

**MINISTRY OF COMMERCE & INDUSTRY**  
**Department of Commerce**  
**Directorate General of Anti Dumping & Allied Duties**

**NOTIFICATION**

New Delhi, the 29th July 2002

**PRELIMINARY FINDINGS**

**Subject:** Anti-dumping investigation concerning imports of certain types of Acyclic Alcohols originating in or exported from Singapore, Brazil, Romania, Malaysia and South Africa into India - preliminary findings.

**No. 63/1/2001-DGAD** - The Government of India 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:-

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. National Organic Chemicals Industries Ltd., (NOCIL), Mumbai and M/s. Andhra Petrochemicals Ltd., Hyderabad on behalf of the domestic industry, alleging dumping of certain types of Acyclic Alcohols originating in and exported from Singapore, Brazil, Romania, Malaysia and South Africa (hereinafter referred to as subject countries) ;
- ii. The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was thereafter considered as properly documented.
- iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate investigations against alleged dumping of following types of Acyclic Alcohols:-

1. Normal Butanol (NBA) or N-Butyl Alcohol, Butan-1-01,
2. 2-Ethyl Hexanol (2-EHA)
3. Iso Butanol (IBA) or Butan-2-01
4. Sabutol

5. Hexanol
6. Haptanol
7. Octanol and Iso Octanol
8. Nonanol and Iso Nonanol
9. Decanol and Iso Decanol
10. Mixtures of above.

(hereinafter also referred to as subject goods) originating in or exported from Singapore, Brazil, Romania, Malaysia and South Africa.

- iv. The Authority notified the Embassies of Singapore, Brazil, Romania, Malaysia and South Africa in India about the receipt of dumping application made by the petitioners before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- v. The Authority issued a Public Notice dated 31st January, 2002 published in the Gazette of India, Extraordinary, initiating anti dumping investigations concerning imports of subject goods originating in or exported from Singapore, Brazil, Romania, Malaysia and South Africa classified under subheadings 2905.13, 2905.14, 2905.16, 2905.17 and 2905.19 of Heading 29.05 of Schedule I of the Customs Tariff Act. These customs classifications are however indicative only and are in no way binding on the scope of the present investigations.
- vi. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations (whose details were made available by the petitioner) and gave them an opportunity to make their views known in writing.
- vii. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies of subject countries in India.
- viii. The Authority sent questionnaires, to elicit relevant information, to the following exporters:
  - M/S. Oltchim,  
Romania.
  - M/S. Basf Petronas Chemicals Sdm,  
Malaysia.
  - M/S. Sasol Solvents,  
South Africa.
  - M/S. Eastman Chemical Singapore Pte. Ltd,  
Singapore
  - M/S. Exxon Chemical Singapore Pte. Ltd.,  
Singapore.
  - M/S. Ciquine Companhia Petroquimica,  
Brazil.

The following exporters responded to the questionnaire:

- M/S. Oltchim, S.A. Rm. Valcea.  
Romania.
- M/S. Basf Petronas Chemicals Sdn, Bhd  
Malaysia.
- M/S. Sasol Chemical Industries Ltd.  
South Africa
- M/S. Ciquine Cia. Petroquimica,  
Brazil.

- ix. The Embassies of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- x. The questionnaire was sent to the following importers/users association of subject goods:

- KLJ Plasticisers,  
New Delhi – 110 015.
- PCL Enterprises Limited,  
New Delhi – 110 001.
- Indo Nippon Chemical Company Ltd.,  
Mumbai – 400 020.
- Vision Organics Pvt. Ltd.,  
Baroda – 390 007.
- HMG Industries Ltd.,  
Mumbai – 400 059.
- API Industrial Corporation,  
Delhi – 110 035.
- C.J. Shah & Company,  
Mumbai – 400 021.
- Harsh Kumar & Company,  
Mumbai – 400 021.
- Vikas Organics Pvt. Ltd.,  
New Delhi – 110 026.
- Kothari Polymers Ltd.,  
New Delhi – 110 002.
- Payal Chemical Industries Ltd.,  
New Delhi – 110 002.
- Texpo Trading Pvt. Ltd.,  
Mumbai – 400 001.

- Guljoy Industries Ltd.,  
Rajasthan.
  - Indian Plasticizers Manufacturers Association  
New Delhi – 110 015.
- 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. Some of the interested parties requested for extension in time to file their responses to the questionnaire which was granted upon due cause shown.
  - xiv. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) on the information furnished by the petitioners so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry;
  - xv. \*\*\*\*\* in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
  - xvi. The investigation covered the period from 1st April, 2000 to 30th June, 2001 (15 months);
  - xvii. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

## **A. PETITIONER'S VIEWS**

1. The petitioners have made the following major arguments in their submissions:-
  - i. There is a great amount of substitutability between these various types of Alcohols. All these alcohols are produced from common raw material (olefins) and are employed for similar end use (largely for production of plasticizers).
  - ii. All these above mentioned, acyclic alcohols are nothing but industrial alcohols with different carbon numbers. However, the difference in the carbon number does not make the two acyclic alcohols as different products. The product still remains Subject Alcohols or acyclic alcohols and is employed for the same end-use.
  - iii. The Oxo Process is the commercial application of a chemical reaction called oxonation or hydroformylation. In this reaction, hydrogen and carbon monoxide are added across an olefin bond to produce aldehydes containing one more carbon atom than the olefin.

- iv. The major Oxo Products, aldehydes and alcohols are used in a variety of end use applications. The most important use for the Alcohols is to form esters (such as phthalates) for plasticizing vinyl and other resins. They are also used as solvents (qv), and in the form of their sulfates or adducts with ethylene oxide as detergents.
- v. Certain types of alcohols have been exported to India in the investigation period from the subject countries. These are NBA, IBA, 2EHA and Sabutol. The domestic industry is producing NBA, IBA and 2EHA. Thus, NBA, IBA and 2EHA types of subject goods are included within the scope of the present investigations, as (a) these types have been imported into India; and (b) identical types are being produced in India. Sabutol type of subject goods are included in the scope of the present investigations, as (a) this type has been imported into India; and (b) comparable types (IBA/NBA) are being produced in India. Further, the following types of subject goods are included into the scope of the present investigations, as (a) these types even though not imported in India in the investigation period, are comparable to 2EHA in terms of their product characteristics; and (b) comparable type (2EHA) is being produced in India:-
  - a. Hexanol,
  - b. Heptanol,
  - c. Octanol and Iso Octanol,
  - d. Nonanol and Iso Nonanol,
  - e. Decanol and Iso Decanol
- vi. The above types of subject goods are comparable to 2 EHA (which has been exported to India and which is being produced in India) in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. Thus, these types of subject goods are like article to the types imported in India.
- vii. Though various types of Alcohols are required for specific end applications, there is a great amount of substitutability between various types of Alcohols in terms of product characteristics earlier explained. The types of alcohols not imported in the proposed investigation period or not produced by the domestic industry are like article to those types of alcohols which have been imported in India from the subject countries, as would be seen from the following:-
  - a. All acyclic alcohols require similar raw material, i.e. olefin. The carbon content in the olefin gets enhanced by 1 during the oxo process.

- b. All acyclic alcohols require the same production technology and fall through the same production process, i.e. oxo process. In fact, it is due to this process that these alcohols are popularly called "Oxo Alcohols".
  - c. All alcohols, including Sabutol, have the same use and perform the same function, in as much as all alcohols are used for production of plasticizers. Plasticizers impart flexibility to PVC and also help processability. The selection of plasticizer for a particular PVC application will be guided by factors such as compatibility, performance, cost, electrical performance, low temperature properties, fire resistance and extent of flexibility required, etc.
  - d. All alcohols are technically and commercially substitutable in as much as these are being used interchangeably. It is important to note in this regard that there was no consumption of Sabutol in India earlier. The same has started with imposition of anti-dumping duty on a number of Countries. No new products have been developed either in the Country or in the World with regard to usage of these alcohols and these alcohols continues to be used for production of plasticizers. In fact, a very significant portion of these alcohols produced in the Country and imported from various sources is consumed by the manufacturers of plasticizers.
  - e. The fact that different types of plasticizers are produced using different type of alcohol does not imply that these alcohols are different products. It would be relevant in this regard to refer to a large number of anti-dumping investigations conducted by the Designated Authority wherein it was held by the Designated Authority that different specific end applications did not imply existence of different product. The various product types were employed for different end applications in cases relating to seamless tubes, polyester films, BOPP Films, etc. In fact, in cases relating to seamless tubes and polyester films, it was found that specific product types had different end-applications, so much that different product types were strictly not mutually substitutable. However, different product types were found to be similar in terms of product characteristics and production facilities.
  - f. Octanol, Iso Octanol, Decanol, Iso Decanol, Hexanol, Heptanol, Nonanol, and Iso Nonanol, are the types of alcohols sought to be included because these alcohols, though may not have been imported in India in the investigation period from the Subject Countries have characteristics closely resembling to the other types of alcohols imported in the investigation period and produced by the domestic industry (i.e., NBA, IBA, EHA). These alcohols closely resemble 2 EHA. Thus, the domestic industry is producing closely resembling alcohols in the absence of identical alcohols in so far as these types are concerned.
- viii. Plasticizers can be broadly divided into two categories, based on their specific end applications:

General purpose Plasticizers: Dioctyl Phthalate (DOP) and Di iso octyl Phthalate (DIOP) find major market in the manufacture of films, leather cloth, cables, footwear, flooring tiles etc. Dibutyl Phthalate (DBP) and Di iso butyl Phthalate (DIBP) are used as substitutes for DOP and DIOP in India. It is important to note that DOP and DIOP are produced from 2 Ethyl Hexanol and Iso Octanol respectively, whereas DBP and DIBP is produced from Normal Butanol and Iso butanol respectively.

Further, though 2 Ethyl Hexanol and Iso Octanol may not be directly substitutable, both are used for production of Plasticizers and are thus substitutable. The functions & uses of the two are thus the same. Thus, there is great amount of substitutability between various types of Subject Alcohols.

Specialty Plasticizers: Di iso nonyl Phthalate (DINP) and Di iso decyl Phthalate (DIDP) find application in the manufacture of cables which can withstand high temperatures as they give improved electrical insulation properties as well as high temperature performance.

Other Uses: In addition to the production of various types of Plasticizers (which is the major consumption area for Subject Alcohols), Subject Alcohols find application in the paint industry as a solvent in nitrocellulose lacquers & thinners and as an intermediate in the manufacture of acetates, in pharmaceuticals, lube oil additives and acrylates.

- ix. The various subject alcohols thus perform the same function and are used for closely resembling end product.
- x. Subject Alcohols are classified under Custom Chapter 29. All subject alcohols fall under 2905.

## **2. Differences in the Petitioner(s) Product and the Alleged Dumped Product, if any:**

There is no difference in Subject Alcohols produced by the petitioners and exported from Brazil, Malaysia, Romania, Singapore and South Africa. Subject Alcohols produced by the Indian industry and Subject Alcohols imported from subject countries are comparable in terms of their characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the Subject Alcohols imported from these countries and Subject Alcohols produced by the domestic industry interchangeably. Subject Alcohols produced by the petitioners and imported from Brazil, Malaysia, Romania, Singapore and South Africa should be treated as like articles under the anti-dumping rules.

### **3. Normal Value in Brazil, Malaysia, Romania, Singapore and South Africa:**

3.1 Producers from Brazil, Malaysia, Romania, Singapore and South Africa are dumping Subject Alcohols in India. We have made efforts to obtain information about the prices of Subject Alcohols prevailing in the domestic market in these countries. However, no reasonable and authentic information could be obtained about the prices of Subject Alcohols in their domestic market, as these are understood to be produced only by one company and is being consumed by a limited number of consumers only. We have also tried to get information about the prices at which the exporters from subject countries might have exported the product under consideration to Countries other than India. The petitioners have not been able to get any authentic information about these prices also.

3.2 The petitioners compared prices of Propylene (the major raw material required for production of these alcohols), IBA, NBA and EHA, as published by ICIS-LOR. At times, the exports to India are at prices below even these CFR prices.

- a. Propylene is only one of the raw materials (though the major raw material). Further, a lot of other cost is incurred for production and sale of the subject goods. The subject exporters can not establish on the basis of the published prices for Propylene and NBA/IBA/EHA that they were recovering their cost of production.
- b. In case some of the producers in the subject countries are having their own Propylene, it is submitted that the profit/loss made on Propylene can not be transferred to the subject goods.
- c. The subject goods are not sold at retail levels, nor the manufacturers normally maintain a price list. No sufficient, adequate and accurate evidence of actual selling price could, therefore, be obtained. Even the published prices in ICIS-LOR are indicative prices for those regions.

3.3 The producers in these countries have suffered losses. We have, therefore, determined normal value on the basis of constructed cost of subject Alcohols in these countries. Further, Sabutol is a member of C4 family. IBA and NBA are being produced by the domestic industry, which pertains to same family. We have therefore, determined normal value of Sabutol on the basis of cost of production of IBA.

### **4. Export Prices:**

4.1 Volume and value of imports have been considered based on the information provided by the DGCI&S. However, DGCI&S being the only agency compiling information with regard to all custom ports and due to the fact that the majority of imports have been reported at Kandla, import information about which is not

accessible to any agency other than DGCI&S, the information published by the DGCI&S has been relied upon for determination of volume, value and export price of the exports made to India.

4.2 Export price is based on DGCIS published data and other market information about actual imports in India. The export price should be determined at ex-factory level only. The following expenses, which should have been incurred by the exporters for exporting Subject Alcohols to India are, therefore, required to be deducted from the export price to arrive at ex-factory export price:

- i. Ocean freight,
- ii. Marine insurance,
- iii. Commission,
- iv. Inland transportation in the country of export,
- v. Port handling and port charges,
- vi. Credit costs.

## **5. Dumping from South Korea, Saudi Arabia, Indonesia, Russia, Iran, Poland, Usa and European Union:**

5.1 The domestic industry was earlier suffering injury from severe dumping by the exporters from South Korea, Saudi Arabia, Indonesia, Russia, Iran, Poland, USA and European Union. The Designated Authority recently conducted investigations into dumping from these countries, which have resulted in imposition of anti-dumping duty. The imports from these countries are already attracting anti-dumping duties.

5.2 After imposition of anti-dumping duty against these countries, exporters from Brazil, Malaysia, Romania, South Africa and Singapore have started resorting to dumping of Subject Alcohols in the Indian market, taking advantage of the imposition of anti-dumping duties on other countries, resulting in injury to the domestic industry. The fact that the exports from these countries have started with the imposition of anti-dumping duties on Other Countries further establishes that the Subject Alcohols being imported from these countries are like article to the Subject Alcohols being produced by the domestic industry.

5.3 While examining injury to the domestic industry in the present case, existence of dumping from South Korea, Saudi Arabia, Indonesia, Russia, Iran, Poland, USA and European Union causing injury to the domestic industry is required to be considered, particularly in terms of economic parameters affecting domestic industry and impacts of dumped imports on the prices in the market.

## **6. Cumulative Assessment**

The Designated Authority is requested to assess cumulative effect of dumping in terms of Annexure II (iii) to the Indian Anti Dumping Rules. 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.

## **7. Substantial Increase In Imports**

Imports of Subject Alcohols from the subject countries have increased significantly in absolute terms.

## **8. Increase in Market Share of Imports With Reference to Total Imports**

The share of imports from the subject countries in imports of Subject Alcohols in India increased significantly.

## **9. Economic Parameters Affecting the Domestic Industry**

Material injury has been caused to the domestic industry as a result of steep increase in the imports, increase in market share of the imports and significant price undercutting, as discussed hereunder:

### **9.1 Production and Capacity Utilization**

The production of the petitioners increased between 1998-99 and 2000-01 and thereafter declined significantly in April-June, 2001. One of the petitioner companies was forced to suspend production in view of continued significant losses.

### **9.2 Sales**

Production, capacity utilization and hence sales of the domestic industry increased as a result of imposition of anti-dumping duty on imports from Other Countries. However, the industry was prevented from recovering fair price of its product in view of availability of dumped imports in the market from the subject countries.

### **9.3 Selling Price and Price Undercutting:**

- a. The material injury suffered by the domestic industry is evident from the prices at which the domestic industry has been forced to sell. The industry should have increased its prices in view of severe financial losses it suffered due to dumping from Other Countries (which are now attracting anti-dumping duties). However, the industry was prevented from increasing its selling prices due to dumped imports from the subject countries. Further, the cost of production of

the domestic industry has increased as a result of increase in the prices of basic inputs. However, the industry was prevented from effecting price increases it should have done on this account.

- b. A comparison of the landed price of imports from the subject countries with the selling prices of the domestic industry shows that the dumped imports were significantly undercutting the selling prices of the domestic industry.

#### **9.4 Price suppression/depression:**

The landed value of the imports from subject countries is not only below the selling price of the domestic industry but also below the cost of production of the domestic industry resulting in price suppression/ depression in the Indian market.

#### **9.5 Profitability**

The domestic industry continues to incur significant financial losses as a result of continued dumping in the Indian Market. The financial position of the domestic industry should have improved after imposition of anti-dumping duties on a number of countries. However, the domestic industry continues to face severe financial losses. The domestic industry, which was expecting a significant turnaround in their pricing and profitability as a result of imposition of anti-dumping duties on a number of Countries, is not able to recover even the cost of production, and continues to make severe financial losses.

#### **10. Significant injury margin:**

10.1 The imports are at prices significantly below the selling price of the domestic industry and non-injurious price which the industry is entitled to. Even if a meager profit @ 10% on cost of production is added, it would be seen that the injury margin from each of the subject countries is significant.

10.2 It is evident from the foregoing that:

- 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 Subject Alcohols in India;
- c. Imports from the subject countries have increased in relation to demand of Subject Alcohols in India. As a direct consequence, the market share of the domestic industry has declined;

- d. Production, capacity utilization and sales of Subject Alcohols of the domestic industry declined. Even though these parameters have improved in 2000-01, the same is due to imposition of anti-dumping duties on other sources;
- e. Selling prices of the domestic industry have remained at less than fair value in spite of imposition of anti-dumping duties on a number of Other Countries;
- f. Imports were significantly undercutting the prices of the domestic industry;

### **10.3 Demand of the product**

There is no significant decline in demand of Subject Alcohols in India. Possible decline in the demand has, therefore, not contributed to any injury to the domestic industry.

## **C. VIEWS OF EXPORTERS, IMPORTERS, USERS AND OTHER INTERESTED PARTIES:**

1. Following importers and Indian Plasticizers Manufacturers Association (IPMA) have responded:-

- KLJ Plasticisers,  
New Delhi.
- KLJ Polymers & Chemicals Ltd.,  
New Delhi.
- PCL Oil & Solvents Limited,  
New Delhi – 110 001.
- Silvassa Plast,  
New Delhi.
- Indo Nippon Chemical Company Ltd.,  
Mumbai – 400 020.
- API Industrial Corporation,  
Daman.
- N.K. Polymers & Additives Manufacturing Company,  
Daman.
- Vikas Organics Pvt. Ltd.,  
New Delhi – 110 026.
- M/s. Payal Polymers,  
Daman.
- M/s. Rachna Plasticizers,  
Silvassa.
- Indian Plasticizers Manufacturers Association  
New Delhi – 110 015.

- M/s. Lubrizol India Pvt. Ltd.  
Mumbai.

2. On behalf of the above importers the Indian Plasticizers Manufacturers Association has made following submissions :

2.1 All the members of Indian Plasticizers Manufacturers Association (IPMA) are small scale manufacturers of phthalate plasticizers in India. Plasticizer is an item reserved for small scale sector. So far, no multinational has entered the Indian plasticizer industry. IPMA represents a sector where the local small scale units hold 100% share with no MNC participation.

2.2 Phthalate Plasticisers are generally made from Oxo-alcohols. Members of IPMA procure their raw material (Oxo-alcohols) from the Indian manufacturers of Oxo-alcohols, if it is available from them. Unfortunately, the Indian manufacturers are not in a position to meet our demand. In fact, only three types of Oxo-alcohols are being produced in India. Due to non-availability of Oxo-Alcohols within India, Plasticizer manufacturers have to import their raw materials from other countries. However, there is no tariff protection to our industry. The customs tariff on raw materials (Oxo-alcohols) and finished goods (plasticizers) are the same. Yet, we are forced to import raw materials due to non-availability of the same in India.

2.3 Oxo alcohol manufacturers are large scale units invariably started with substantial foreign technical collaboration/ know-how. The basic customs duty on their finished products (our input material) is 30% whereas on their raw material, the customs duty is only 15%. Thus, they enjoy a tariff protection of 15%. By adding applicable CVD and SAD, effective protection works out to 23.4%. It is ironical that the Phthalate Plasticiser, an item reserved for small scale sector, has got no protection but the large scale Oxo-Alcohol manufacturers enjoy substantial tariff protection. On top of such high tariff protection, Oxo-Alcohol manufacturers are seeking time and again, additional protection in the form of anti dumping duty. Already anti dumping duty is in vogue in respect of imports of Oxo-Alcohols from 22 countries viz., Poland, South Korea, Indonesia, Saudi Arabia, Russia, Iran, USA and European Union [consisting of 15 countries]. They are now seeking anti dumping duty against the imports from five more countries taking the total to 27 countries. It is unbelievable that all Oxo-Alcohol manufacturers in the whole world [27 countries, at least] are targeting the Indian Industry and yet the total import into the country is a mere 10524 MT (during 2000-01).

2.4 IPMA believes that the complaint of the Oxo-Alcohol manufacturers is without any basis. It is common knowledge that the Oxo-Alcohol manufacturers are facing a number of others problems for which Anti-dumping duty is not the prescription. Anti-

Dumping duty is a measure only to protect them from injurious dumping by other countries and not for removing injury due to under any other circumstances. In fact, most of the problems faced by the Oxo-Alcohol manufacturers are not related to import Oxo-alcohols into India. They are related to non availability of raw materials, mounting transportation costs due to locational disadvantages, etc. We request the authority to look into the causes of their problems thoroughly before taking any decision. We have also attempted an exhaustive causal link analysis.

3. IPMA has requested the authority to consider the following other submissions while examining the Petition:

### **3.1 Scope of the Product under Investigation**

The current investigation covers 10 types acyclic alcohols (commonly known as "Oxo- Alcohols"). The three types of alcohols produced by the domestic industry in India are:-

- i. NBA,
- ii. IBA and
- iii. 2EHA

Therefore, the product coverage should be restricted to only these three types of alcohols, namely, NBA, IBA and 2EHA.

### **3.2 Sabutol**

Sabutol cannot be equated to IBA or NBA. While IBA and NBA are produced following the Oxo process, Sabutol is obtained by coal carbonisation process and it is a by-product. This cannot be classified as an Oxo-alcohol. Further, sabutol is not being manufactured in India. Therefore, Sabutol should be excluded from the scope of the present investigations.

3.3 Other alcohols viz., Hexanol, Haptanol, Octanol and Iso Octanol, Nonanol and Iso Nonanol, Decanol and Iso Decanol and Mixtures of above should be excluded from the scope of the present investigation. Therefore, the present investigation should be limited to the following three types of alcohols only:-

- a. IBA
- b. NBA
- c. 2EH

### **4. Other deficiencies in the petition**

4.1. The petition does not provide any evidence as to dumping of the products from the subject countries. They have merely stated that they are unable to get any authentic information about normal value in any of the five countries against which anti dumping duty is sought. They have projected Normal value based on constructed cost methodology. The elements of cost which have been considered by the domestic industry while arriving at the normal value and the basis on which the costs in respect of each element has been considered should be made available to us for comments.

4.2. In determining export prices, the domestic industry has claimed deductions towards payment terms. The cost of credit has been assumed to be 7.5% per annum (LIBOR + 1%). They have not provided any evidence for the credit costs taken by them. During the period of investigation, the LIBOR rate was not 6.5%. The actual LIBOR rate was around 3 to 3.5% only. Therefore, they may be asked to provide evidence in support of their claim.

4.3. The domestic industry has not provided the details regarding the following injury parameters which are required to be furnished as per the application proforma prescribed by the authority:-

- i. Investments
- ii. Net worth
- iii. Capital investment for expansion
- iv. Employment.

#### **4.4 No evidence of injury to the domestic industry**

The petition does not contain any evidence of injury to the domestic industry.

#### **4.5 No evidence regarding causal link**

There is no causal link of imports and injury. (Detailed submissions of the importers have been dealt with in the injury analysis).

In view of the above, the Association has requested that :

- a. petition should be rejected as it does not contain the required evidence in support of dumping and injury and causal link;
- b. without prejudice to our above claim, scope of the product under investigation should be restricted to IBA, NBA and 2EHA only.

#### **4.6. Submissions made by M/s. Lubrizol India Pvt. Ltd.**

No anti-dumping duty should be imposed on Iso Butanol, Iso Octanol and Iso Decanol as there is no domestic industry which manufactures these types of alcohols. Due to non-availability of these types of Oxo Alcohols within India, Lubrizol has to import them from other countries. They have also made almost similar submissions on other issues as has been made by Indian Plasticizers Manufacturers Association that have been discussed in preceding paragraphs 2 to 4.5.

## **5. Submissions Made by the Exporters:**

### M/s. Sasol Solvents, South Africa

5.1 M/s. Sasol Solvents, a division of M/s. Sasol Chemical Industries Pty. Ltd., has submitted response to the questionnaire giving information regarding domestic sales, export made to India of Sabutol, sales price structure and factory cost of production for exports and domestic sales. However, the response was found deficient which has been explained in detail in the examination of claims made on normal value and export price in part F.

5.2 The exporter has made the following other submissions:

#### **(i) Product under consideration:**

This initiation against all the ten types of Acyclic Alcohols is extremely surprising as out of the ten products targeted for levy of anti-dumping duty by the petitioners, only the following are manufactured in India.

1. Normal Butanol (NBA) or N-Butyl Alcohol, Butan-1-01,
2. 2-Ethyl Hexanol (2-EHA)
3. Iso Butanol (IBA) or Butan-2-01

This has been confirmed by the petitioners themselves. As the balance seven products are not manufactured in India, the same should be excluded from the purview of this investigation.

(ii) This initiation is contrary to the decision of the Hon'ble CEGAT in the Oxo Alcohols-1 case. In view of the CEGAT's decision in that case it is extremely surprising to note that the Designated Authority has sought to once again initiate investigations on ten types of Oxo Alcohols. The Designated Authority has erred in acting against a finding of fact by the Hon'ble CEGAT. The fact still remains that not all types of Oxo Alcohols are being produced in India and in any event the same are not like article to the types being imported into India. This investigation must be terminated forthwith.

**(iii) Production under consideration and the Republic of South Africa (RSA):**

As a major exporter from RSA, Sasol wish to categorically state that only Sabutol (Item (iv) of initiation notification) has been exported by Sasol from RSA during the period of investigation. Therefore, Authority should restrict the investigation, if at all necessary, to Sabutol alone and to exclude the other nine products from the purview of Anti-dumping investigation as far as Sasol and RSA are concerned. This is without prejudice to the contention that even Sabutol is not an Oxo Alcohol and requires to be excluded from the purview of this investigation.

It is a matter of record that M/s. Sasol has not exported any NBA and IBA during the period of investigation into India. Relying upon the ratio decedendi of the Hon'ble CEGAT in Oxo Alcohol-1, the investigation against RSA must be terminated forthwith, as the export from RSA is of Sabutol and not NBA, and that Sabutol is not a like article to NBA or IBA.

**(iv) Construction of normal value for Sabutol:**

The construction of normal value in South Africa, based on the Oxo-process for NBA/IBA manufactured from Olefins is irrelevant and apt to misguide the Designated Authority and is extremely prejudicial to a fair hearing.

**(v) Sabutol is not causing injury to the petitioners:**

- a. Without prejudice to the contention that Sabutol is not 'like article' to the product under consideration, and assuming without admitting that the Designated Authority accepts the petitioner's view that Sabutol is indeed like article, then M/s. Sasol respectfully submits that there is no injury being caused to the petitioners.
- b. If at all, Sabutol is chemically comparable to the second grade NBA/IBA column bottoms.
- c. Based on the ratio of the Hon'ble CEGAT in the Fused Magnesia case, Sabutol is not causing injury to the petitioners.
- d. Sabutol is not being manufactured in India. Its Chemical composition clearly shows that Sabutol is not comparable to any Oxo Alcohol being manufactured in India.
- e. Any injury to the petitioners, if at all, is self-inflicted and not caused by imports of Sabutol (detailed arguments dealt in subsequent part in injury analysis):

(vi) As far as Sasol and the RSA are concerned, only Sabutol has been exported to India during the period of investigation. Investigation into Alcohols other than Sabutol from South Africa must be terminated forthwith.

(vii) Further, the Designated Authority conclude that Sabutol is not causing injury to the petitioners.

#### **6. Submissions made by M/s. Ciquine Cia. Petroquimica, Brazil:**

M/s. Ciquine Cia. Petroquimica, Brazil has furnished information in response to the questionnaire. As regards product under investigation they have stated that after analyzing the petition they find that the products presented are very different from each other and they have furnished an analysis stating the name of the different products, their carbon chain length and applications. In the exporters questionnaire they have given information relating to sales in home market in respect of products 2-Ethyl Hexanol, Normal Butanol & Iso Butanol. The domestic sales information is quarter-wise for the fifteen month POI and not transaction-wise as required in the questionnaire. The exporter has furnished information relating to exports to India of products 2-Ethyl Hexanol, Normal Butanol & Iso Butanol, sales of goods of the company, sales price structure for exports to India and for domestic sales, factory cost for export sales and domestic sales. In order to consider the domestic sales as the basis for normal value determination, these should be in the ordinary course of trade. The Authority finds the response to the questionnaire deficient which has been explained in the Part F of these findings.

#### **7. M/s. OLTCHIM, S.A. Rm. Valcea, Romania:**

M/s. OLTCHIM, S.A. Rm. Valcea have furnished response to the questionnaire. They have furnished information in respect of different Appendices. However, they have not made any other submissions regarding like article. Their information regarding domestic sales and exports pertain to item Octanol. Their information is found deficient which has been explained in the Part F of these findings.

#### **8. M/s. BASF Petronas, Malaysia:**

M/s. BASF Petronas has furnished a response to the questionnaire giving information about domestic sales of 2-Ethyl Hexanol and Iso Butanol, exports sales of 2-Ethyl Hexanol: sales of goods of the company during POI, sales price structure for exports to India, domestic sales and exports to other countries; capacity and production; factory cost on exports sales and domestic sales. However, it is found that the response is incomplete and insufficient due to the reasons, which has been explained in the Part F of these findings.

## **D. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

## **1. The product under consideration in this investigation is following types of Acyclic Alcohols:-**

- i. Normal Butanol (NBA) or N-Butyl Alcohol, Butan-1-01
- ii. 2-Ethyl Hexanol (2-EHA)
- iii. Iso Butanol (IBA) or Butan -2-01
- iv. Sabutol
- v. Hexanol
- vi. Haptanol
- vii. Octanol and Iso Octanol
- viii. Nonanol and Iso Nonanol
- ix. Decanol and Iso Decanol
- x. Mixtures of above.

## **2. Views of Petitioners on Product under consideration and Like Article**

The petitioner domestic industry manufactures the following types of Acyclic Alcohols:

- i. Normal Butanol (NBA) or N-Butyl Alcohol, Butan-1-01
- ii. 2-Ethyl Hexanol (2-EHA)
- iii. Iso Butanol (IBA) or Butan -2-01

The petitioners have claimed that the scope of the investigation should cover all the ten types of Acyclic Alcohols as there is a great amount of substitutability of these types of alcohols, these alcohols closely resemble in terms of their characteristics, these alcohols are nothing but industrial alcohols with different carbon numbers, all Acyclic Alcohols require similar raw materials, i.e. Olefin. The carbon content in the Olefin gets enhanced during the Oxo process. These Alcohols require the same production technology. All these types including Sabutol have the same use and perform the same function in as much as all Alcohols are used for production of plasticizers. The petitioners have also enclosed a table of technical specification of various types of alcohols included in the investigation (Annexure 1.2 of the petition) and have claimed that from the technical specification mentioned in the table it is evident that the subject alcohols have characteristics closely resembling each other and these are 'like articles' in terms of Rule 2(d). Petitioner's arguments on Product under consideration and Like Article are given in Part B of the findings.

## **3. Views of Indian Plasticizer Manufacturers Association on Product under consideration and Like Article**

3.1 The Indian Plasticizer Manufacturers Association have stated that when the domestic industry manufactures only three types of Alcohols there is no basis for including any type of alcohols other than the three types manufactured by the domestic industry. Petitioners themselves have stated that only four types of alcohols i.e. NBA, IBA and 2EHA and Sabutol have been imported from the subject countries. The Petitioners produce only three types of alcohols viz., NBA, IBA and 2EHA. The domestic industry produces only three types of alcohols; only four types of alcohols are imported into the country; and yet, they seek to cover 10 types of alcohols under the scope of the product under investigation. There is no basis for including any type of alcohol other than the three types manufactured by the domestic industry. The reasons for the same are given below:

3.2 Petitioners claim that there is a great amount of substitutability between the various types of alcohols. We object to this claim of substitutability made by the domestic industry. In fact, in the earlier anti- dumping investigation, the Petitioners had originally sought anti dumping duty on 10 types of alcohols. The Authority had recommended levy of anti- dumping duty on only six types of alcohols. Even out of the six, the Hon'ble CEGAT vacated the anti dumping duty on one alcohol. Accordingly, the existing anti-dumping duty covers the following five types of alcohols only:

- i. NBA
- ii. 2EH
- iii. IBA
- iv. Iso Decanol
- v. Iso Octanol

3.3 Only these five alcohols were manufactured in India during the earlier investigation period. In other words, levy of anti dumping duty was restricted to only such of those alcohols which were manufactured in India. In spite of such a clear cut decision by the Designated Authority and CEGAT in the earlier case (which are binding and operate as Res Judicata in this investigation), the domestic industry in their present application have sought levy of anti dumping duty on 10 types of Oxy Alcohols, even though they are producing only three types of alcohols in India.

#### **3.4 Sabutol**

Petitioners have claimed that Sabutol is being imported into India and comparable types (IBA and NBA) are being produced in India. Sabutol cannot be equated to IBA or NBA. While IBA and NBA are produced following the Oxo process, Sabutol is obtained by coal carbonisation process and it is a by-product. This cannot be classified as an Oxo-alcohol. Further, sabutol is not being manufactured in India. Sabutol is not

a substitute for IBA or NBA. IBA users or NBA users cannot use Sabutol interchangeably with IBA or NBA. Prices of Sabutol are also 10 to 15% lower than Butanol prices though production of Sabutol involves extra process of distillation/separation. According to the literature attached to the Petition, end uses of Sabutol is not Phthalates but paints, lacquer thinners, inks, dyes, etc. From the above, it is clear that Sabutol is a different product and it can never be treated as a 'like article' to other types of Oxo-Alcohols. Just because Sabutol is being imported into India, it cannot be covered within the scope of the product under consideration. There is no domestic industry that manufactures Sabutol in India. Therefore, Sabutol should be excluded from the scope of the present investigations.

### 3.5 Hexanol

In the earlier investigation, the Authority had included normal Hexanol on the grounds indicated below:

"Though normal Hexanol may not be a substitute for 2EHA, the products these are used to manufacture substitute each other and hence comes to the exclusion of one from anti dumping duty investigation, will have an impact on the usage of others".

This was challenged before the Hon'ble CEGAT. The CEGAT held that normal Hexanol cannot be treated as a 'like article' to other types of alcohol and vacated the duty imposed on normal Hexanol. In its order, CEGAT held as below:-

"What the Authority found is that the products manufactured by use of normal Hexanol can substitute the products manufactured by other Oxo- Alcohols. Even if the products manufactured by using these two types of alcohols are interchangeable, they cannot be treated as like articles in the absence of a finding that they themselves have characteristics closely resembling each other."

Further, CEGAT held that even the products manufactured using these two types of alcohols are not substitutable. It said as below:

"...2EH can produce DOP plasticizer and Normal Hexanol can produce DnHP, another variety of plasticizer. It further states that DnHP can be blended with plasticizers like DOP, DIOP, DIDP to obtain performance characteristics of DnHP. DOP, DIOP and DIDP are plasticizers manufactured by using 2 EH, Iso Octanol and Iso Decanol. DnHP which is made out of Normal Hexanol, is not substitute for these products but is capable of being blended with them to obtain performance characteristics of DnHP. In this view of the matter also, we hold that the Designated Authority was not correct in saying that the products manufactured out of these two types of alcohols are substitutable or interchangeable. The result, therefore, is that the Designated Authority

was not correct in treating Normal Hexanol as a "like Article" with the articles under investigation. Further, normal Hexanol is not one manufactured or produced by the domestic industry. So, its import cannot cause injury to the Domestic industry. Therefore, anti-dumping duty imposed on Normal Hexanol imported into India is only to be vacated and we do so".

In view of the categorical finding of CEGAT and its binding effect on the DA, normal Hexanol should not be included within the purview of the current investigation also.

### **3.6 Nonanol and Iso Nonanol**

In the earlier investigation, the Authority did not include Nonanol within the product definition. It was challenged before the CEGAT by the petitioners. The CEGAT held that Nonanol is not an article similar to the articles under investigation and did not order inclusion of Nonanol in the product under consideration. We submit that the decision of the CEGAT should be strictly adhered to in the current investigation also. Accordingly, Nonanol and Iso Nonanol should be excluded from the product under consideration.

### **3.7 Other alcohols**

- a. The Petitioners have included Heptanol, Octanol, Iso Octanol, Decanol and Iso Decanol on the grounds that they are comparable to 2EHA in terms of their product characteristics and 2EHA is being produced in India. They have further stated that there is no import of these alcohols into India. They have not produced any evidence to show that these types of alcohols have characteristics closely resembling that of other types of alcohols. Mere assertion by the domestic industry is not sufficient. The petitioners appear to treat all plasticizers as a homogenous product and presume that any type of alcohol may be used in the production of every plasticizer. However, there are different varieties of plasticizers and one variety cannot be used as a substitute for another. Raw material for one plasticizer is different from the raw material for another plasticizer. End-uses of one plasticizer are also different from that of another plasticizer.
- b. In the Petition, plasticizers have been divided into two broad categories viz. 'General purpose plasticizers and specialty" plasticizers. Under general purpose plasticizers, they have stated that Di Octyl Phthalate (DOP) and Di Iso Octyl Phthalate (DIOP) can be substituted by Di Butyl Phthalate (DBP) and Di Iso Butyl Phthalate (DIBP). DOP and DIOP are produced from 2EHA and Iso Octanol respectively whereas DBP and DIBP are produced from normal butanol and iso butanol respectively. Since DOP/DIOP are substitutes for

DPB/DIBP, Petitioners have claimed substitutability between 2EH and normal butanol; Iso Octanol and Iso Butanol.

- c. In other words, the raw materials are substitutable to each other because the final product manufactured using these raw materials are substitutable. As stated earlier, Hon'ble CEGAT has categorically ruled that such substitution is not permissible under the anti-dumping rules.
- d. Further, Iso Octanol and Iso Decanol were manufactured earlier by M/s. Indo Nissan. M/s. Indo Nissan was closed three years back. Rightly, they are not one of the petitioners in this investigation. After the closure of M/s. Indo Nissan, there are no producers in India for Iso Octanol and Iso Decanol.
- e. All these other types of alcohols are neither produced in India nor they form substitutes for the three products produced in India, i.e. NBA, IBA and 2EHA. Therefore, all the other types of alcohols should also be excluded from the product definition.

#### **4. Views of M/s. Sasol, South Africa on Product under consideration and Like Article**

M/s. Sasol, South Africa have also stated that as the domestic industry manufactures only three types of Acyclic Alcohols and the balance 7 products are not manufactured in India, the same should be excluded from the purview of this investigation. Further, it has been stated that:

- a. Sabutol is not produced by using an olefin, but by the Fischer-Tropsch process from coal.
- b. Sabutol is different to n-butanol since it is an impure product containing various higher carbon number isomers and is produced as a consequences of the Fischer-Tropsch process from coal. Although Sabutol can also be derivatised in the same way as n-butanol it reacts at a different rate, therefore has different reaction kinetics and process requirements during derivatisation) and the end-products from it are also vastly different from those made from n-butanol, iso-butanol and 2-EHA or other Oxo Alcohols.
- c. Sabutol has a totally different consistency to any of these products since it is fatally produced mixture of various alcohol isomers which give it totally different properties to the compounds mentioned in the statement.
- d. The chemicals analysis indicates that the composition of Sabutol is more akin to the 'seconds' materials of NBA/IBA column bottoms, which one of the petitioners are describing as Oxo Alcohol slopes/residue and are selling at a fraction of the price of pure NBA and IBA. As these are waste materials and not first grade production, the petitioners are not being injured by the imports of Sabutol.

- e. The traditional use of Sabutol is not to manufacture plasticizers. Any use of Sabutol for purpose of plasticizer is a recent development. Plasticizers made from Sabutol do not have the traditional plasticizing efficiency to plasticizers, such as, DOP, DBP and DIBP which are manufactured from 99% pure 2-EHA, 99% pure NBA and 99% pure IBA and thus their applications are limited. The use of Sabutol for the manufacture of plasticizers is a cumbersome and detailed process which requires specialized technical expertise.
- f. All alcohols are not technically and commercially substitutable. The only alcohols which are arguably technically and commercially substitutable are those which go into production of general purpose plasticizers. Even in such an instance it is the plasticizer and not the alcohol which would arguably be technically and commercially substitutable, if at all.
- g. Sabutol is not feedstock for plasticizer production and it is unlike all other alcohols produced in India, viz., 2-EHA, NBA and IBA. Hence, the statement of domestic industry that, alcohols not manufactured in India are included because they have characteristics closely resembling the alcohols produced in India, is not true.
- h. Whereas IBA and NBA are 99% pure single Isomer of a specific alcohol each of which have a specific chemical formula, Sabutol is a naturally arising mixture of diverse isomers of alcohols each of which have their own separate and unique chemical formulae. However, Sabutol does not have a specific chemical formula and that accounts for its non-mention in the list of chemical formulas of the various alcohols listed in the petition whereas IBA and NBA have a carbon chain length categorized as C4, Sabutol has a carbon chain length which extends from C4 to C6. This carbon chain length of Sabutol is the single most important parameter which distinguishes Sabutol from IBA and NBA. The mere fact Sabutol does not have a single carbon chain length like IBA, NBA and 2-EHA makes it a totally different compound from the three alcohols produced in India. Sabutol cannot also be compared to other Oxo Alcohols. The Hydroxyl value, the Aldehyde value and the Acid value given by the petitioners in the petition in respect of IBA, NBA and 2-EHA, indicate the maximum level of contaminants permissible. In stark contrast, in respect of Sabutol which has a n-butanol content ranging from 65% to 69%, isobutyl alcohol content ranging from 5% to 12% and secondary Pentanol content ranging from 15% to 20%, it is prima facie apparent that 99% pure IBA, 99% pure NBA and 99% pure 2-EHA can never be considered products comparable to Sabutol which has such high concentrations of secondary and tertiary pentanols.
- i. Sabutol is a unique product in the world which cannot be replicated. Therefore, it cannot be compared.

- j. The petitioner claims that Sabutol is an Oxo Alcohol, which is included within the scope of the investigation as (a) this type has been imported into India and (b) comparable types (IBA/NBA) are being produced in India. It must be clarified that Sabutol is a proprietary formulation unique to M/s. Sasol and is not an Oxo Alcohol like IBA or NBA. Sabutol is not an Oxo Alcohol nor is it commercially and technically substitutable to IBA or NBA.
- k. Sabutol should be excluded from this investigation:

## **5. Views of M/s. Ciquine Cia. Petroquimica, Brazil**

M/s. Ciquine Cia. Petroquimica, Brazil has furnished information in response to the questionnaire. As regards product under investigation they have stated that after analyzing the petition they find that the products presented are very different from each other and they have furnished an analysis stating the name of the different products, their carbon chain length and applications.

## **6. Examination by the Authority on Product under consideration and Like Article:**

6.1 The submission made by the petitioners, importers, exporters and other interested parties, to the extent filed before the Authority have been examined and considered while arriving at these findings and wherever appropriate have been dealt in these findings.

6.2 The present investigations are in respect of the product 'Certain types of Acyclic Alcohols' as mentioned in the initiation notification dated 31.1.2002. The domestic industry produces Normal Butanol (NBA), 2-Ethyl Hexanol (2-EHA) and Iso Butanol (IBA). As per the information made available in the petition and responses received to the questionnaire, the following types of Acyclic Alcohols have been imported during the period of investigation:

- i. Normal Butanol (NBA) or N-Butyl Alcohol, Butan-1-01
- ii. 2-Ethyl Hexanol (2-EHA)
- iii. Iso Butanol (IBA) or Butan -2-01
- iv. Sabutol
- v. Octanol

6.3 As regards, normal Butanol (NBA), 2- Ethyl Hexanol (2-EHA) and Iso Butanol (IBA) there is no argument from any interested party disputing that the types of Acyclic Alcohols being imported and being investigated are not a like article to those being produced by the domestic industry.

6.4 As regards, Sabutol the Authority has considered the views expressed by the petitioners, the exporters, M/s. Sasol, South Africa and the importers. Rule 2(d) of the Anti Dumping Rules defines the 'like articles' as under:

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

6.5 The Authority notes that the petitioners have stated inter alia that there is great amount of substitutability between the various types of alcohols, there is close resemblance in terms of characteristics and Sabutol is also used for production of plasticizers. It is a known fact that the types of Acyclic Alcohols being produced by the domestic industry are not identical or alike in all respects to Sabutol, one of the products under investigation. In the absence of an identical product the next parameter for determination is whether the products being produced by the domestic industry, which although not alike in all respects, have characteristics closely resembling those of the articles under investigation. Sabutol contains 65% to 69% of normal Butanol or Normal Butyl Alcohol (NBA) as per the own admission of exporter, M/s. Sasol. The range of specific gravity of Sabutol, as per the commercial literature of M/s Sasol furnished by the petitioner forming part of the petition is 0.808 – 0.811 whereas that of Normal Butanol is 0.810 – 0.812 as per the technical specification furnished by the petitioner as part of the petition. Sabutol is claimed to be a mixture of N Butanol (65 to 69%), Iso Butyl Alcohol (5-12%) and secondary pentanol (15 – 20%). Thus, the majority ingredients of Sabutol closely resemble those being produced by the domestic industry, i.e. NBA and IBA. As per the specifications of Sabutol furnished by the exporter the distillation range is:

Distillation at 101.3kPa  
Initial Boiling Point 0C 115.0  
Final Boiling point 0C 125.0

As per the specification furnished by the petitioners the distillation range for Normal Butanol (NBA) is:

IBP oC >116  
DP oC <118

6.6 The Authority also noted that the commercial literature of the exporter M/s. Sasol itself mentions 'Sabutol' in the range of products under the heading 'Oxo Alcohols'. Thus the Authority does not find merit in the arguments of the importers and the exporters, that 'Sabutol' cannot be classified as an Oxo Alcohol. In addition, the

confidential information furnished by M/s. Sasol indicates the name of the Indian importer of Sabutol and the said importer, who has furnished the response, is engaged in the manufacture of Plasticizers as per their own admission. Thus, another parameter to substantiate the claim of the petitioners regarding Sabutol being a like article, i.e. as regards its end use as plasticizer also holds good. The Authority also finds that imports of Sabutol have been declared on the Bills of Entry under Custom classification meant for Acyclic alcohols. Thus the Authority finds that Sabutol being imported has characteristics closely resembling those of the type of alcohol, viz., Normal Butanol (NBA) being produced by the domestic industry. The Authority therefore finds that Sabutol being imported is a like article to the products being manufactured by the domestic industry.

6.7 As regards Octanol the same has been imported from Romania during the POI. It has characteristics closing resembling those of 2-EHA being produced by the domestic industry. The Authority also observed that terms Octanol and 2-EHA are used interchangeably as seen from the response of the Brazilian exporter as well as some of the trade related data. The Authority thus holds that Octanol is a like article to the products being produced by petitioners.

6.8 As regards Nonanol and Iso Nonanol the Authority observes that as per technical literature furnished by the petitioners with the petition the technical characteristics of these two types are closely resembling those of the 2-EHA being produced by petitioners as under:-

Specification	2-EHA	Nonanol	Iso
Nonanol			
Carbon chain length	C8		
C9			C9
Specific gravity at 20C	0.832-	0.820-	
0.832-			
	0.835	0.834	
0.835			
Colour (APHA)	10	<	
10			10

6.9 The Authority has also consulted an article in the Asian Chemical News 25th February, 2002 issue regarding DOP facing growing threat from DINP. Dioctyl Phthalate (DOP) is generally the most widely used plasticizer worldwide which is

produced from 2-Ethyl Hexanol (2-EHA). DOP is facing challenge from Di Iso Nonyl Phthalate (DINP). It has been stated in the article that DINP performs better than the DOP in some applications. However, DOP has traditionally been cheaper than DINP. DINP is produced from Iso Nonyl Alcohol, i.e. Iso Nonanol. The price premium on DINP has narrowed over the years and the article further suggests that increasing price competitiveness of DINP may result in erosion of DOP demand. The Authority finds that the technical characteristics of Nonanol and Iso Nonanol closely resemble to 2-EHA. Further, DOP, the plasticizer produced from 2-EHA has substitutability with DINP, the plasticizer produced from Iso Nonanol. Therefore, the Authority holds that Nonanol and Iso Nonanol are like article within the meaning of Rule 2(d) of the Rules.

6.10 As regards Hexanol, Haptanol, Decanol, Iso Decanol and Mixtures of alcohols the Authority finds that the petitioners have produced technical specifications claiming close resemblance of these types of alcohols to those manufactured by the domestic industry. The other interested parties, viz., the importers and the exporters have asked for investigations to be confined to IBA, NBA & 2-EHA on the ground that these are only types being produced by the domestic industry.

#### **6.11 Orders of the Hon'ble CEGAT in the earlier investigations relating to Oxo Alcohol imports**

The importers and the exporter M/s. Sasol, South Africa have contended that the initiation of the present investigation is contrary to the decision of the Hon'ble CEGAT in the previous case in as much as the investigation should have confined to only the types of alcohols being produced by the domestic industry. The Authority finds that the Hon'ble CEGAT in its order in Appeal Nos. C/407/2000-AD, C/411/2000-AD and C/412/2000-AD had stated that the Designated Authority has not come to the conclusion that Normal Hexanol has characteristics closely resembling those of the other articles under investigation. What the Authority found is that the products manufactured by use of Normal Hexanol can substitute the products manufactured by other Oxo Alcohols. Further, the Hon'ble CEGAT found that 'we hold that the Designated Authority was not correct in saying that the products manufactured out of these two types of alcohols are substitutable or interchangeable' and therefore the Hon'ble CEGAT held that the Designated Authority was not correct in treating Normal Hexanol as a like article with the articles under investigation. As regards Nonanol the Hon'ble CEGAT held that the Designated Authority has not come to the conclusion that Nonanol has any characteristics similar to the articles under investigation. And only on this ground the CEGAT did not interfere with the final findings of the Authority and thus Nonanol continued to be excluded from the recommendations for imposition of anti-dumping duty. The orders of Hon'ble CEGAT in these Appeals are very clear as regards treating an article as like article in

as much as wherever CEGAT has disallowed any type of alcohol as a like article, it is essentially on the ground that the Designated Authority had not made any findings as regards whether the particular type of alcohol had characteristics closely resembling those of the articles under investigation as per the requirements of Rule 2(d) of the Rules. At the time of initiation of investigation in the instant case, the petitioner had furnished arguments supported with technical specifications in the petition to support their claim that the types of alcohols being included in the investigation are like article to the products being manufactured by the domestic industry. The Designated Authority upon being satisfied with the prima facie evidence as regards the requirement of Rule 2(d) had initiated the investigations in respect of ten types of Acyclic Alcohols. Having due regards to the aforesaid orders of the Hon'ble CEGAT , the Authority finds that there may be no dispute in the scope of the present investigation as regards the Product involved which covers ten types of Oxo-Alcohols.

6.12 As regards the products investigated being Like Article to the domestically produced Oxo- Alcohols, the Authority finds that in the light of examination of views and records as discussed in paragraphs above and keeping in view Rule 2(d), the following types of Oxo- Alcohols be treated as 'Like Article' for the Preliminary Findings:

- i. Normal Butanol (NBA) or N-Butyl Alcohol, Butan-1-01
- ii. 2-Ethyl Hexanol (2-EHA)
- iii. Iso Butanol (IBA) or Butan -2-01
- iv. Sabutol
- v. Octanol and Iso Octanol
- vi. Nonanol and Iso Nonanol

6.13 As regards remaining Oxo Alcohols viz., Hexanol, Haptanol, Decanol, Iso Decanol and mixtures of the alcohols, the Authority holds that keeping in view the above orders of the Hon'ble CEGAT and also the views of the petitioners, importers, exporters, the aspects relating to like article, dumping, injury and causal link may be examined in greater detail for the purpose of Final Findings. Therefore the recommendations in the Preliminary Findings are restricted to the following types of Oxo Alcohols:

Normal Butanol (NBA), 2-Ethyl Hexanol (2-EHA), Iso Butanol (IBA), Sabutol, Octanol and Iso Octanol, Nonanol and Iso Nonanol.

## **E. DOMESTIC INDUSTRY**

The petition has been filed by M/s. National Organic Chemicals Industries Ltd., (NOCIL), Mumbai and M/s. Andhra Petrochemicals Ltd., The above-mentioned companies have provided all information required for the purpose of the present investigation and have offered themselves for further information and verification. Another producer M/s. Indu Nissan Oxo Chemical Industries Ltd., Mumbai, who have supported the petition, have suspended production since 1999. The said producer is not considered as part of the domestic industry and the other two producers, viz., M/s. NOCIL M/s. Andhra Petrochemicals Ltd. are considered to represent the domestic industry. These companies account for 100% of the total Indian production of subject goods. None of the responding interested party has raised any point regarding the standing of the petitioners. Thus, the Authority holds that petitioners satisfy the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra, for the purpose of preliminary finding. The Authority also considers these petitioner companies as 'domestic industry' within the meaning of Rule 2(b) supra.

## **F. DUMPING & EXAMINATION OF CLAIMS MADE ON NORMAL VALUE & EXPORT PRICES**

1. The submission made by the petitioners, importers, exporters and other interested parties, to the extent filed before the Authority have been examined and considered while arriving at these findings and wherever appropriate have been dealt in these findings.
2. The Authority confirms, in the absence of complete and sufficient response from the exporters from subject countries in the form and manner prescribed, having made the findings with regard to exports from subject countries on the basis of the facts available to it as per rule 6(8) supra.
3. The cases of new exporters or those stated to be willing to give price undertaking shall be considered, on request, by the Authority in accordance with the Rules supra.

### **Normal Value**

4. Under Section 9A(1)(c) of the Customs Tariff (Amendment ) Act,1995 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)";
5. The Authority sent questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). The Authority received responses from the following exporters. However, the responses filed by the exporters are found to be grossly insufficient and incomplete for the reasons as discussed in detail herein below.

### **Normal value determination for Brazil**

6. Only M/s. Ciquine Cia. Petroquimica from Brazil has responded to the questionnaire giving information relating to exports and domestic sales of products 2-Ethyl Hexanol, Normal Butanol and Iso Butanol As per the Anti Dumping Rules Annexure 1(2) sales of the like product in the domestic market of the exporting country have to be in the ordinary course of trade. The Authority finds the response furnished as grossly deficient due to the following reasons:
  - a. Appendix – 1 - Transaction-wise details of domestic sales not furnished with sample invoices.
  - b. Appendix – 2 – As the customer shown is of USA, the C&F delivery terms needs to be clarified as to up to what point the ocean freight is included in the export price, i.e. whether up to New York or Indian Port. The C&F or CIF price in India needs to be given. In respect of item Iso Butanol the export value of \$ 249, 294 is shown as C&F value in Appendix 2.3, whereas the same value is shown as CIF value in Appendix 3.3 relating to sales of goods of the company. This needs clarification giving correct CIF price with break-up of freight & insurance.
  - c. Appendix – 3 – For the period of investigation month-wise information about exports to India, domestic market sales, etc. should be given instead of quarter-wise information.

- d. Appendix – 4 – All charges/expenses to be adjusted after FOB costs not shown. Inland freight shown as \$ 3.66/MT and \$ 2.83/MT appears to be low when compared to inland freight shown in respect of domestic sales. Full details with supporting evidence is required.
  - e. Appendix – 5 – Selling price shown is the one which is mentioned as price for equivalent customer in Appendix-1. This needs to be clarified. As per information furnished in Appendix-5 the domestic sales of Normal Butanol and Iso Butanol are below the cost of production shown in Appendix-9.
  - f. Appendix – 7 – Value in respect of production, sales of the articles under investigation and other products needs to be furnished.
  - g. Appendix – 8 & 9 – Information is required in respect of each raw material and its ratio in the final product, financing costs have not been shown nor any explanation furnished. As the company is manufacturing other products in addition to the products being investigated, detailed explanation with basis for allocation of costs like utilities and all elements of overheads needs to be furnished. These expenses should be verifiable from the profit & loss a/c. Quarter-wise cost of production information is also required for comparison with the quarter-wise sales information.
  - h. The financial statements- the profit & loss a/c and balance sheet are required in English translation for years 2001 & 2000.
7. The Authority confirms, in the absence of complete and sufficient response from the exporters from subject countries in the form and manner prescribed, having made the findings with regard to exports from subject countries on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has considered the evidence as furnished by the petitioner for constructing the normal value.

#### **8. Normal value determination for South Africa**

8.1 As per M/s. Sasol Solvents the construction of the normal value for exports of Sabutol from RSA, using Propylene prices from ICIS-LOR is wholly imaginary and extremely prejudicial, as propylene is not used in the manufacture of Sabutol. Further, without prejudice to the aforesaid, ICIS-LOR prices for propylene applicable to Europe are not applicable to coal inputs in South Africa. The construction of normal value in South Africa, based on the Oxo-process for NBA/IBA manufactured from Olefins is irrelevant and apt to misguide the Designated Authority and is extremely prejudicial to a fair hearing.

8.2 Only M/s. Sasol Solvents have responded from amongst the exporters of South Africa. They have given information relating to domestic sales and exports of Sabutol. export made to India of Sabutol, sales price structure and factory cost of production for exports and domestic sales. However, the response was found deficient

in respect of Appendix-3, as previous two years sales figures and month-wise sales figure for the period of investigation was not given, amount of commission had not been adjusted in Appendix-4, value of the production and sales not shown in Appendix-7, information about other products produced and sold by the company not shown in Appendix-7, in Appendix-8 & 9 full details of each raw material and its ratio in the final product, total quantity and rate of each raw material as required in the proforma, information about financing and interest cost not given. As the company is a multi-product company full information regarding basis of allocation of costs for manufacture of Sabutol needs to be explained which is required as per General information part D. As the domestic sales should be in the ordinary course of trade, i.e. these should be at a price to recover the cost of production and selling, general and administration expenses.

The Authority notes that comparable price of Sabutol were not available as this is not being manufactured in India. The response of the exporter was found grossly deficient. However, from the information about sales price structure in respect of domestic sales it is observed that the exporter has shown significant profits. Therefore, for the purpose of preliminary findings the Authority has considered the weighted average domestic sale price of Sabutol of the exporter in South Africa as the basis for determination of normal value for Sabutol. This is subject to the condition that the exporter will furnish complete information as mentioned above for the purpose of Final Findings. In the event of non-submission of complete information as per the requirement of the Authority, the Authority may in its discretion also discard the information furnished as regards the domestic sales transactions for determination of normal value and the Authority may resort to other options for determination of normal value as per the Rules. Accordingly, the Authority has considered the weighted average domestic sales price as furnished by the exporter after adjustments claimed for constructing the normal value of Sabutol. As regards NBA and IBA, the Authority, in the absence of any response from the exporters, has considered the normal value determination on the basis of facts available i.e. constructed cost of production furnished by the petitioners.

#### 9. Normal value determination in respect of Romania:

Only M/s. Oltchim from Romania has given information about domestic sales and exports of Octanol to India. According to the Anti Dumping Rules Annexure 1(2) sales of the like product in the domestic market of the exporting country have to be in the ordinary course of trade. The Authority finds the response furnished as grossly deficient due to the reasons stated below:

- i. Part C1 of general information: The information that the exporter does not sell like products neither on domestic market nor for exports does not seem to be

correct as the exporter has furnished information in Appendix 1 & 2 about domestic and export sales of Octanol.

- ii. Sale price structure for domestic sales as required in Appendix 5 not given.
- iii. Sales price structure for exports to countries other than India as required in Appendix 6 not furnished. This information may be needed in case the domestic market sales are not in the ordinary course of trade.
- iv. In the Appendix 7 furnished the information regarding opening stock, closing stock does not seem to be correct as the figures do not tally (opening stock + production (-) sales = closing stock). Information about other products' production, sales, closing stock (quantity and value) not given.
- v. In Appendix 8 & 9 finance and interest costs not shown. It needs to be clarified whether any loans have been taken for plant and machinery, land and building or for working capital and if not taken then how the company finances requirements on these accounts. As per general information D4 – Cost of Production, methods used in the financial accounting regarding allocation or costs from larger cost categories are to be described. As the company is a multi product company full details and basis of allocation of costs in respect of utilities and all items of overheads needs to be furnished. These should be verifiable from the financial statements, i.e. P & L A/c and balance sheet.
- vi. Complete English translation with values shown is required for the balance sheet and P&L A/c for the current year and previous two years.

The Authority confirms, in the absence of complete and sufficient response from the exporters from subject country in the form and manner prescribed, having made the findings with regard to exports from subject country on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has considered the available information as furnished by the petitioner for constructing the normal value.

### **Normal value determination for Malaysia**

10. Only M/s. BASF Petronas Chemicals from Malaysia has responded to the questionnaire. They have given information relating to domestic sales of Iso Butanol and 2-Ethyl Hexanol and exports of 2-Ethyl Hexanol. The Authority reiterates that as per the Anti Dumping Rules Annexure 1(2) sales of the like product in the domestic market of the exporting country have to be in the ordinary course of trade. The Authority finds the response furnished as grossly deficient due to the reasons stated below:

- i. Information about other products manufactured and sold with value has not been given in Appendix-7.
- ii. The cost of production shown in Appendix-8, 9 & 10 is based on standard costing. It is not based on actual cost incurred during the POI. The finance and

interest costs have not been considered as part of the product costs. The elements of these costs are to be shown and added to the product cost for the purpose of this investigation.

- iii. Income statement for the year 31.12.2000 shows operating losses whereas information about cost of domestic sales and export sales given in Appendix-8, 9 & 10 shows profits. This needs clarification.
- iv. Income statement for the period of investigation April 2000 – June, 2001 is required.
- v. Allocation of costs to products under investigation is not clear as the basis of allocation has not been explained.
- vi. Copy of sales invoices have not been furnished.

The Authority confirms, in the absence of complete and sufficient response from the exporters from subject country in the form and manner prescribed, having made the findings with regard to exports from subject country on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has considered the evidence as furnished by the petitioner for constructing the normal value.

#### **Normal value determination for Singapore**

11. None of the exporters from Singapore has furnished any response to the questionnaire. The Authority confirms, in the absence of complete and sufficient response from the exporters from subject country in the form and manner prescribed, having made the findings with regard to exports from subject country on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has considered the evidence as furnished by the petitioner for constructing the normal value.

#### **Export price in respect of Brazil**

12. The Authority has considered the information regarding the export price furnished by one exporter M/s. Ciquine relating to exports of 2-EHA, Normal Butanol and Iso Butanol. However, the Authority finds that the exporter has furnished information regarding exports made to India in respect of customer based in USA. This information cannot be considered as truly representing the export prices for the products exported to India. The Authority has therefore relied upon the information regarding export prices based on DGCI&S imports data furnished by the petitioner. The exporter from Brazil has given information regarding adjustments from export price on account of inland freight, storage, taxes and others (commission for despatch, inspection, origin certificate) which have been considered and allowed. However, as the exporter has not given information in respect of adjustments after FOB, the adjustments

as claimed by the domestic industry on account of ocean freight, marine insurance have been allowed. Adjustment on account of credit costs claimed by the petitioner has been allowed for 90 days @ 4.5% p.a.

### **Export price in respect of South Africa**

13. The Authority has considered the information regarding the export price furnished by one exporter M/s. Sasol relating to exports of Sabutol. The exporter has shown adjustments on account of packing, inland freight, storage, handling/surveyor, demurrage, ocean freight and insurance, which have been allowed as claimed. However, the exporter has not shown adjustment on account of commission indicated in Appendix-2 which has been adjusted. The petitioner has claimed adjustments on account of credit costs which has been allowed for 90 days @ 4.5% p.a. for determining the export price of Sabutol.
14. The DGCI&S data furnished by the petitioner shows imports of IBA and NBA from South Africa. Adjustments have been allowed from the CIF value shown in the DGCI&S data on account of ocean freight, insurance, inland transport, port expenses, commission and credit costs to arrive at the net export price for IBA and NBA.

### **Export price for Romania**

15. The Authority has considered the information regarding the export price furnished by one exporter M/s. Oltchim relating to exports of Octanol. The exporter has shown exports of 1154.7 MT for US\$ 560029.5 on FOB basis to a customer in Zurich in respect of exports to India. As the exporter's response does not show export price to an Indian customer, the Authority has relied upon the export price based on the DGCI&S data appearing under classification 29051902 in respect of 2-EHA. Adjustments have been shown on account of inland freight and handling which have been allowed. The petitioner has claimed adjustments on account of ocean freight, insurance, commission, port expenses and credit costs which have been allowed as claimed except that credit costs have been allowed for 90 days @ 4.5% p.a.

### **Export price for Malaysia**

16. Only one exporter from Malaysia, viz., M/s. BASF Petronas Chemicals have furnished information regarding their exports of 2-EHA to India. Moreover, the Authority finds that the volume of exports of 2-EHA shown by M/s. BASF may not be correct as some exports of 2-EHA have also been indicated as sold on high seas. The Authority finds that the DGCI&S data show imports from Malaysia of IBA, NBA and 2-EHA. The Authority has therefore relied upon

the export price based on the DGCI&S data. However, in respect of IBA the Authority finds the export price as per DGCI&S data as US\$ 1301.20/MT which is abnormally high and may not be reflecting the true export price from Malaysia. The Authority has therefore relied upon the information relating to exports of IBA to other countries furnished by M/s. BASF. Adjustments shown by M/s. BASF in respect of overseas freight, insurance, shipping charges, clearance and handling have been allowed. Adjustments claimed by petitioner on account of inland freight and commission have been allowed and credit costs have been allowed for 90 days @ 4.5% p.a.

### **Export price for Singapore**

17.No exporter from Singapore has cooperated in submitting response to the questionnaire. The DGCI&S data show imports of NBA, IBA & 2-EHA from Singapore and the Authority has relied upon the same for the export price. Adjustment as claimed by the petitioner on account of ocean freight, insurance, inland transport, port expenses, commission have been allowed. Credit costs have been allowed for 90 days @ 4.5% p.a.

### **Dumping margin**

18.Considering the normal value and export price, determined as detailed above, the dumping margin in percentage terms (as % of export price) comes as under:

Country	NBA	IBA	2-EHA	Sabutol	Octanol & Iso Octanol	Nonanol & Iso Nonanol
Brazil	81.66%	29.12%	30.34%			
Malaysia	39.66%	44.71%	37.92%			
Romania			44.87%			
Singapore	46.63%	(27.17%)	50.63%			
South Africa	(22.52%)	72.48%		24.42%		

Wherever the DGCI&S data show no imports of a particular type of Oxo Alcohol from a particular subject country to India, the box relating to dumping margin for that particular type of Oxo Alcohol from the particular subject country has been left blank in the above table.

## **G. INJURY**

**1. Rule 11 of Anti Dumping Rules reads as follows:**

"Determination of Injury:

In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;

The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules."

## **2. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:**

A determination of injury shall involve an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.

While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a significant price under-cutting by the dumped imports as compared with the price of like product 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.

## **3. Views of the petitioners**

3.1 The domestic industry was earlier suffering injury from severe dumping by the exporters from South Korea, Saudi Arabia, Indonesia, Russia, Iran, Poland, USA and European Union. The Designated Authority recently conducted investigations into dumping from these countries, which have resulted in imposition of anti-dumping duty. The imports from these countries are already attracting anti-dumping duties.

3.2 After imposition of anti-dumping duty against these countries, exporters from Brazil, Malaysia, Romania, South Africa and Singapore have started resorting to dumping of Subject Alcohols in the Indian market, taking advantage of the imposition of anti-dumping duties on other countries, resulting in injury to the domestic industry.

The fact that the exports from these countries have started with the imposition of anti-dumping duties on Other Countries further establishes that the Subject Alcohols being imported from these countries are like article to the Subject Alcohols being produced by the domestic industry.

3.3 While examining injury to the domestic industry in the present case, existence of dumping from South Korea, Saudi Arabia, Indonesia, Russia, Iran, Poland, USA and European Union causing injury to the domestic industry is required to be considered, particularly in terms of economic parameters affecting domestic industry and impacts of dumped imports on the prices in the market.

3.4 The domestic industry has suffered injury due to following factors:-:

- 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 Subject Alcohols in India;
- c. Imports from the subject countries have increased in relation to demand of Subject Alcohols in India. As a direct consequence, the market share of the domestic industry has declined;
- d. Production, capacity utilization and sales of Subject Alcohols of the domestic industry declined. Even though these parameters have improved in 2000-01, the same is due to imposition of anti-dumping duties on other sources;
- e. Selling prices of the domestic industry have remained at less than fair value in spite of imposition of anti-dumping duties on a number of Other Countries;
- f. Imports were significantly undercutting the prices of the domestic industry;

#### **4. Views of exporters and importers:**

##### Views of M/s. Sasol, South Africa

4.1 Sabutol Is Not Causing Injury To The Petitioners:

- a. Without prejudice to the contention that Sabutol is not "like article" to the product under consideration, and assuming without admitting that the Hon'ble Designated Authority accepts the Petitioner's view that Sabutol is indeed like article, then M/s Sasol respectfully submits that there is no injury being caused to the Petitioners.
- b. Clearly, the chemical analysis indicates that the composition of Sabutol is more akin to the "seconds" materials of NBA/IBA column bottoms, which one of the Petitioners are describing as Oxo Alcohol slopes/residue and are selling at a fraction of the price of pure NBA and IBA. As these are waste materials and

not first grade production, the petitioners are not being injured by the imports of Sabutol. Clearly, the Petitioners are well aware that the prices of 99% pure NBA, 99% pure IBA and 99% pure 2-EHA cannot be applied to a product which is perceived by the market to be a mixture of one or more of their premium products and yet, at the same time, the Petitioners are unwilling to allow the same benefit to Sasol in respect of Sabutol. The Petitioners view that Sabutol is a like product to 99% pure NBA and 99% pure IBA is technically and commercially unsound.

- c. Plasticizers when made out of Sabutol do not have identical plasticizing efficiency to plasticizers such as DOP/DBP & DIBP which are made out of 99% pure 2-EHA/NBA.IBA. This severely restricts possible use to which Sabutol based plasticizers can be used and places them at a disadvantage vis-r-vis plasticizers made from 2EHA, NBA and IBA. Likewise, the Petitioners are aware that plasticizers manufactured from their second grade Oxo Alcohol slopes/residue would not have the same plasticizing efficiency of DOP/DBP/DIBP and hence they have deliberately priced their seconds product at a severe discount on the price applicable to the their premium product. Thus Sabutol cannot pose a threat to any oxo-alcohol manufactured by the Petitioners.
- d. Based on the ratio of the Hon'ble CEGAT in the Fused Magnesia case, Sabutol is not causing injury to the Petitioners.
- e. Similarly on the facts of this case, Sabutol is not being manufactured in India. Its Chemical composition clearly shows that Sabutol is not comparable to any Oxo-Alcohol being manufactured in India and if at all there is any comparison, it is arguably to the off-spec Oxo-Alcohol. Thus, there is no injury being caused to the Product Under Consideration by the imports of Sabutol in to India.
- f. Any injury to the Petitioners, if at all, is self inflicted and not caused by imports of Sabutol:

## **5. Views of Indian Plasticizer Manufacturers Association & M/s. Lubrizol India Pvt. Ltd.**

### **5.1 No evidence of injury to the domestic industry**

The petition does not contain any evidence of injury to the domestic industry. Sales of the Petitioners have gone up from 42757 M.T. in 1998-99 to 55,599 M.T. during 2000-2001, an increase of 30%. The market share of the domestic industry has gone up from 56.44% in 1998-99 to 84.08% in 2000-2001. During the period of investigation, the market share of the domestic industry was 73.36%.

5.2. The total imports of the subject goods have come down from 33003 MT in 1998-99 to a mere 17456 MT during 2000-2001 during the POI (annualised). The imports have come down by over 47%. In terms of Anti Dumping Rules, the Authority is required to examine the existence of increased imports whereas in this case, there is a marked fall in the imports of the subject.

5.3 No evidence regarding causal link Causal link may be established either through volume effect or price effect. In view of what is stated above, it is clear that the imports have come down; sales of the domestic industry have gone up; market share of the domestic industry has increased. Under such circumstances, the volume effect is negative.

5.4 We are certain that the price effect would also be negative as their losses were caused by factors other than dumped imports. The petitioners claim that they have suffered serious financial losses and also closure of their operations due to dumped imports. We submit that their losses and closure were not due to dumped imports in view of the reason that the petitioner companies, viz., M/s. Andhra Pradesh Petrochemicals Ltd. remained closed during 14th September, 1997 to 31 May 1998 and during 18th January 2001 to 18th July, 2001. M/s. NOCIL remained closed during November, 2001 to early March, 2002.

5.5 As may be seen from the Proforma IV A, the market share of imports from the subject countries was 2.36% in 1998-99, 6.44% in 1999-2000 and 5.70% in 2000-2001. Such marginal imports from the subject countries could never have caused serious injury that would result in the closure of the companies for substantial periods. Therefore, there is no causal link.

### **Cumulative assessment of injury**

6. As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article --- and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%. The Authority has also found it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article as the export prices from the subject countries were directly competing with the prices offered by

the domestic industry in the Indian market. The Authority found that there is a cumulative effect of injury by imports of subject goods on the domestic industry.

## 7. Examination by the Authority:

### (a) Volume effect

#### (i) **Quantum of imports**

To ascertain the quantum of imports the Authority has considered the statistics of imports of subject goods published by the Director General of Commercial Intelligence & Statistics (DGCI&S), Kolkata. The Authority has also considered the information furnished by the exporters and importers as stated in earlier paragraphs and has found that there was large variation in the information and the information was incomplete as all the exporters from a particular subject country had not cooperated, the information furnished by some exporters did not specifically pertain to the exports made to the Indian importer. The Authority has therefore relied upon the DGCI&S data to analyse the import trend from the subject countries and the injury caused to the domestic industry on this account.

8. As per the statistics published by DGCI&S, the quantum of imports of Acyclic Alcohols from various countries during the period of investigation (April, 2000 - June, 2001) are as under:-

Country	Imports in MT
Brazil	697.8
Malaysia	1257.7
Romania	1154.5
Singapore	7562.4
South Africa	1341.2
Total Subject countries	12013.7
Other countries	9805.8
Total Imports	21819.5

9. The Authority has considered the views of the petitioners, the importers and the exporters. As regards the claim of the importers that the petition does not contain any evidence of injury the Authority has examined the trend of imports of Oxo Alcohols from the subject countries which have been found as under:-

### **Trend in imports from the subject countries**

Year	Imports from subject countries (MT)	%age increase over 1998-99
1998-99	1788	-
1999-2000	5262	194%

Imports of Acyclic Alcohols from the subject countries have increased significantly in absolute terms as may be seen from the table above. The Authority notes that there is significant increase in imports of Acyclic Alcohols in absolute terms from the subject countries.

10. As regards the claim of the importers that the market share of the domestic industry has gone up during the POI in comparison to the earlier years the Authority finds that though the share of domestic industry has increased, the share of the imports from subject countries has increased far more significantly. The increase in market share of the domestic industry is attributed to the decline in imports from other countries as a result of imposition of anti-dumping duty. The share in imports from the subject countries were found as under:-

### 11. Market share

The share of imports from the subject countries in total imports of Acyclic Alcohols were as under:-

#### Imports in MT

Year	Total imports	Imports from subject countries	Market share (%) of subject countries in imports
1998-99	33003	1788	5.41%
1999-2000	36115	5262	14.57%
POI April 2000 – June 2001	21820	12014	55.05%

12. The Authority finds that the volume of imports from the subject countries were 1788 MT in 1998-99, 5262 MT in 1999-2000 and 12014 MT during the POI. Therefore, the market share of imports from subject countries with respect to the total imports has grown to 55.05% during the POI from a mere 5.41% during 1998-99. The Authority notes that the share of imports from the subject countries in total imports of Acyclic Alcohols in India has increased significantly. Significant increase in import from these countries had led to substantial increase in their market share. The market share of subject countries import in total Indian demand grew to 14.67% during the POI from 2.3% in 1998-99 and the share of the domestic industry was 73.3%, whereas the share of imports from other countries declined from 37.75% in 1999-2000 to 11.97% during POI. The Authority thus finds that imports from subject countries increased in absolute terms during the POI. These imports also grew significantly in relation to total imports of subject goods and also in relation to total Indian demand of subject goods.

13. As regards the claim of M/s. Sasol, South Africa that Sabutol is not causing injury to the petitioners the Authority kept in view their claim that Sabutol is not a like article and that its import cannot cause injury to the petitioners. The Authority in its determination on 'Like Article' has held that Sabutol is a Like Article to the domestically produced Oxo Alcohols. The imports of Sabutol tend to displace the demand for domestically produced Oxo Alcohols. Sabutol goes in the manufacture of plasticizer. The domestically produced Oxo Alcohols are also used for manufacture of plasticizer. The Authority finds that the importers are using Sabutol as a cheaper substitute for the Oxo Alcohols produced domestically. Recalling the orders of the Hon'ble CEGAT in the case of Fused Magnesia as mentioned by M/s. Sasol in their arguments the Authority finds that the facts and circumstances of that case and present investigation are different. The products involved are different. Further, the Hon'ble CEGAT had stated

"It is true that Sintered Magnesia is also required in some of the parts of the oven. The Sintered Magnesia and Fused Magnesia are thus seen to be complementary to each other and not interchangeable. Fused Magnesia cannot be wholly substituted by Sintered Magnesia. In this view of the matter, we find it difficult to support the Designated Authority on the question of injury and causal link. The finding that imports of Fused Magnesia resulted in reduction in consumption of Sintered Magnesia is not supported by any acceptable evidence".

Then it went on to say "since Fused Magnesia has separate and distinct use in the oven compared to the Sintered Magnesia and they are not interchangeable, we hold that its import had no causal link in the retardation of the domestic industry".

14. In the present investigation it is not the case as Sabutol and Octanol are not complementary to the domestically produced alcohol. The Authority has found that based on close resemblance of their characteristics these are like article to the domestically produced Oxo Alcohols. These are commercial substitutes. Import of Sabutol and Octanol had the effect to displace the demand of domestically produced alcohols. Thus, the Authority finds that the facts of this investigation are different from those of Fused Magnesia case. Recalling the orders of the Hon'ble CEGAT in the Oxo Alcohols case the Authority finds that based on the evidence produced in the present investigation Sabutol and Octanol being imported, though not produced by the domestic industry, are like article to the domestically produced alcohols. These are commercial substitutes and their import had the effect of displacing the demand of domestically produced alcohols. The Authority thus holds that import of Sabutol and Octanol, though not produced by the petitioner companies, has caused injury to the domestic industry.

## **15. Price Effect**

## Price Undercutting And Price Depression:

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. The Authority has compared the landed value of imports of subject goods from subject countries during the POI with the net sales realization and has found that there has been a significant price under-cutting by the dumped imports. The landed value of imports has been found to be significantly lower than the domestic industry's net sales realization. The imports were having significantly suppressing/ depressing effect on the prices in the domestic market, as the domestic industry has not been able to raise its selling price in view of the dumped imports.

### **16. Profitability**

The Authority finds that the domestic industry is forced to reduce its selling price below the cost of production due to the dumped imports from the subject countries. This has resulted in the petitioners suffering severe financial losses. One of the petitioners company M/s. Andhra Petrochemicals Ltd. have suffered losses to the tune of Rs.\*\*\* lakhs in the year 2000-01 as reported in their annual reports. M/s. NOCIL is a multi-product company. However, on verification of records the Authority finds that they have also suffered financial losses in their production activity relating to Oxo Alcohols due to average net sales realization below the cost of production.

### **17. Threat of injury**

Under Rule 11 supra and Annexure II of the Rules, 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 articles.....". Further to above, regarding threat of injury, para (vii) of Annexure II of Rules supra, reads as under:-

" (vii) A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, inter alia, such factors as:

- a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b. sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;
- c. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- d. inventories of the article being investigated."

The Authority finds that the increase in imports of subject goods from subject countries from year 1998-99 to the period of investigation, i.e. April 2000 – June 2001 has been of the order of 437%. From the available information the Authority finds that the following types Oxo Alcohols have been imported during the POI:-

- i. Normal Butanol (NBA) or N-Butyl Alcohol, Butan-1-01
- ii. 2-Ethyl Hexanol (2-EHA)
- iii. Iso Butanol (IBA) or Butan -2-01
- iv. Sabutol
- v. Octanol

The petitioner have also produced evidence of significant imports of Iso Nonanol during the period subsequent to the period of investigation. The Authority has also relied upon the published literature regarding setting up of huge capacity Oxo Alcohol plant in Singapore. The Authority is of the view that there are sufficient freely disposable quantity of subject goods which may lead to an imminent and substantial increase in exports of these goods from Singapore. In the determination on like article the Authority has found that Iso Nonanol closely resembles to 2-EHA which is produced by the domestic industry. The Authority has found that the imports of Oxo Alcohols during the period of investigation had the effect to undercut the price of domestic industry. The Authority is of the view that the imminent imports of Iso Nonanol would have a significant depressing and suppressing effect on the domestic prices. These would also increase demand for further imports. The Authority is thus of the view that there is threat of injury.

## **18. Closure of the petitioners operations**

As regards some claim regarding closure of petitioner production operations, the Authority finds that M/s. Andhra Petrochemicals Ltd., plant operations were suspended from 22.1.01 to 4.7.01 due to uneconomic market pricing. This has adversely affected the capacity utilization of the company and demonstrates suffering

of injury for having not been able to achieve full capacity utilization during the entire period of investigation. The Authority notes that subsequent to the period of investigation M/s. NOCIL has suspended its operation of Petrochemical Division. However, M/s. APL continues to be in production and accounts for about 40% of the demand of the subject goods.

19. For the examination of the impact on the domestic industry in India, the Authority also considered such further indices having a bearing on the state of industry as capacity utilization, production, sales, investments, capital investments for expansion and employment, etc. The Authority found that:

- a. The selling price of the domestic industry is significantly below the price which would have permitted the domestic industry a fair recovery of its cost of production and earn a reasonable return.
- b. The installed capacity of the two petitioner companies had marginally increased during the POI. The total production of the petitioner companies also increased marginally during the POI. However, during the period April '01 to June '01 there was a sharp decline in the capacity utilization.
- c. Though selling prices increased in the investigation period as compared to the previous years, the increase in the Cost of production was much more than the increase in the selling prices. In fact, it is found that the loss per unit has significantly increased in the investigation period. Thus, the dumped imports have prevented the domestic industry from effecting legitimate price increase to realize a reasonable price. The industry has suffered material injury on account of depressed selling prices resulting in non-recovery of cost of production and thereby suffering financial losses.
- d. There has been a decline in the employment level of M/s. NOCIL. M/s. APL despite achieving a higher capacity utilization during POI suffered losses due to uneconomic market pricing. Their plant operations were suspended from 22.1.01 to 4.7.01. Suspension of plant operations results in *loss of opportunities* of employment and therefore the Authority finds the employment level to have been affected adversely.
- e. The Authority finds that there has not been any significant build up of the inventory in comparison to the previous years.
- f. The cash flow position of the petitioner company has deteriorated.
- g. The petitioner company are not in a position to raise funds for capital investment since they are incurring losses.

## 20. CONCLUSIONS ON INJURY

From the foregoing, the following conclusions are made by the Authority regarding injury suffered by the domestic industry:

- 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 Acyclic Alcohols in India.
- c. Imports from the subject countries have increased in relation to the demand of Oxo Alcohols in India.
- d. Imports are significantly undercutting the selling prices of the domestic industry.
- e. The profitability of the domestic industry has been severely eroded resulting into financial losses.
- f. The cash flow position of the petitioner company has deteriorated.
- g. The petitioner company are not in a position to raise funds for capital investment since they are incurring losses.
- h. The domestic industry has suffered material injury.
- i. There is clear evidence of threat of injury.

The Authority therefore concludes that the domestic industry has suffered material injury and there is imminent threat of injury.

## **H. CAUSAL LINK**

1. As regards the impact of the dumped imports on the domestic industry the principle (iv) of Annexure-II of the Anti-Dumping Rules states:

"The examination of the impact of the dumped imports on the domestic Industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices, the magnitude of margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments."

2. In establishing that the material injury to the domestic industry has been caused by the dumped imports from the subject countries, the Authority holds that the increase in quantum of imports from subject countries resulted in the curtailment of market share of the petitioner. In considering the effect of the dumped imports of Sabutol, Octanol which are not produced by the domestic industry the Authority has found that based on close resemblance of their characteristics these are like article to the domestically produced Oxo Alcohols. These are commercial substitutes. Import of Sabutol and Octanol had the effect to displace the demand of domestically produced alcohols. The Authority holds that the substantial increase in imports of subject goods

including Sabutol and Octanol have contributed to the increase in imports in absolute terms. This had the effect of undercutting the prices of the domestic product forcing the domestic industry to sell below its fair selling price. Resultantly, the domestic industry was not in a position to realize 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. The Authority also found evidence regarding imports of Iso Nonanol in the period subsequent to the POI and building up of significant manufacturing capacity of subject goods in Singapore. The Authority holds that there is a threat of imminent imports of subject goods, which are like article, from Singapore. The injury to the domestic industry is a consequence of the dumped imports of like article from subject countries. Further, the industry is threatened with large imports of like article from the newly set up manufacturing capacity in the subject country.

## **I. INDIAN INDUSTRY'S INTEREST**

1. 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.
2. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using 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. 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 subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

## **J. CONCLUSIONS**

**1. The Authority has, after considering the foregoing, come to the conclusion that:**

- i. Acyclic Alcohols(Oxo Alcohols), viz., Normal Butanol (NBA), 2-Ethyl Hexanol (2-EHA) Iso Butanol (IBA), Sabutol, Octanol and Iso Octanol have been exported to India from subject countries below their normal value;
- ii. The domestic industry has suffered material injury;

- iii. The material injury has been caused cumulatively by the dumped imports from subject countries;
- iv. There is a threat of injury due to imminent imports of like article in large quantities.

2. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of following types of Acyclic Alcohols(Oxo Alcohols) from subject countries in order to remove the injury to the domestic industry:

Normal Butanol (NBA), 2-Ethyl Hexanol (2-EHA) Iso Butanol (IBA), Sabutol, Octanol and Iso Octanol,.

The Authority also considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of Nonanol and Iso Nonanol, being like article to the domestically produced Oxo Alcohols, from subject countries

The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty not exceeding the margin of dumping or the margin of injury whichever is lesser and which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is compared with the non injurious selling price of the petitioner companies determined for the period of investigation.

3. Accordingly, the Authority recommends that provisional anti dumping duties be imposed from the date of issue of notification by the Central Government on all imports of following types of Acyclic Alcohols falling under Heading 2905 of Schedule I of Custom Tariff Classification originating in or exported from Brazil, Malaysia, Romania, Singapore and South Africa pending final determination. The amount of anti dumping duty shall be as mentioned in the following table:

**Amount of anti-dumping duty US\$/MT**

Country	NBA	IBA	2-EHA	Sabutol	Octanol & Iso Octanol	Nonanol & Iso Nonanol
Brazil	307.34	139.82	164.16	Nil	164.16	164.16
Malaysia	194.15	191.55	193.88	Nil	193.88	193.88
Romania	218.41	218.41	218.41	Nil	218.41	218.41
Singapore	217.44	Nil	237.02	Nil	237.02	237.02
South Africa	Nil	260.52	260.52	68.79	260.52	260.52

4. 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 under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

## **K. FURTHER PROCEDURE**

1. The following procedure would be followed subsequent to notifying the preliminary findings:-

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of these preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. The Authority would provide opportunity to all the interested parties for making oral submissions which have to be rendered thereafter in writing;
- d. The Authority would conduct further verification to the extent deemed necessary;
- e. The Authority would disclose essential facts before announcing final findings.

**L.V. Saptharishi,**  
Designated Authority