to the known exporter (whose details were made available by the petitioners) and industry associations and gave them an opportunity to make their views known in writing, within forty days, in accordance with the rule 6(2);
- f. Authority forwarded copies of the public notice to the known importers of the subject catalysts in India and advised them to make their views in writing within forty days from the date of the letter.
- g. Request was also made to the Central Board of Excise & Customs (CBEC) to arrange copies of all relevant Bills of Entries for the period of investigation. No information was, however, received from CBECE;
- h. The Authority provided copies of the petition to the known exporter and the Embassy of Denmark in accordance with rule 6(3) supra;
- i. The Authority sent questionnaire, to elicit relevant information to M/s. Haldor Topsoe A.S., Denmark (hereinafter referred to as Haldor Topsoe or HTAS);

Haldor Topsoe, vide fax dated 4.10.1996 requested for extension of time by two months. The company, however, vide letter dated 24.10.1996 revised the request and sought time upto 8.11.1996, which was allowed by the Authority. The exporter filed response to the questionnaire within the extended time;

- j. The Embassy of Denmark in New Delhi was informed about the initiation of the investigation, in accordance with rule 6(2), with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the petition and questionnaire sent to the exporter was also sent to the Embassy;
- k. The questionnaire was sent to the following known importers of the subject catalysts in India calling for necessary information in accordance with rule 6(4);
 - i. Krishak Bharti Cooperative Ltd., Surat;
 - ii. National fertilizers Ltd., Vijaipur;
 - iii. Indo Gulf Fertilizers & Chemicals Corpn. Ltd.;
 - iv. Indian Farmers fertilizers Cooperative Ltd.;
 - v. Nagarjuna Fertilizers & Chemicals Ltd., Kakinada;
 - vi. Steel Authority of India Ltd., Rourkela;
 - vii. Shreeram Fertilizers & Chemicals Ltd., Kota;

- viii. Madras Fertilizers Ltd., Madras;
- ix. Fertilizers & Chemicals Travancore Ltd., Udyogmandal;
- x. Tata Chemicals Ltd., Badaun;
- xi. Bindal Agro Chemicals Ltd., Shahjahanpur;

The following information was received:

- i. Steel Authority of India Ltd., Rourkela: No Imports
- ii. National Fertilizers Ltd., Vijapur: It had imported HTS from HTAS, details of which are as follows:

Catalyst	P.O. Date	Date Invoice	Qty. (Kgs)	Rate Rs./Kg.
HTS	****	****	****	****

- iii. Indian Farmers Fertilizer Co-operative Ltd., Bareilly: It has imported the following catalysts from Denmark for its A.E.P. Plant:

Catalyst	P.O. Date	Date Invoice	Qty. (Kgs)	Rate Rs./Kg.
ZnODS	****	****	****	****
ZnODS	****	****	****	****

- iv. Madras Fertilizers Ltd: No Imports
- v. Tata Chemicals Ltd : No Imports
- l. Information regarding injury to the Domestic Industry was sought from PDIL and UCIL;
- m. Office and Works of UCIL at Cochin were visited by a team of officials deputed by the Authority with a view to conduct on-the-spot investigations;
- n. Cost investigation were also conducted to work out optimum cost of production and cost to make and sell the subject catalysts in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioners so as to ascertain if anti dumping duty lower than the dumping margin would be enough to remove injury to the domestic industry;
- o. Investigation was carried out for the period starting from 1st April, 1994 to 30th Sept., 1995;

B. PETITIONER'S VIEWS

2. The petitioners have raised the following major issues in their petitions and subsequent submissions:

(i) On Dumping

- a. Haldor Topsoe's is dumping the subject catalysts with the sole aim of capturing Indian business so that the Indian industry makes losses and is not able to finance its R & D efforts;
- b. Haldor Topsoe's strategy is to quote very low prices for 'non-proprietary' catalysts and compensate the losses so incurred by selling their 'proprietary' catalysts at high prices. In case of sales of these catalysts for replenishment charges, the exporter has quoted much lower prices. The exporter would, therefore, hold the country to ransom in the absence of competition;
- c. All companies in Europe are selling at prices close to their list prices;
- d. Haldor Topsoe export price to Middle East or South East Asia are at par or higher than European prices;
- e. Cost of production of European manufacturers is much more than UCIL's cost of production;
- f. Haldor Topsoe is exporting to India at half the European costs;
- g. Haldor Topsoe is offering huge discounts of upto 42% on officially tendered prices;
- h. Current export prices are lower than the prices prevailing ten years ago;

(ii) On Injury

Haldor Topsoe's dumping has led to injury to the petitioners on account of the following:

- a. The sales turnover has drastically declined;
- b. The petitioners have been forced to reduce selling prices, resulting in financial losses;
- c. Market share of the Indian industry has declined from 94% to 71%;
- d. The petitioner's productivity has declined;
- e. The petitioners may not be able to keep their R & D efforts, which is vital for the industry.

C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

3. The views expressed by HTAS, importers and other interested parties, who have responded to the Authority, are as under:

Haldor Topsoe

(i) On like articles:

- a. HTS made by HTAS has different raw material than HTS made by the petitioners. The two are not like articles;

(ii) On dumping:

- a. There was no dumping of catalysts into India;
- b. HDS catalyst was not manufactured in Denmark. The same was procured by Haldor Topsoe from its affiliates in USA and exported to India. Since Denmark is not the country of origin, investigation in respect of HDS catalyst must be terminated;
- c. In case normal value in accordance with Section 9A (1)c(i) is not available, the same may be derived in accordance with Section 9A(1)c(ii), which permits determination of normal value on either of the two options provided in the said Section. It is not necessary that these options should be exhausted in the sequence in which they are given in the said Section. The exporter has , therefore, decided to make available normal value in accordance with Section 9(1)c(ii)(b). The exporter has argued that there is “an in-built arbitrariness” in determining normal value in accordance with section 9A(1)c(ii)(a) (comparable export price to other countries);
- d. The sale price of four catalysts have been higher than the cost of production including profit. The sale price in respect of the remaining two catalysts (ZnODS and LTS) did not fully cover the costs for special reasons;
- e. HTAS’s products are superior- in India or world over;
- f. HTAS did not get orders at the high prices indicated by the petitioners;
- g. There is nothing like EEC cost of production or EEC list price. Cost of production varies from producer to producer. Anti-Dumping Duty is exporter specific and not country specific;
- h. HTAS did not get any order at the South East Asian or Middle East prices referred in the petitions;

(iii) On injury

- a. The petitioners have blacked out much of the information relating to injury making comments difficult. Non-disclosure of such information will be in violation of the principles of natural justice;
- b. Demand of the catalysts fluctuate from year to year in view of the life of the catalysts. Sales, capacity utilisation, stock position etc. are bound to vary from year to year. Consequently these factors are not indicators of injury per se and the causal link can not be established;
- c. The catalyst wise comments on injury are as follows:

- i. **HDS** : The capacity utilisation increased from 4.1% (1992-93) to 9.9% (1994-95). Employment also increased from 3 to 13. Sales have almost tripled and there was no closing stock;
 - ii. **ZnODS**: Capacity utilisation increased marginally in 1994-95 as compared to 1992-93. Stock had reduced significantly and sales had shown improvement;
 - iii. **SR**: There was no import of this catalyst during 1994-95 and therefore, the fall in the capacity utilisation cannot be attributed to dumping;
 - iv. **HTS**: The decline in capacity utilisation in 1993-94 as compared to previous year cannot be attributed to dumping as there was no import of this catalyst in 1993-94. There are other reasons for fluctuating capacity utilization of this catalyst;
 - v. **LTS**: The decline in capacity utilisation in 1993-94 as compared to previous year is attributable to export sales. The sales in 1994-95 were low in view of high opening stocks;
- d. Section 9A provides for levy of an 'anti dumping duty'. There cannot be two different injury margins and rates of Anti-Dumping Duties;
 - e. The petitioner's prayer is in respect of the subject catalysts under Heading 38.15. Project imports at nil rate of duty have been allowed by the Central Govt. in public interest;
 - f. It is an established law that levy under the Act is the rule and exemption is an exception. It is not logical to take the exempted rate as the basis for injury margin;
 - g. Landed value of imports inclusive of customs duties will not result in any injury margin. No Anti Dumping Duty is therefore leviable;
 - h. HTAS is the only company which provides technical know-how alongwith the material. This is the reason for preference to HTAS by the importers. The importers requested HTAS to match the prices, on negotiations, though the company generally ensured that the supplies were not below cost of production and mark-up;
 - i. The exporter was forced to reduce the prices and offer substantial discounts at the instance of the importers. This cannot be termed as dumping;
 - j. PDIL has become as sick company, cost of which is not attributable to the imports from Denmark.

D. EXAMINATION OF THE ISSUES RAISED

4. The submissions made by the exporter, importers, petitioners and other interested parties have been examined and considered while preparing this report and have been dealt at appropriate places in this notification.

E. PRODUCT UNDER CONSIDERATION

5. The products under consideration in the present investigation are of the following description:

- i. Hydrodesulphurisation Catalyst (HDS);
- ii. Zinc Oxide Desulphurisation Catalyst (ZnODS);
- iii. High Temperature Shift Catalyst (HTS);
- iv. Low Temperature Shift Catalyst (LTS);
- v. Secondary Reforming Catalyst (SR);
- vi. Methanation Catalyst (Meth).

These catalysts have been referred to as subject catalysts in these findings.

The details of the subject catalysts are as follows:

- a. **HDS**: Cobalt-Molybdenum/Nickel-Molybdenum based catalyst on High Surface Alumina carrier in the form of regular extrusion and high geometric surface extrusion.
- b. **ZnODS**: Zinc Oxide based catalyst having specific physical and textural properties, blended with suitable binders in the form of pellets;
- c. **SR**: Nickel based catalyst on alpha alumina carrier or calcium aluminate compound in the form of rings/high geometric surface rings.
- d. **HTS**: This is an iron chrome and copper promoted iron chrome based catalyst;
- e. **LTS**: This is a copper-zinc on alumina based catalyst in the form of tablets.
- f. **METH**: This is a nickel-alumina based catalyst in the form of tablets and /or sphere.

6. A catalyst is an inorganic substance which hastens or retards a chemical reaction without necessarily undergoing a chemical change itself during the process. Catalyst is used to facilitate a specific reaction. Different types of catalysts may be required to enhance or retard the efficiency of operation. The type of catalyst required largely depends on the chemical reaction-taking place. Catalysts are specifically designed for a particular reaction. Each catalyst has different bulk density, physical and chemical properties.

7. The subject catalyst are solids in the form of tablets, rings, spheres or extrusions. Production of catalysts is normally accounted for in weight but the same are usually sold in volumes.

8. The subject catalysts are classified under chapter 38 and also under 98 of schedule I of the Customs Tariff Act, 1975. The classification is, however, indicative only and is in no way binding on the scope of the present investigation

The catalysts imported under chapter 98 were subject to nil rate of customs duties during the period of investigation.

F. LIKE ARTICLES

9. In so far as the subject catalysts other than HTS are concerned, there is no dispute that the catalysts produced and sold by the petitioners were alike in all properties to the catalysts imported from Denmark. As regards HTS, the exporter has argued that the HTS produced by HTAS is made of iron oxide with stabilization by chromium. The exporter has further argued that all the catalysts manufacturers are using the chromium stabilized iron oxide as HTS, while HTAS has developed copper promoted chromium stabilized iron oxide catalyst as HTS. According to HTAS, this is a new product, not manufactured by the petitioners during the investigation period and not a like article to the HTS produced by the domestic industry.

10. It is observed that the HTAS has merely claimed that the HTS produced by them is made from raw-material which is different from the raw-material used by all other producers. It is not the argument of the exporter that the product under consideration, namely, HTS is not commercially and/or technically substitutable to the catalyst produced by the domestic industry. Rule 2(d) of the Rules supra covers in its scope not only those goods which are identical in all respects to the alleged dumped products but even those closely resembling characteristics. The Authority, therefore, holds that the HTS produced by the domestic industry is a like article to the HTS exported by STAS in terms of rule 2(d).

G. DOMESTIC INDUSTRY

11. M/s. United Catalyst India Ltd., 402/403, Mansarovar, 90 Nehru Place, New Delhi- 110 019 and projects & Development India Ltd., A 14, Sector 1, Noida – 201301 have filed separate petitions. UCIL filed petition for all the subject catalysts, whereas PDIL petition is for all subject catalysts except HDS, as the company does not produce this catalyst. M/s. ICI India Ltd., Panki, Kanpur –208 001 is also a producer of catalysts in India. However, it has not produced these subject catalysts since 1992-93. Production of the petitioners accounted for the majority production of the subject catalysts in India during the investigation period. The petition is, therefore, considered as having being made by the domestic industry and the petitioners constitute domestic industry in accordance with Rule 2 (b) supra.

H. NORMAL VALUE

12. Under Section 9A(1)(c), normal value in relation to an article means:

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

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

13. (i) HTAS has argued that in case normal value in accordance with Section 9A(1)c(i) is not available, then the same may be derived in accordance with Section 9A(1)c(ii), which permits determination of normal value on either of the two options provided in the said Section. It is not necessary that these options should be exhausted in the sequence in which they are given in the said Section. The exporter has, therefore, decided to make available normal value in accordance with Section 9A(1)c(ii)(b). The exporter has argued that there is 'an in-built arbitrariness' in determining normal value in accordance with Section 9A(1)c(ii)(a) (comparable export price to other countries)

(ii) It has further been argued that the sale price of four catalysts have been higher than the cost of production including profit. The sales price in respect of the remaining two catalysts (ZnODS and LTS) did not fully cover the costs for special reasons.

(iii) The Authority finds that under Section 9A(1)c(i) normal value in relation to an article means the comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory. Clause (ii) prescribes for two methods of calculation of normal value under sub-clauses (a) and (b). However, the important point to note is that clause (ii) can be resorted to only and only if there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory. In the instant case, HTAS has not denied the fact that they have made sales to other countries in Europe which are a part of the European Union. The European Union is a customs union where there are no customs barriers or duties and where common rates of duty are applied to imports from non-member countries. Even anti dumping and countervailing measures are adopted for the entire territory of EU as a whole irrespective of the fact that the exports may have been made only to some of the constituents of the EU. The EU can, therefore, be considered as a territory as envisaged under Section 9A(1)c(i). The representatives of the exporter were also asked to provide information with regard to their export price to other countries, but no information was received either from the exporter or its representatives in India. The Authority has, therefore, considered that HTAS has failed to provide information with regard to normal value prevailing in the territory of EU, even though the same exists, to enable the Authority to arrive at a fair normal value in accordance with the legal provisions.

(iv) As regards the claims made by the exporter that they have an option to give information either under sub-clause (ii)(a) or sub-clause (ii)(b), the Authority observes that the applicability of clause (ii) itself is not invoked as comparable prices in the ordinary course of trade in the exporting territory exist but the exporter has not cooperated with the Authority in providing with that information. Notwithstanding the fact that clause (ii) is not applicable in view of the discussions above, the contention of the exporters that they have an option to choose between sub-clause (ii)(a) or (ii)(b) is not tenable, in as much as the exporter is obliged to give information as asked by the Authority under rule 6(4). It is for the Authority to determine the normal value under sub-clause (a) or (b) after considering all the facts, as asked for, in terms of the rules in this regard.

(v) In view of the above, the Authority has discarded the costing information provided by the exporter as recourse to this method for arriving at the normal value is not supported by law. The Authority has, therefore, determined the normal value in terms of the best information available to it.

(vi) The petitioners have submitted copies of some of the orders received by other suppliers within the European Community. The Authority observes that the list price and the prices prevailing within the European Territory, as indicted in the evidence given by the petitioners, are in the same band. It may, therefore, be appropriate to take

the list prices for the purpose of arriving at the normal values for all subject catalysts except HDS which has been separately dealt with in the following paragraph.

14. (i) In the case of HDS, the exporter has claimed that the said catalyst was not manufactured by them in Denmark but was procured from their affiliates in USA and exported to India. The normal value for this catalyst, therefore, is required to be worked out in terms of proviso to Section 9A(1)c. Accordingly, the Authority, vide its letter dated 12.12.96 requested the exporter through its representative to furnish the normal value of HDS in USA. The exporter vide their letter dated 3.1.97 reiterated its contention made in their initial response to the questionnaire. The exporter further requested that since they have not produced the goods in Denmark, investigation should be terminated with regard to this particular catalyst. The Authority observes that the exporters refrained from providing normal value as prevailing in USA despite being requested to do so by the Authority vide its letter dated 12.12.96. The rules with regard to determination of normal value very clearly provide, as stated above, the method to be followed in case of goods being exported from a country or territory other than the country of origin. Once the normal value is worked out under the rules, the existence and degree of dumping is to be seen in the context of the normal value so determined. There is no basis or reason for termination of investigation on this ground. In view of the above, the Authority has considered determination of normal value as prices prevailing in USA, on the basis of best information available to it.

(ii) The petitioners have submitted list price of all catalysts including the price of HDS as prevailing in the USA during the period of investigation. Since there is reasonable evidence to suggest that the list prices are indicative of the actual prices prevailing, and in view of the fact that there is no evidence to the contrary, the Authority adopted the list prices as prevailing in USA for determination of normal value for HDS.

I. EXPORT PRICE

15. The petitioners furnished, in their petitions, details of export price on the basis of transactions entered by HTAS. The same were relied upon for initiation. HTAS has furnished details of all the subject catalysts exported by it during the investigation period. On scrutiny, it was found that the export transactions reported by the petitioners did not tally with the transactions reported by HTAS. The exporter was therefore, requested to furnish details of all the transactions entered into during the investigation period. The exporter, however, furnished only the details of all transactions effected by it during the investigation period. Since the exporter has not furnished complete information required by the Authority, the export price has been worked out on the basis of the information furnished both by the petitioners and HTAS.

J. COMPARISON

16. The rules relating to comparison provides as follows:

“While arriving at margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowances shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability.”

17. The Authority has observed that the majority of catalysts are sold through tenders. There is a considerable time lag between the price contract and the date of actual delivery. The rules provides that comparison is required to be made in respect of the ‘sales’ and not imports. The rules further provides that due allowances shall be made in each case, on its merits, for differences which affect price comparability. The Authority observes that it is the price contract which leads to price undercutting or underselling causing injury to the domestic industry. The fact that the deliveries may be made outside the investigation period is of no direct consequence. In view of the same, comparisons have been made between the normal value and the export prices contracted during the investigation period without reference to the period of actual import/deliveries.

18. The comparison shows the following dumping margins:

S. No.	Name of the Catalyst	Normal Value	Export Price When Imported Under 38 98	Dumping Margin* When Imported Under 38 98
1.	Hydrodesulpherisation (HDS)	****	****	32.61
2.	Zinc Oxide Desulpherisation (ZnODS)	****	****	76.06
3.	High Temp. Shift (HTS)	****	****	135.58
4.	Low Temp. Shift (LTS)	****	****	100
5.	Secondary Reforming (SR)	****	****	Nil
6.	Methanation (Meth.)	****	****	134.74

* as percentage of export price.

K. INJURY

19. Under Rule 11, supra, Annexure-II, when a finding of injury is arrive at, such findings shall involve determination of the injury o the domestic industry, “.... Taking

into account all relevant facts, including the volume of dumped imports, their effects on prices the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...” 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 product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

20. For the examination of the impact of imports on the domestic industry in India, the Authority may consider such further indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the rules supra.

21. (i) The effect of the dumped imports shall be assessed, in accordance with para (vi) of the Annexure II to the Rules, in relation to the domestic production of the like article when available data permit separate identification of that production on the basis of such criteria as the production process, producers’ sales and profits. If such separate identification of that production is not possible, the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

(ii) In the instant case it is observed that the demand for the subject catalysts fluctuates significantly over a period of time. One of the factors contributing to this peculiar demand pattern is the long life of the catalysts. It is also observed that though the different types of catalysts have different characteristics, usage etc., there are a number of processes which use common equipment and facilities. In view of the fact that the production processes as well as the production capacities overlap each other in varying proportions, it would not be appropriate nor feasible to assess the injury to the domestic industry for each individual type of catalyst. The Authority, therefore, in accordance with the para 6 of Annexure II to the Rules, considers it appropriate to assess the injury for all the six types of catalysts cumulatively.

a. Volume and Market Share of Dumped Imports:

The petitioners have reported that HTAS has been the sole exporter of the subject catalysts to India since 1992. The Authority observes that the Indian industry had a market share of 93.9% (1988) which declined to 74% in 1992 and 68% in the investigation period.

b. Factors affecting domestic industry:

i) Production and Capacity Utilisation:

Overall capacity utilisation of UCIL declined by 28% between 1992-93 and 1994-95. The petitioner reported that the fall in the capacity utilisation is in spite of increasing market of catalysts in India. The other Indian producer, M/s. ICI has not produced any of the subject catalyst since 1992-93, in spite of increasing demand of the catalysts in India.

ii) Sales in Absolute Quantity:

Overall sales of UCIL in the domestic market declined by 33 percent in 1994-95 as compared to 1992-93. UCIL has reported major loss of sales to the exporter from Denmark. The petitioner has lost business because of non-availability of orders for the subject catalysts. PDIL has reported non-availability of orders for PR catalyst because of exports by HTAS.

iii) Selling Prices Trend

The petitioners had to reduce the prices in order to get orders in view of lower prices offered by HTAS. UCIL has been forced to quote price significantly lower than its list prices. It is observed that the prices quoted by UCIL in 1995-96 are significantly lower than the prices at which the company got orders in the past three years and 1983. In case of PDIL also, the selling prices of the subject catalysts (except ZnODS) in 1994-95 were significantly lower than prices in 1992-93.

The Authority observes that the lower prices quoted by HTAS would directly affect the prices which the domestic industry might offer in future. In an industry like the present, where marketing is on the basis of tendering, even a lower offer made by a participant may force the others in the industry to quote lower prices.

iv) Profit/Loss:

Sales at significantly lower prices coupled with the lower sales volume resulted in substantial financial losses to UCIL in 1994-95 whereas the company was earning profits. In case of PDIL, the losses have increased in 1994-95 as compared to the previous year.

v) Employment and productivity:

UCIL has reported substantial reduction in productivity from 5.02 MT per person per year in 1992-93 to 2.68 MT per person per year in 1994-95. UCIL has alleged that the loss of profits shall adversely affect its R&D effects. It is appreciated that no business Organisation can afford to invest in R & D activities in case its operations are not profitable. R & D activities are vital for the very survival of an industry like catalyst. PDIL has reported loss of productivity by around 32% as compared to 1992-93 in view of lower sales.

22. The Authority thus observes that the domestic industry has suffered material injury from imports originating in or exported from Denmark. It is also evident that the dumping, if continued, would have serious depressing and/or suppressing effect on prices of these catalysts in the market.

L. CAUSAL LINK

23. In determining whether material injury to the domestic industry was caused by the dumped imports, the Authority took into account the following facts:

- i. The imports of the subject catalysts from Denmark increased significantly relative to the production and consumption in India. Consequently, the domestic industry lost its market to a significant level.
- ii. The substantial imports at dumped prices forced the domestic industry to reduce its selling prices to unremunerative level which resulted in a situation of price under selling in the Indian market. Imports from Denmark led to reduction of prices in the Indian market to such an extent that the domestic industry was prevented from recovering its full cost of production and earn a reasonable profit.

The Authority thus arrived at a conclusion that the material injury to the domestic industry was caused by the dumped imports from Denmark.

M. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

24. 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.

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

measures, particularly if the levy of the anti dumping duty is limited to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject catalysts. The Authority notes that the imposition of anti dumping measures would not restrict imports from Denmark in any way, and, therefore would not affect the availability of the product to the consumers.

26. To ascertain the extent of Anti-dumping duty necessary to remove the injury to the domestic industry, the Authority has relied upon reasonable selling price of the subject catalysts in India for the domestic industry, by considering the optimum cost of production for the domestic industry.

N. LANDED VALUE:

27. The subject catalysts may be imported either under chapter 38 or 98. The custom heading under which the goods may be cleared depends upon the purpose for which the catalysts are imported. In case the imports are under “project import” category, the same are cleared under chapter 98 at nil rate of customs duty. The same are otherwise cleared under chapter 38 and attract prevailing customs duties. It would be, therefore, appropriate to work out two landed values for the imports, one with the prevailing customs duties and one with nil customs duty.

O. CONCLUSIONS

28. The Authority thus, after considering the foregoing, finds that:

- a. Subject catalysts, except HDS originating in or exported from Denmark have been exported to India below their normal value, resulting in dumping;

HDS originating in USA has been exported from Denmark below its normal value, resulting in dumping;

- b. Imports from Denmark have caused material injury to the domestic industry.
- c. The injury has been caused by the imports from Denmark.

29. (i) It is considered necessary to impose anti dumping duties provisionally, pending final determination, on imports of the subject catalysts (except HDS) originating in or exported from Denmark in order to remove material injury to the domestic industry, pending investigation. In case of HDS it is considered necessary to impose Anti

Dumping Duty, provisionally, pending final determination, on imports, of the catalyst when exported from Denmark.

(ii) It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The weighted average landed price of the imports, for the purpose, was compared with the fair selling price of the domestic industry, for individual catalyst, determined for the period of investigation. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is proposed that provisional anti dumping duties, as set out below, be imposed from the date of notification to be issued in this regard by the Central Government, on imports of Catalysts, falling under Chapters 38 & 98 of the Customs Tariff, originating in or exported from Denmark, pending final determination.

(Rs. Per Ltr)

S.No.	Name of the Catalyst	Imported Under Chapter 38	Imported Under Chapter 98
A	Products exported from Denmark		
1.	Hydrodesulpherisation Catalyst (HDS)	36.11	123.17
B.	Products originating in or exported from Denmark		
1.	Zinc Oxide desulpherisation Catalyst (ZnODS)	Nil	21.24
2.	High Temperature Shift Catalyst (HTS)	30.99	92.99
3.	Low Temperature Shift Catalyst (LTS)	Nil	106.44
4.	Secondary Reforming Catalyst (SR)	Nil	192.01
5.	Methanation Catalyst (Meth)	138.61	138.61

30. The known exporters, importers, petitioners and other interested parties are being addressed separately by the Authority, who may make known their views, within forty days from the date of the despatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings.

(Dipak Chatterjee)
Designated Authority