

**MINISTRY OF COMMERCE**  
**(Directorate General of Anti-Dumping & Allied Duties)**

**NOTIFICATION**

New Delhi, the 3rd December, 1999

**PRELIMINARY FINDINGS**

**Subject :** Initiation of anti-dumping investigation concerning import of Oxo Alcohol s from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and The European Union-Preliminary Findings.

**No. 15/1/99-DGAD:-**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 investigation:

- i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received a written application from Oxo Alcohols Industries Association on behalf of domestic industry alleging dumping of Oxo Alcohols (herein after also referred to as subject goods) originating in or exported from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and The European Union;
- ii. Preliminary scrutiny of the application filed by petitioners revealed certain deficiencies, which were subsequently rectified by the petitioners. The petition was therefore considered as properly documented;
- iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigations against imports of Oxo Alcohols from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and The European Union. The Authority notified the embassies/delegations of Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and The European Union about the receipt of application for dumping investigation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules;
- iv. The Authority issued a public notice dated 29th July, 1999, published in the Gazette of India, Extraordinary, initiating antidumping investigations

- concerning, imports of Oxo Alcohols classified under custom code 2905 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and The European Union (hereinafter also referred to as the subject countries);
- v. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the petitioners) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2);
  - vi. The Embassy/Delegation of the subject countries in New Delhi was informed about the initiation of tire investigation in accordance with rule 6(3) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers;
  - vii. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of Oxo Alcohols in India and advised them to make their views known in writing within forty days from the date of issue of the letter. A copy of the petition was also provided to other interested parties.
  - viii. Request was made to the Central Board of Excise and Customs (CBEC) & Director General of Commercial Intelligence & Statistics (DGCI&S) to arrange details of imports of Oxo Alcohols made in India during the past three years, including the period of investigation.
  - ix. A number of parties requested for extension of time, which was allowed by the Authority for four weeks.
  - x. The Authority conducted on-the-spot investigation at the premises of the petitioners to the extent considered necessary.
  - xi. Additional information regarding injury was sought from the petitioners, which was also furnished;
  - xii. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
  - xiii. \*\*\*\*\*in this notification represents information furnished by the interested party on confidential basis and so considered by the Authority under the Rules;
  - xiv. Investigation was carried out for the period starting from 1st April, 1998 to 31st March, 1999;
  - xv. Cost investigations were also 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) and the information furnished by the petitioners so as to ascertain if anti-dumping duty lower than dumping margin would be sufficient to remove injury to the domestic industry;

xvi. The Authority sent a questionnaire, to elicit relevant information, to the following known exporters, in accordance with Rule 6(4);

- Arak Petrochemical Company- Iran
- Petrochemical Commercial Company - Iran
- Tabriz Petrochemical Complex - Iran
- Eastman Chemical Company - USA
- Creatine Coating Co. Inc. - USA
- Alfa Aesaf - USA
- ICC Chemical Corporation -USA
- Vinmar international Limited - USA
- Union. Carbide - USA
- Artistech Chemical Corporation - USA
- Lucky Limited - Republic Of Korea
- L G Chemicals Limited - Republic Of Korea
- Zaklady Azotowe Kedzierzyn - Poland
- Al-Jubail Fertilisers Company - Saudi Arabia
- Pt. Petrowidada - Indonesia
- Huls Aktiengesellschaft - Germany
- BASF - Germany
- HELM - Germany
- Hoechst Celanese - Germany
- Cherische Werke Huels - Germany
- Condea C:zemie Gmbh - Germany
- Nestle Chemicals - Sweden
- Nizhnetamsk - Russia

xvii. A questionnaire was sent to the following known importers calling for necessary information in accordance with rule 6(4);

- Rachna Plasticizers - Mumbai
- KL.I Plasticisers - New Delhi
- PCL Enterprises Limited - New Delhi
- Indo Nippon Chemical Company Limited - Mumbai
- Vision Organics Pvt. Limited - Baroda
- HMG Industries Limited - Mumbai
- API Industrial Corporation - Delhi
- C J Shah & Company - Mumbai
- Harsh Kumar & Company - Mumbai
- Vikas Organics Pvt. Limited - New Delhi
- Kothari Polymers Limited - New Delhi
- Payal Chemicals ,Industries Limited - New Delhi

- Texpo Trading Private Limited - Mumbai
  - Guljoy Industries Limited - Jodhpur Rajasthan
- xviii. Copies of Initiation Notice were also sent to Indian Plasticizers Manufacturers Association, FICCI, CIT, ASSOCHAM etc. for wider circulation.

## **B. PETITIONER'S VIEWS:**

2. The Petitioners have made the following points in their submissions:

- a. Oxo Alcohols is an important input for production of plasticisers and in the paint industry, pharmaceuticals, lube oil additives and acrylics. Oxo Alcohols are being produced in India for over 30 years. 'here are three manufacturers in India, viz National Organic Chemical Industries Ltd (NOCIL), The Andhra Petrochemicals Ltd. (APL) and Indu Nissan Oxo Chemical Industries Ltd (INOCIL). The combined capacity of the three producers is sufficient to largely meet the demand in the country.
- b. Propylene is the major raw material for the production of Oxo Alcohols. The prices of Naphtha based petrochemicals increased substantially in 1995-96. The period witnessed Oxo Alcohol prices crossing USD 1,200/MT. However, with the global recession in the petrochemical industry, the prices of petrochemical products have fallen sharply. This has resulted in Ox Alcohols' prices declining to as low as USD 300-350/MT. The decline in the prices of Oxo Alcohols is not commensurate with the decline in the pricing of input materials. These low prices indicate a case of dumping. Evidently, in view of huge surplus capacities available and global recession, the Indian market has been found as an excellent opportunity to sell the product. The Indian market has witnessed large scale dumping of Oxo Alcohols from a number of countries.
- c. Oxo Alcohol produced by the domestic industry is substitute for Oxo Alcohols being imported from Poland, South Korea, Indonesia, Saudi Arabia, Germany, Russia, Iran, Sweden, USA and Netherlands. The domestic industry is largely able to meet the demand for Oxo Alcohols of the country. However, exports from these countries have increased substantially and have caused material injury to the domestic industry. Domestic industry has a capacity of 87000 MT per annum. It has, however, been able to utilize only 55% of its capacity in the current year due to substantial increase in the dumped imports.
- d. The manufactueres from Sweden, Germany and Netherlands are dumping Oxo Alcohols in India and these countries are members of European Union. There are many other producers of Oxo Alcohols in the European Union. In fact, goods are being imported from a number of other countries in the EU. There is no custom boundary in European Union and the prices prevailing in the

European Union are in the same region. The imposition of anti-dumping duty will not be effective without imposing duty against imports of Oxo Alcohols on the European Union as a whole as other producers may start exporting Oxo Alcohols at the prices at which it is being exported by the producers in Sweden, Germany and Netherlands, resulting in continued dumping in the Indian market, after imposition of anti-dumping duty against these three countries. Even circumventing Anti-dumping duty by the exporters/producers from these countries would not be difficult. Designated Authority is requested to initiate investigations against European Union severally as also Germany, Sweden and Netherlands individually.

- e. The Indian Oxo *Alcohols* industry is suffering serious injury from the onslaught of dumping. The present international prices of USD 300350/MT are significantly below the cost of production of Indian producers. *Should* this price trend continue in the Indian market, the indigenous producers would be forced to close down operations.
- f. In view of the large-scale dumping of the products in India, causing severe injury to the Indian industry, the three producers have jointly filed a petition before the Designated Authority, Ministry of Commerce, through their Association, in the form and manner prescribed.
- g. The main submissions of the petitioners are:
  - i. Imports from the subject countries have increased significantly in absolute terms;
  - ii. Imports from the subject, countries have increased in relation to total imports of Oxo Alcohols in India;
  - iii. Imports from the subject countries have increased in relation to demand of Oxo Alcohols in India As a direct consequence, the market share of the domestic industry has declined;
  - iv. Production of Oxo Alcohols of the domestic industry has declined;
  - v. Capacity utilization of the domestic industry has declined;
  - vi. Sales in absolute volume of the domestic industry have declined;
  - vii. Selling prices of the domestic industry have declined steeply;
  - viii. Imports are significantly undercutting the--wing prices of the domestic industry in spite of steep-reduction in the selling prices;
  - ix. The export price has already declined to US \$ 310 pmt, landed cost of which is below the variable cost of production of the petitioners.
  - x. The profitability of the domestic industry has been severely eroded. The domestic industry has been forced to a situation of losses from a situation of profits.
  - xi. All the parameters affecting domestic industry collectively and cumulatively indicate that the domestic industry has suffered material injury from dumped

imports. Further the extent of injury is aggravating every day with steep and continuous decline in the export price.

## **C. VIEWS OF IMPORTERS, USERS & EXPORTERS**

3.1 A number of importers and one Users Association have responded to the questionnaire and given their views on the investigations. Among the respondents are Indian Plasticizers Manufacturers Association, M/S KLJ Plasticizers, M/S KLJ Polymers & Chemicals Ltd., M/S PCL Enterprises Limited, M/S Vikas Organics Pvt. Limited, M/S Vision Organics Private Limited, M/S API Industrial Corporation, MJS N.K. Polymers and Manufacturing Company & others. The views submitted by them are summarised as follows:

- i. Oxo Alcohols is the generic name used for the group of Alcohols produced by Oxo Process. There is no substitutability between the various Oxo Alcohols. The individual Alcohols are Chemicals having definite specifications and applications and are marketed locally and internationally with their specifications. These can not be treated as 'Like Articles' and can not be substituted.
- ii. The Oxo Alcohols being manufactured in India are as follows:
  1. Normal Butanol;
  2. Iso Butanol;
  3. Iso Decanol;
  4. Iso Octanol; and
  5. 2-Ethyl Hexanol.

Thus the investigation has to be restricted to indigenously manufactured Oxo Alcohols only and Petition, needs modifications and resubmission covering the aforesaid Oxo Alcohols only.

- iii. The Import Statistics for 1998-99, period of Investigation, in the Petition are based on the information from Kandla Port and are not authenticated. The Import and Export Data of Oxo Alcohols need to be substantiated as published or obtained from DGCI&S or any other Government Agency with Article Code, Country of Import, Quantity and Value.
- iv. Some of the Countries included in the Petition have either 'nil' or negligible imports of Oxo Alcohols to India and can not be included for anti-dumping of Oxo Alcohols to India. Further the Imports during 1996-97 to 1998-99 have been of N-Butyl Alcohol and 2-Ethyl Hexanol only for which the wide gap exists between the indigenous production and the demand.

- v. Unless, the methodology adopted by the Petitioners for arriving at Normal Values and Export Prices is explained and duly substantiated by records, these values cannot be taken for alleged dumping.
- vi. The cost of production is dependent on several factors *and* the determination of normal value on the basis of the estimates of the cost of production of Oxo Alcohols is not correct. Moreover, these have been based on basic raw material, process Chemicals and utilities. The feed stock in India and abroad is Naphtha, Gas, Propylene, Heptene, Nonene etc. and consumption norms vary with the feed stock, scale of production, technology etc. Basis of the Cost of Production adopted by the petitioners for normal value is approximate & unrealistic and cannot be accepted for Anti-Dumping investigation.
- vii. Many of the foreign manufacturers have their own captive raw material plants and are also producing Plasticizers. Thus the advantage of backward and forward integration gives them the highest economic viability. Indu Nissan and APL are dependent on raw materials from other units and they are not equipped to import the raw materials in bulk available at lower prices from the overseas markets. Besides the raw materials being Petrochemicals are highly sensitive and fluctuate with the crude prices internationally.
- viii. The sudden drop in the international prices of Oxo Alcohols in 1998-99 is due to the lower prices of Propylene. The imports during 1998-99 at lower prices of Oxo Alcohols cannot be treated as dumping to India and the period of Investigation selected by the Petitioners is not appropriate.
- ix. The local manufacturer's plants are uneconomic, old, inefficient and have not kept pace with technological upgradation in the World and cannot compete unless their capacities are enhanced to international levels and adopt the latest and cost effective technologies. None of the three manufacturers match the international scales of production and further protection to the existing units would not serve any purpose unless they decide to modernise and adopt international scales of production in the liberalised regime of India.
- x. There has been shut down in APL from 14th September, 1997 to 21st May, 1998 due to major fire in HPCL, raw material supplier to APL. Indu Nissan is facing lot of problems including financial and non cooperation by the Management. They are not even able to maintain their past production levels regularly. NOCIL is multiproduct Company and the capacity of their Naphtha cracker is 60,000 tonnes in terms of ethylene and is low and unviable. It has been set up in 1968 and have frequent break downs. Besides NBA and EHA are the minor items of their total manufacture and have the lowest priority. They have the approval for setting up Naphtha cracker of 3,00,000 tonnes capacity and so far no effective steps have been taken. The annual capacities of the local plants are very small varying from 27000 to 30000 tonnes compared to the capacities in excess of 100,000 tonnes installed by the foreign manufacturers.

- xi. The leading foreign Oxo Alcohols, manufacturers produce Phthalate Plasticizers and are keen to export Plasticizers as these bring higher value addition and realisation than Oxo Alcohols. They might not be keen to pursue the Anti-Dumping Duty Petition as their interest is fully protected and better covered by exports of Phthalate Plasticizers to India. The levy of Anti-Dumping Duty on Oxo Alcohols will not assist Oxa Alcohols Industry and will open flood gates for imports of Phthalate Plasticizers. Ultimately this will lead to the closure of Oxo Alcohols and Phthalate Plasticizers Industry in India. Thus *AntiDumping* levy is neither in the interest of Oxo Alcohols Manufactures nor Phthalate Plasticizers.
- xii. Oxo Alcohols are adequately protected by rupee devaluation and by the lowest levies on raw materials and the highest duty on the *Import of Oxo Alcohols @ 35% and Surcharge @ 3.5% totaling 38.5% and SADD @ 4%* at par with the Phthalate Plasticizers. As per the Government announced *and* accepted policies of Chelliah and other Committees recommendations, the Import Duty on intermediates like Oxo Alcohols has to be lower than the finished Phthalate Plasticizers. The same applies to other major raw material namely Phthalic Anhydride. This undue protection to Oko Alcohols and Phthalic Anhydride is affecting the increase in, the prices of Phthalate Plasticizers leading to larger Imports of the Plasticizers. Thus the Oxo Alcohols are enjoying highest protection and there are no justifications for further levy of Anti-Dumping Duty.
- xiii. The manufacture of Phthalate Plasticizers is exclusively reserved for the Small Scale Sector and most of the Units are in the SSI Sector. This Sector is providing lot of direct and indirect employment. Most of foreign manufacturers of Oxo Alcohols are also producing Plasticizers and the local Plasticizers manufacturers are 'facing stiff competition as the Exports of value added Plasticizers is advantageous and preferred. In the circumstances, the levy of Anti-Dumping Duty on Oxo Alcohols would lead to the unemployment of lacs of workers due to the closure of both the Oxo Alcohols and Phthalate Plasticizers Industries.
- xiv. There is no injury due to imports of Oxo Alcohols to indigenous manufacturers who do not have adequate production. capacity to meet the local demand'. No new/additional capacity of Oxo Alcohols is either under implementation or approved and none of the existing units are keen to upgrade their technology and effecting 'expansions to achieve the international Scales of production to meet the existing and future demand in India.
- xv. The evidence of Dumping is based on assumptions and not facts and cannot be accepted. Further, the import statistics in the Petition are incorrect the evidence of injury also fails.

- xvi. Besides plasticizers, about 40% of Oxo Alcohols find applications in the paints, as solvent for lacquers, thinners, adhesives, paper and textile processing, pharmaceuticals, lube oil, synthetic lubricants, acrylates, butyl acetate, resins, dyestuffs, as chemical intermediate etc. The views of these users need to be invited as none of the aforesaid users/Associations have been included in the list of known Importers and Users of Oxo Alcohols in India.
- xvii. As per Hindustan Times dated 22nd September, 1999, APL has achieved a complete turn-around with gross profit roaring to Rs. 18 crore during April-August, 1999-2000- and has achieved a capacity utilization at 135%.
- xviii. The indigenous manufacturers of Oxo Alcohols are not having sufficient stocks/production to meet the local demand and are regretting the supplies from the last few months. Further, they have increased the prices on several occasions and APL is contemplating to raise the price by Rs. 4/- per kg of 2-Ethyl Hexanol immediately. The order position, supplies made, stock position, regrets for the supplies and prices during 1999 may be called for from NOCIL, APL and Indu Nissan. As the indigenous manufacturers are not having adequate production and are raising the local prices, it further establishes that there is no dumping of Oxo Alcohols in India.
- xix. The prices of Imported Oxo Alcohols during 1998-99 are at par with those prevailing in other countries and there is no dumping to India.

### 3.2 Exporters who responded in time have given following arguments.

- i. M/s. Al-Jubail Fertilizer Company, Saudi Arabia have stated that out of ten products mentioned in the petition they produce only 2-EHA which is used primarily for the manufacture of Di-Octyl Phthalate (DOP). They have further stated that the quantity supplied by them during the period 1996-97 and 1997-98 are much below what has been alleged in the petition. They have further stated that one of the petitioners namely Indu-Nissan may be related to the one of the known importers i.e. Indo Nippon Chemicals. As regards, Andhra petrochemicals, they have stated that because of disruption of supply of raw-material from HPCL refinery in 1998 the plant was closed which resulted in losses for the company. It has also been stated that their supplies to India have been at the prices above those quoted in ICISLOR publications. They have stated that on the basis of the information provided by them as per the response to the questionnaire there is no dumping of 2-EH into the Indian market by Al-Jubail Fertilizer Company, Saudi Arabia and the anti-dumping proceedings against them be dropped.
- ii. M/s. L.G. Chemical Ltd., Korea have furnished the information regarding exports by them to India of IBA, NBA and 2-EHA in the format given in the

questionnaire. They have also furnished the information regarding their domestic sale.

- iii. M/s. BASF Ludwigshafemn, Germany .and M/s. Union Carbide Corporation, Danbury, USA have stated that they have not exported Oxo Alcohols to India during the period of investigation. M/s. P.T. Petrowidada, Indonesia have stated that they are manufacturer of Phthalic Anhydride and Maleic Anhydride only and their name should be excluded from investigations. Vs. CONDEA Chemie GmbH, Germany have stated that none of alcohols mentioned in the petition are produced by their company by Oxo process. Although n-butanol and nhexanol are sold by them, these alcohols are produced by Ziegler process and therefore, are not considered being Oxo Alcohols. Further more they have shipped no n-butanol and quite small amounts of nhexanol to India during the period of investigations, which in their opinion cannot be cause of injury claimed by the petitioners. However, no information in the prescribed format has been given by them.
- iv. M/s ZAK, Poland have stated that they sold their product to the company from European Union on the FOB Rotterdam basis who in turn sold to Indian buyers with their independent right to create their own export price. Therefore, there is no basis to bring the ZAK, Poland up Into the charge of using the dumping methods in case of export of their products to India. Reply in the format prescribed has not been given regarding information relating to exports to India & other countries, domestic sales & cost of production.

## **D. Examination of issues raised**

4. The foregoing submissions made by the exporters, the importers, the petitioner and other interested parties, to the extent these are relevant as per Rules and to extent these have a bearing upon the case, have been examined and considered and have been dealt with at appropriate places in these findings.

## **E. Product under consideration**

5. The product involved in the present investigation is acyclic alcohols and their halogenated, -sulphonated, nitrated or nitrosated derivatives (as specified in the Initiation Notice dated 29.07.1999 bearing No. 15(1)/99-DGAD). These are known as oxo alcohols in the commercial and technical parlance and defined under customs sub-heading no. 2905 of the Customs Tariff of India. The classification is, however, indicative only and is not binding on the scope of the present investigation.

In the initiation notice mentioned above following forms of oxo alcohols were listed for the scope of the investigation:

2-Ethyl Hexanol (also known as 2-EHA)

Normal butanol (also known as NBA)

Iso butanol (also known as IBA)

Iso Octanol

Iso Decanol

Normal Hexanol Heptanol (Iso Heptanol and Normal Heptanol)

Nonanol (Iso Nonanol and Normal Nonanol)

Tri Decanol

2 Propyl Heptanol.

The petitioners had alleged that there is a great amount of substitutability between these types of alcohols. However as stated above the importers have submitted that Oxo Alcohols being manufactured in India are only Normal Butanol, Iso Butanol, Iso Decanol, Iso Octanol and 2-Ethyl Hexanol. However, it is seen that other than these types of Oxo Alcohols mentioned above normal hexanol is also being imported into India. Hence, it has been decided to restrict the investigation only to Normal Butanol, Iso Butanol, Iso Decanol, Iso Octanol 2-Ethyl Hexanol & Normal Hexanol.

In this context, Authority notes that *distinct* information relating to normal value, net export price, injury & other aspects of investigation is available only in case of Iso Butanol, Normal Butanol & 2 Ethyl Hexanol. Other oxo alcohols i.e. Iso Decanol, Iso Octanol & Normal Hexanol have, however, been found to be very close substitutes for 2 Ethyl Hexanol. Hence it has been decided to use the information & calculation made for 2 EHA for these oxo alcohols as well which are either being produced indigenously or being imported.

## **F. Like Articles**

6. The petitioner have claimed that there are no significant differences in their product and the same imported from the said countries, which can have impact on price and quality. The two are comparable in terms of physical and chemical characteristics (size, chemical composition), manufacturing process and technology, functions and uses, product specifications,, distribution and marketing and tariff classification of goods. The two are technically and commercially substitutable. Importers are

interchangeably consuming imported and domestic Oxo Alcohols. The two are, therefore, Like Articles within the meaning of the Anti-Dumping Rules. In this regard, it is observed by the Authority, that though some importers have claimed differences of product in processing and quality over the petitioner's product, these differences do not have any impact on the likeness of two products as both are used by the consumers interchangeably. The Authority finds that both have the same end-uses and both have the similar fundamental technical characteristics.

### **Domestic Industry**

The petition has been filed by Oxo Alcohols Industries Association on behalf of Indu Nissan Oxo Chemical Industries Limited, Mumbai, National Organic Chemical Industries Limited, Mumbai and Andhra Petro Chemicals Limited, Hyderabad. The production of the petitioners constitute a major proportion in the total domestic production. The petitioners, therefore, satisfy the standing to file the present petition and constitute domestic industry within the meaning of the Rules.

It has been alleged by an exporter that Indu Nissan Oxo Chemical Industries are related to Indo Nippon Chemical Co. Ltd. who are importers of oxo alcohols. Indo Nippon Chemical Co. has made submissions in this case as an importer & is opposing the petition. Also it has been submitted that there are serious disputes between the two companies & one does not exercise any operational control over the other. It has therefore been decided not to treat the two companies as related companies.

### **H. Countries involved:**

8. As stated in para 2(d) above, the petitioners wanted the anti dumping & investigation to be initiated against European Union severally as also against Germany, Sweden and Netherlands individually alongwith other countries viz. Poland, Iran, Saudi Arabia, South Korea, Indonesia, to European Union it was decided that since Germany, Sweden and Netherlands form a part of the Custom Union under the E.U., initiation of investigation against European Union is sufficient and there is no need to initiate investigation against Germany, Sweden and Netherlands individually.

### **I. Dumping & examination of claims on Normal Value & Export Prices by the Authority:**

9. 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.

Authority sent questionnaires to the exporters from the subject countries. The claim, made by the exporters with regard to normal value and export price are as under:

**Korea PR :** In the questionnaire for the exporters following information was requested by the Authority

- Transaction-wise details of sales made in the home market;
- Cost of production for sales in the home market, exports to India and exports to countries other than India;
- Evidence of the prices at which goods are being sold in the home market.

The Authority: observes that since M/s.L.G.Chemicals Ltd. has not Provided details on cost of production, it can not be said that all the Sales in the home market permitted recovery-of the cost of production. The sales in the home market can not therefore be claimed to be in ordinary course of trade. The Authority, therefore, proposes to disregard the normal value claimed by the exporter,. for the purpose of preliminary findings, and adopts the normal value claimed by the petitioner. The normal value has been claimed by the petitioners at ex-factory level and, therefore, does not require any other price adjustments.

With regard to the export price, the Authority notes that the subject Goods are produced by M/s. L.G. Chemicals Ltd. whereas the goods have been invoiced to India by M/s. L.G. International Corp. The company, has however, not disclosed the price at which goods have been sold by M/s. L.G. Chemicals Ltd. to M/s. L.G. International Corp. Goods have been supplied by M/s. L.G. Chemicals Ltd. to M/s. L.G. International Corp. at prices which are lower than the prices at which goods have been exported to India and the difference in the two prices permitted recovery of the expenses incurred by M/s. L.G. International Corp. on exporting the goods to India. In fact, no details of expenses incurred by M/s. L.G. International Corp. on exports to India have been disclosed. Further, the exporter has not shown any price adjustment on account of interest expenditure, even though it found from the evidence provided by the company that the goods have been sold at credit and the export price considered is the price inclusive of credit. The Authority has, however, for the purpose of preliminary findings, pending detailed investigations, considered CIF export price as claimed by the company. The Authority has not made an adjustment on account of interest also, pending further investigations. The exporter has claimed other price adjustments from the export price, which are insurance, storage and overseas freight. The Authority has considered and allowed the above price adjustments, pending further investigations.

### **Saudi Arabia :**

In their reply M/S Al-Jubail Fertilisers Company (SAMAD) have furnished transaction-wise details of export sales made to India, details regarding some of the exports made to third countries, ex-factory costs of exports sales to India and to other countries, income statement and other details for investigation period and for the years preceding the investigation period. It has been stated that there are no domestic sales of Oxo Alcohols in Saudi Arabia.

It appears from the information provided by the exporters that the goods produced by M/S SAMAD have been exported through M/S Saudi Basic Industries Corporation (SABIC), who in turn have sold it through their affiliate which is M/S SABIC India Private Ltd. The price at which M/S SAMAD sell their goods to M/S SABIC have not been disclosed. Also, no adjustments regarding the payments made for or expenditure incurred by the marketing companies have been disclosed. Only adjustments made from the c.i.f export prices are those of ocean freight and ocean insurance. The Authority accepts these submissions at the preliminary stage subject to verification pending final determination.

In the absence of domestic sales, the options available to the Authority for arriving at normal value are the exports made to third countries or the cost of production. The Authority notes that the exporters have not provided information with regard to

countrywise exports of the subject goods to third countries. Information has been provided only regarding exports to one country other than India where the exports are being made at prices below those at which exports have been made to India. This information cannot be used for arriving at normal value as the evidence clearly shows that the exports have been made during the investigation period at prices, which do not cover the cost of production.

The cost details furnished by the exporters are not supported by any documentary evidence and are not complete. No cost have been shown against the headings of 'manufacturers overheads' and 'interest cost'. Also, no fixed costs have been taken into account while arriving at the unit costs. No explanation have been given for unusually low prices of raw materials which are much below the- international paces. Stated to be prevailing during the investigation period ever -by importers. The cost data furnished are incomplete & the Authority, therefore, has decided to disregard the normal value claimed by the exporters for the purpose of preliminary findings and adopts the normal value claimed by. the petitioners pending final determination.

**Other Countries :** The information as required to be submitted in the prescribed format by the exporters has not been received from any exporter from the rest of subject countries. i.e. Iran, Poland, Indonesia, Russia, USA and the European Union. As no information on normal value in these countries has been furnished by the exporters or other interested parties; the Authority has considered the information provided by the petitioners for the purpose of arriving at normal value in these countries. Regarding the export price the information available from DGCIS as well as that furnished by the importers has been used for arriving at the export price at ex-factory level after making necessary adjustments.

**New exporters :** Some of the exporters/manufacturers have claimed that they have not exported to India during the period of investigations. It has been the practice to allow these exporters to apply for review as new exporter under Rule 22 of Anti-Dumping Rules mentioned above as and when they export to India.

**Dumping Margins:**

On the basis of the best information available, the Authority has arrived at the dumping margins in percentage terms (as % of export price & after, adjustments) in the case of subject countries for products under considerations as follows:

Country	NBA	IBA	2 EHA
Poland	69.82		56.65
South Korea	106.73	140.19	109.05
Russia	102.73	36.26	

Iran	107.85	130.1	
USA	50.67	77.85	69.79
European Union	62.56	130.77	45.5
Indonesia		164.03	104.23
Saudi Arabia			95

Dumping margins as determined for M/s L.G.Chemicals have been used for South Korea as a whole. Also dumping margins for Ws Al-Jubail Fertilisers Company (SAMAD), a subsidiary of M/s Saudi Basic Industries Corporation (SABIC) are applicable to all the imports from Saudi Arabia to India. Wherever the DGCI&S data show no import of a particular form of Oxo Alcohol from a particular *subject* country to India, the box relating to dumping margin for that particular form of Oxo Alcohols from the particular subject country has been left blank.

## J. 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 cases where imports of a product from more than one country are being simultaneously subjected to Anti dumping investigation, 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 percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of 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 articles.

The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the de minimus limits above. Cumulative assessment of the

effects of imports are appropriate since the export prices from the subject countries were directly competing with the prices offer by the domestic industry in the Indian market.

For the examination of the impact of imports on t domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry production, capacity utilization, sales quantum, profitability, n sales realization, the magnitude and margin of dumping etc. accordance with Annexure II(iv) of the rules supra.

### **Quantum of imports**

The Authority has considered the statistics of the petitioner and the same published by Director General of Commercial Intelligence Statistics, Calcutta, in this regards and finds that there is a margin variation between the two. However, the Authority has relied upon tt data relating to import volume, as published by DGCI&S, Calcutta, analyse the import trend from the subject countries and the this caused to the domestic industry on this count.

As per the statistics published by DGCI&S & submissions ma by exporters, the quantum of imports of Oxo alcohols from vario countries during 1998-99 are as under

<b>Country</b>	<b>Imports (in MTs).</b>
Poland	1188
South Korea	8274
Indonesia	1194
Saudi Arabia	2010
Rusia	2428
Iran	2271
USA	4454
European Union	8251
Total	30070

Quantum of imports from each of the subject country is more than de-minimus. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject countries directly compete with the prices offered by the domestic industry in the Indian market. None of the interested parties have raised any objection also to cumulative assessment. The Authority has, therefore, assessed injury to the domestic industry cumulatively from all the subject countries.

### **TREND IN IMPORTS FROM THE SUBJECT COUNTRIES**

Imports of Oxo Alcohols from the subject countries have increased significantly in absolute terms, as may be seen from the table below:

Year	Imports in MT	% increase over 1995- 1996
1995-96	7007	-
1996-97	19774	182
1997-98	22382	219
1998-99	30070	329

The Authority notes that there is significant increase in imports of Oxo Alcohols in absolute terms from the subject countries.

## MARKET SHARE

The share of imports from the subject countries in total imports of Oxo Alcohols were a under :

(Imports in Kgs.)

Year	Total Imports	Imports from subject countries	Market share of subject countries in Imports
1995-96	11524	7007	60.81
1996-97	25980	19774	76.11
1997-98	24543	22383	91.20
1998-99	33451	30070	89.98

The Authority notes that the share of imports from the subject countries in total imports of Oxo Alcohols in India has increased significantly. Significant increase in imports from these countries has led to substantial increase in their market share as is seen from the table below. As a direct consequence, the market share of domestic industry has declined.

Year	Market share % in total demand	Subject Countries	Other Domestic Countries	Industry
1995-96	11.58	7.46	80.96	
1996-97	25.28	7.93	66.78	
1997-98	30.61	2.95	66.44	
1998-99	37.73	4.19	58.08	

## EXPORT PRICE

Average import prices since 1995-96 have been as under:

Year	Rate (Rs. Per mt)
1995-96	29043
1996-97	24960

1997-98	25887
1998-99	18567

The Authority notes that the import price declined significantly over the years.

## **SUMMARY OF THE ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY FOR THE LAST THREE YEARS :**

### **Volume in MT**

Value in Rs. Lacs.

1996-97 1997-98 1998-99

<b>Industry As a whole</b>	<b>Volume</b>	<b>Value</b>	<b>Volume</b>	<b>Value</b>	<b>Volume</b>	<b>Value</b>
Installed Capacity	87000	-	87000	-	87000	-
Production	60705	-	53654	-	44092	-
Sales-Indigenous	52237	20907	48634	17602	46351	13589
Capacity Utilisation	69.78	-	61.67	-	50.68	-
Profit (Loss)	-	147	-	(2382)	-	(5077)

## **K. Conclusions on Injury :**

12. From the foregoing the following claims made regarding injury during the period of investigation by the domestic industry are confirmed :

- a. Imports from the subject countries have increased significantly in absolute terms;
- b. Imports from the subject countries have increased in relation to total imports of Oxo Alcohols in India;
- c. Imports from the subject countries have increased in relation to demand of Oxo Alcohols in India. As a direct consequence, the market share of the domestic industry has declined;
- d. Production of Oxo Alcohols of the domestic industry has declined;
- e. Capacity utilization of the domestic industry has declined;
- f. Sales in absolute volume & value of the domestic industry have declined;
- g. Selling prices of the domestic industry have declined steeply;
- h. Imports are significantly undercutting the selling prices of the domestic industry;
- i. The profitability of the domestic industry has been severely eroded.

The Authority therefore concludes that the domestic industry has suffered material injury.

## **L. Some general issues**

13. Some interested parties have claimed that manufacturers of Oxo Alcohol have been protected for several years by Government of India as their raw Materials attract a very low rate of duty whereas rate of duty on Oxo Alcohol as well as DOP are very high. In this context it is pointed out that while working out injury to the domestic industry, the Authority considers the actual level of duties which also establishes that the domestic industry has been injured.

It has also been argued that there is a wide gap between the domestic production and demand which is to be met by imports. Hence, imposition of duties on imports is not called for. In this context it is observed that the domestic industry is not required to be in a position to meet the entire demand so as to qualify to apply for imposition of anti-dumping duties as the objective of anti-dumping duties is to check unfair trade practices.

It has also been stated that the petitioners have not submitted clear information regarding normal value for which constructed cost of production has been used which is an unrealistic data and should not be accepted for anti-dumping investigations. In this context the Authority has provided sufficient opportunity to the exporters from the subject countries for providing information specifically on normal value. However, none of the exporters have furnished the required information.

It has been stated that Andhri Petrochemicals Ltd. has achieved a complete turn around with gross profit reaching Rs.18 Crores during April-August 1999-2000 and capacity utilization at 35% as per the reports appearing in the Newspapers. In their reply APL has stated that report appearing in Newspapers is malicious and has been contradicted by the company which has also been published in the newspapers.

It has also been argued that the petition should be brought to the notice of Indian Paints Association, Indian Chemical Manufacturers Association, Associations connected with Paper and Textile processing, Pharmaceuticals, Chemicals Auxiliaries, Plastics, Dyestuffs, etc. The Authority had issued the Initiation Notification in the Gazette of India. All the interested parties were supposed to be, and are in fact, aware of the present proceedings. Any interested party should have taken cognizance of the public notification and responded to the Authority. Since other interested parties have preferred not to participate, the Authority has proceeded with the present investigations.

## **M. Causal link**

14. In establishing that the material injury to the domestic industry has been caused by the imports from subject countries, the Authority holds that increase in quantum of imports from subject countries resulted in decline in the market share of petitioner. This had the effect of undercutting the prices of domestic product forcing the domestic industry to sell below its fair selling price. Resultantly, the domestic industry was not in a position to realise its fair selling price and therefore, incurred losses. The material injury to the domestic industry was, therefore, caused by the dumped imports from the subject countries.

## **N. Indian Industry's interest and other issues.**

15. 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.

16. 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 on 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 Oxo Alcohols. 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.

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

## **Conclusions.**

18. After considering the foregoing, the Authority concludes

- a. Oxo Alcohols described under para 5 above (Normal Butanol, Iso Butanol, Iso Decanol, Iso Octanol 2-Ethyl Hexanol & Normal Hexanol only) and originating in or exported from Poland, South Korea, Indonesia., Saudi Arabia, Russia, Iran, USA and the, European Union have been exported below normal value, resulting in dumping.
- b. The Indian Industry has suffered material injury.

- c. The injury has been caused cumulatively by the dumped imports from the subject countries.

19. It is considered necessary to impose anti-dumping duty provisionally, pending final determination, on all imports of Oxo Alcohols as mentioned above originating in or exported from the subject countries.

20. The Authority considered to recommend the amount of Anti-Dumping Duty equal to the margin of dumping or less, which if levied, would remove the injury to domestic industry. The average landed price of the imports, for purpose, was compared with the non-injurious selling price of the petitioner 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 be imposed, from the date of notification to be issued in this regard by the -Central Government, on Normal Butanol, Iso Butanol, Iso Decanol, Iso Octanol, 2-Ethyl Hexanol, & Normal Hexanol originating in or exported from Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and the European Union falling under custom heading No. 2905 of Custom Tariff Act pending final determination.

21. The Authority recommends imposition of anti dumping duty in respect of subject countries/territories and exporters as per the amounts mentioned in the table below:

**Amount of duty recommended**

**(Rs. Per MT)**

Country	Normal Butanol	Iso Butanol	2-Ethyl Hexanol & other Oxo-alcohols
Poland	1887	7033	7033
South Korea	4878	7958	10728
Russia	2825	Nil	2825
Iran	3353	5788	5788
USA	2473	Nil	3690
European Union	890	8662	5156
Indonesia	8382	8251	8382
Saudi Arabia	10669	10669	10669

The amount of duty mentioned in the last column under the heading "2-Ethyl Hexanol and other Oxo Alcohols" is also applicable to Iso Decanol, Iso Hexanol and Normal Hexanol. Wherever the particular form of Oxo Alcohol subject to investigation is not being imported from a particular subject country, residual rate of duty has been recommended on the basis of the data available on other forms of Oxo Alcohols being exported from that subject country.

22. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties levied under Section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

## **O. Further Procedure**

23. 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, petitioners 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 dispatch 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 disclose essential facts before announcing the final findings.

**RATHI VINAY JHA...**  
Designated Authority