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Government of India
Ministry of Commerce & Industry
Department of commerce
(Directorate General of Anti Dumping & Allied Duties)

NOTIFICATION

New Delhi, the 22nd August, 2008

FINAL FINDINGS

Sub: Anti-Dumping Investigations involving import of Maleic Anhydride originating in or exported from China PR, Chinese Taipei and Indonesia.

No.14/3/2007-DGAD-Having regard to the Customs Tariff Act, 1975 as amended in 1995(hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s Thirumalai Chemicals Ltd., Ranipet, Tamil Nadu (herein after referred to as the 'applicant') filed an application before the Designated Authority (hereinafter referred to as the 'Authority'), in accordance with Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the 'Act') and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the 'Rules'), alleging dumping of Maleic Anhydride (hereinafter referred to as the 'subject goods'), originating in or exported from the China PR, Chinese Taipei and Indonesia (herein after also referred to as 'subject countries') and requested for initiation of an investigation for the levy of anti dumping duties on the subject goods.

3. Whereas the Designated Authority on the basis of sufficient evidence submitted by the applicants issued a public notice dated 23rd February 2007, published in the Gazette of India, Extraordinary, initiating Anti-Dumping Investigations concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the sub-Rule 5(5) of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

4. On the request of the Designated Authority the Central Government has extended the time period for completion of this investigation till 22nd August, 2008, in terms of Rule 17 of the Rules.

A. Procedure

5. The procedure described below has been followed with regard to this Investigation by the Authority:-

- (i) Before proceeding to initiate the investigation as stated in paragraph 2 above, the Authority notified the Embassies/Representatives of the subject countries in India about the receipt of dumping application made by the Applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
- (ii) The Authority sent copies of initiation notification dated 23rd February 2007 to the Embassies of the subject countries in India, known exporters from the subject countries, importers, consumers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
- (iii) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassies of subject countries in accordance with Rule 6(3) supra.
- (iv) The Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to them, along with the names and addresses of the exporters.
- (v) The Authority sent questionnaire to the following known exporters from subject countries to elicit relevant information in accordance with Rule 6(4).

China PR

1. Hangzhou Bhoking Biochemical Engineering Co. Ltd.,
Tangxi Town,
Yuhang District,
Hangzhou 311 106
P.R. China
2. Shanxi Regent Taiming Chemical Co Ltd
No.9 Xinhe Road, Wu Long Kou Street,
Taiyuan
Private Economic Zone, Taiyuan, Shanxi, China
3. Suzhou Synthetic Chemical Co Ltd
126, Qimenwai St
Suzhou China

- 4 Shanghai Kingdom Industry co Ltd
8-13-301, 3333 Zhongchun Road
Shanghai 201101 China

Chinese Taipei

- 1 UPC Technology Corporation
SF 20, Lane 478, Rueiguang Road,
Neihu Chiu,
Taipei,
Chinese Taipei 114

- 2 Taiwan Synthetic Petrochemical Corporation,
25-9A Morrison Plaza
Sector 4 Jen-Ai Road,
Taipei, Chinese Taipei R.O.C.

Indonesia

- 1 PT. Justus Sakti Raya
Wisma Justus
Jl. Danau Sunter Utara No. 27-28, Blok 03 Jakarta,
Indonesia
(Seberang Kantor PT. Toyota Astra Motor - Sunter)

- (vi) The following producers/exporters of China PR in response to the Initiation of the investigation filed their responses showing interest in participating in the investigation.

China PR

1. M/s Shanxi Regent Taiming Chemical Co., Ltd. (RTC) -
Producer and M/s Shanxi Regent Works Inc. (RWI) –
Exporter
2. M/s Jiangyin Shunfei Fine Chemical Factory (Producer)
& M/s. Goldlink Industries Co. Ltd (Exporter)
3. Changzhou Yabang Chemical Company Ltd.
(Producer/Exporter)

- (vii) The following producers/exporters from the other countries named in the investigation have also filed their questionnaire response and participated in the investigation.

Indonesia

1. M/s. PT Justus Sakti Raya

Chinese Taipei

'Nil'

(viii) Questionnaire was sent to the following known importers and Consumers of subject goods in India calling for necessary information in accordance with Rule 6(4).

- 1 M/s. Ficom Organics Ltd., Anklashwar
- 2 M/s. Dujodwala Paper Chemicals Ltd., Khopoli (Maharashtra)
- 3 M/s. Hindustan Basic Drugs, Mumbai
- 4 M/s. Mechemco Industries, Thane, Maharashtra
- 5 M/s. Nayakem Organics Pvt. Ltd., Tarapur Indl. Area, Maharashtra
- 6 M/s. Salvi Chemical Industries, Thane, Maharashtra
- 7 M/s. Morex Petrochem Ltd. Mumbai
- 8 M/s. Rachna Plasticizers, Mumbai
- 9 M/s. Satyen Polymers, Silvassa
- 10 M/s. KLJ Polymers and Chemicals Ltd., Daman
- 11 M/s. PCI Oil & Solvents Ltd.
- 12 M/s. Visen Industries Ltd., Silvassa
- 13 Mr. Silvo Laical Chemicals Ltd., Raigad
- 14 M/s. Jewel Polymers Pvt. Ltd., Palghar
- 15 Mr. Orson Chemicals Pvt. Ltd., Distt. Thane.
- 16 M/s. PCL Oil & Solvents Ltd., Daman
- 17 M/s. Netwrok Polymers, Tarapur
- 18 M/s. Pure Chem Pvt. Ltd., Anklashwar
- 19 M/s. Manali Chemicals, Mumbai
- 20 M/s. Crescent International, Mumbai

(ix) As per records of the Authority, following importers/Associations/Interested Parties have filed the response to the importers' questionnaire/made certain submissions to the Authority:

1. M/s. Morex Petrochem Ltd., Mumbai .
2. M/s. Visen Industries Ltd., Mumbai .
3. M/s. Rachna Plasticizers, Mumbai.
4. M/s. Polyblend Polymers Pvt. Ltd., Mumbai.
5. M/s. Kavlex Chemicals, Mumbai .
6. M/s. R.K. Industries, Mumbai .
7. M/s. Jewel Polymers Pvt. Ltd., Mumbai .
8. M/s. Divine Petrochemical Pvt. Ltd. Mumbai .
9. M/s. Polyblend Polymers Pvt. Ltd., Mumbai.
10. M/s. Indian Plasticizers Manufacturers Association, New Delhi.

11. Silvasa Plast, Silvasa

12. Polyester Resin Manufacturers Association, Mumbai

- (x) In addition, M/s.Mysore Petrochemicals Ltd., another domestic producer of the subject goods attended the public hearing and made certain submissions.
- (xi) No other interested party filed any submission or information in respect of this investigation before the Authority.
- (xii) Investigation was carried out for the period starting from 1st October 2005 to 30th September 2006 (POI). The examination of trends, in the context of injury analysis, covered the periods April 2003-March 2004, April 2004-March 2005 and April 2005-March 2006 and the POI.
- (xiii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- (xiv) The Authority has examined the confidentiality claims of various interested parties in respect of the data submitted by them. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties and the Authority being satisfied to its confidentiality has treated confidential. *** In this Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- (xv) The Authority held a public hearing on 7th May, 2008 to provide an opportunity to all interested parties to present their views. The oral submissions made by the parties during the public hearing reproduced in writing have been taken on record for the purpose of this investigation.
- (xvi) The Authority verified the information submitted by the interested parties including the domestic industry, to the extent possible. Cost verification of the domestic industry was carried out to determine the Non-Injurious Price (NIP) of the domestic industry as per the consistent practice of the Authority.
- (xvii) In accordance with rule 16 of Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received thereon have also been duly considered in these findings.
- (xviii) Based on the information furnished by the applicant and as verified by the Authority, optimum cost of production and cost to make and sell the subject goods in India was worked out keeping in mind the Generally Accepted Accounting Principles (GAAP) in order to ascertain whether Anti-Dumping duty, lower than the dumping margin, would be sufficient to remove injury to the Domestic Industry.

B. Product under Consideration and Like Article

6. The product under consideration is 'Maleic Anhydride (MAN) (also referred to as 'subject goods'). MAN is an organic acid anhydride (C₂H₄O₃), generally available in pillow shaped briquette form or in molten form. Both the forms are considered within the product under consideration in the investigation. MAN is used to manufacture a wide range of products like unsaturated polyester resins, alkyd resins, paper sizing chemicals, insecticides and fine chemicals. MAN is classified under ITC (HS) subheading 29171400. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.

7. The applicant has claimed that goods produced by them are like articles to the goods originating in or exported from subject countries. There is no significant difference in the subject goods produced by the applicant and those exported from subject countries. MAN manufactured by Domestic Industry is identical to the product under consideration, and is therefore being treated as like article for the purpose of this Investigation. None of the importers/consumers/exporters/ interested parties has filed any comments/objections/submissions with regard to product under consideration and Like Articles.

C. Domestic Industry and standing

8. The application was filed by M/s Thirumalai Chemicals Ltd., Ranipet. The applicant claimed that they hold over 80% of the total domestic production of the subject goods and that they constitute the domestic industry within the meaning of Rule 2(b) of the rules supra as the production of the applicant company constitutes more than 50% of total Indian production.

C.1. Views of other interested parties

9. M/s. Changzhou Yabang Chemical Company Ltd, China PR and Indian Plasticizers Manufacturers Association have stated that the applicants did not constitute the whole of the domestic Industry manufacturing the like article and treating the applicant as domestic industry would be a violation and disregard to the judgment of the Honourable Supreme Court in Reliance Industries v. DA reported in 2006 (202) ELT 23 (SC).

10. M/s. Jiangyin Shuenfei Fine Chemical Factory, China PR and M/s. Goldlink Industries Co. Ltd., China PR stated that subsequent to the Reliance decision (supra) by the Honourable Supreme Court, Authority has been consistently holding the view that all the producers in the country can only form the "domestic industry" in terms of Rule 2(b). They

have also stated that the applicant has been importing substantial quantities from its related entity in Malaysia and being an importer it does not qualify as domestic industry and should be declared as an ineligible domestic producer for the purpose of rule 2(b). Since all the domestic producers had not filed the required information, the applicant should be treated as non-cooperative.

C.2. Views of the applicant

11. In response to the above, the applicant made following submissions:

- (i) Even after the judgement of the Hon'ble Supreme Court in Reliance Industries Vs. the Designated Authority, the Authority has been determining the scope of the Domestic Industry in terms of Rule 2(b) applying the major proportion test and in this regard has cited various cases decided by the Authority.
- (ii) The applicant has argued that continuing the above said practice of the Authority, so long as the participating producers account for a major proportion of total domestic production in India, Authority treats them as constituting the domestic industry. In this case, the applicant accounted for over 80% of the total production of the product concerned in India and thus, satisfied the 'major proportion' test and hence, the applicant must be treated as representing the 'domestic industry' within the meaning of Rule 2(b).
- (iii) Further, with regard to imports of the product concerned from Malaysia, the applicant submitted that Malaysia was not a subject country and hence imports from non-subject countries shall not be considered. In any case, the applicant had imported small quantities from Malaysia. Quantities imported from Malaysia as a percentage of applicant's production was a mere 5.8% during POI.
- (iv) Further, the question of treating the applicant as non-cooperative domestic producer on the ground that another producer having a small production capacity did not participate in the investigation does not arise. The applicant producer has fully cooperated with the Authority and the Authority may take a decision based on facts available.

C.3. Examination by the Authority

12. The Authority has examined the views of interested parties and the applicant as under:-

- (i) Before initiation of the investigation, Indian Chemical Council, Mumbai filed a letter with the Authority stating that there were only two manufacturers of the subject goods in India – i.e. Thirumalai Chemicals Ltd and Mysore Petrochemicals Ltd with a capacity of 17750 MTPA and 5400 MTPA respectively. Taking into account the actual production of the applicant and the capacity of other producer(s), authority concluded that the applicant represented over 68% of the total domestic production of the subject goods in India. As the applicant met the standing requirements laid down in Rule 5(3) of the rules, Authority initiated the investigation. The Authority also wrote to the other producer to provide necessary information. Subsequent to the initiation of the investigation, Mysore Petrochemicals Co Ltd furnished actual production quantities. Taking into account the actual production reported by Mysore Petrochemicals Co Ltd, authority found that the applicant accounted for over 80% of the total domestic production of the subject goods and thus fulfilled the criterion laid down in Rule 2(b) of the rules supra. Authority also found that the applicant had not imported the goods from the subject countries.
- (ii) Further, the applicant had imported the subject goods from Malaysia and not from any of the subject countries. Quantities imported by them from Malaysia accounted for less than 5.8% of the applicant's total production. Applicant stated that primarily imports were made under duty free advance licences for manufacturing other value added products like food acids for exports. In view of the above, Authority holds that the exclusion clause provided under Rule 2 (b) is not attracted at all.
- (iii) After examining the facts, the Authority holds that the production of the applicant accounted for a major proportion of the total domestic production of the subject goods in India and accordingly, determines that the applicant constitutes domestic industry within the meaning of the Rule 2(b) read with 2(d) and the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

D. De Minimis Limits

13. Applicant had provided import statistics from two sources in the application. DGCIS data presented in the application covered upto 30th June 2006. IBIS data given in the application covered the entire injury period. Subsequently, complete data became available and the Authority has relied on the DGCIS Statistics for the analysis. Authority notes that the quantities imported from the subject countries during the POI were above the de minimis limits prescribed under Rule 5(3) of the rules supra.

E. Other issues

E.1. Views of the Exporters, Importers, Consumers and Other Interested Parties

14. The other issues as have been raised by the exporters, importers and other interested parties and are taken on record.

- (i) M/s. Changzhou Yabang Chemical Company Ltd, China PR stated that the POI and the previous financial year till March 2006 were overlapping and this overlapping period was a substantial period having serious impact on the inferences to be made from the data. Thus, they submitted that the Authority should order the Applicant to re-work the data and present the same. M/s. Changzhou Yabang Chemical Company Ltd, China PR stated that the costing information submitted by the petitioner was insufficient as non-confidential versions of Formats A, B, C-I, C-II, D and E were not provided; information relating to net sales, production and consumption had been treated as confidential though the same were available in the public domain in their Annual Reports (at P.21, 22 of Annual reports 2003-04, 2004-05 and 2005-06); applicant had claimed confidential treatment for many exhibits (Exhibits 6,7, 12,13,14,15,16,17,18 and 23) by merely stating confidential treatment requested and not providing details of the basis on which confidential treatment should be granted; applicants had claimed an undisclosed Return on Capital Employed (ROCE) as per the response to Q.No.10 of the Costing Information of the application; applicant had claimed excessive confidentiality and failed to disclose certain relevant information; evidence as to the calculation of the ex-factory export price in non confidential version was incomplete; and the non confidential information provided by the Applicant was deficient and not sufficiently summarized or indexed.
- (ii) M/s. Jiangyin Shunfei Fine Chemical Factory (Producer) and M/s. Goldlink Industries Limited (Exporter) stated that excessive confidentiality has been claimed by the domestic industry by not disclosing even the summary of their selling prices, percentage undercutting, percentage underselling etc.
- (iii) The importers/Associations/Other Interested parties have raised various issues with regard to raw material used in manufacturing process, cost effectiveness on the raw materials used in manufacturing process, meager production and availability of subject goods from domestic industry, setting up of a plant in Malaysia by the applicant as well as increasing demands of domestic market etc. and have opposed the Initiation.
- (iv) Government of Indonesia had stated that the period of investigation being Oct-2005 to Sep-2006, previous years data

shall be collected for corresponding twelve months period i.e. Oct'02 –Sep'03, Oct'03-Sep'04, etc. PT Justus Sakti Raya did not export the product concerned to India after May 2006 while the exports from China PR increased considerably. Designated Authority shall consider all 15 mandatory injury factors in terms of Article 3.5 of the WTO Anti-dumping agreement. There should be a difference in the treatment given to exporters from Chinese Taipei as none of them had cooperated in this investigation. The imposition of antidumping duty on non-cooperative companies should be bigger than the cooperative companies.

E.2. Views of the Domestic Industry

15. Domestic Industry have submitted following views:

- (i) The applicant stated that in many cases, period of investigation prescribed by the Authority did not coincide with the financial year or the calendar year; in all such cases, there would be an overlapping of data between the POI and its immediately preceding year; it would be impractical to align the previous years' data with the 12 months of the POI; such an exercise may not provide any new insights into the trends in the movement of various parameters than what is shown in the current data set; it would only lead to avoidable labour without any commensurate benefits. In none of the cases in the past, Authority has insisted on such a re-alignment of past data to coincide with the data for the POI to eliminate possible overlapping. The demand is impractical and hence, it needs to be rejected.

- (ii) In response, domestic industry stated that a perusal of formats A,B,C-I,C-II,D and E (at pages 26 to 31) would reveal that reasons for claiming confidentiality to those formats have been expressly stated in the relevant pages; allegation that no reasons have been given for claiming confidentiality was incorrect; information relating to quantity produced, sold and captively consumed had been disclosed in the written submissions filed by domestic industry pursuant to the public hearing; information contained in exhibits 6,7, 12,13,14,15,16,17,18 and 23 were business sensitive and/ or obtained from others on a confidential basis and therefore, confidential treatment was requested for the said exhibits; calculation of non-injurious price was highly business sensitive as it related to the cost of production and sales of the product concerned by the domestic industry and therefore, confidential treatment was requested for the same (in response to Q.No. 10 of the costing information of the application) and that the applicant did not claim excessive confidentiality. The applicant claimed that the application filed by them revealed significantly higher quantity of data than what was being disclosed in the applications filed in other cases.

E.3. Examination by the Authority:

16. The Authority has examined the views stated above and has observed as follows:

- (i) The application filed by the domestic industry contained sufficient evidence to justify the present investigation.
- (ii) The Authority notes that the period of investigation for injury analysis was three financial years namely 2003-04, 2004-05 and 2005-06 and also POI that was October 2005 to September 2006. Though there was an overlapping of six months between the financial year 2005-06 and POI, both the periods covered 12 months each and the trend was compared with respect to two previous financial years that had no overlapping. If the overlapping was to be avoided, data for all the three previous financial years had to be modified to show the figures for October-September instead of April-March. Such a modification would be cumbersome. The Authority noted that even without such a modification, the trend observed from the data was reasonable and reliable. In any case, none of the interested parties presented any evidence to show as to how the data was skewed due to the overlapping. In view of the same, Authority did not consider it necessary to get the data for the previous three years aligned to that of the corresponding 12 months period of the POI.
- (iii) Information provided by the interested parties on confidential basis examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The information submitted on non-confidential basis and indexed or summarized information of confidential information as submitted by the parties have been placed in the public file.
- (iv) The Authority notes that the interested parties have raised certain issues on injury claims of the domestic industry and certain public interest concerns. The issues raised are matters of detailed investigation and the Authority has examined them at appropriate places in this findings.

F. Determination of Dumping Margin

17. As detailed in Annexure-I, three producers from China PR, one producer from Indonesia submitted their questionnaire response in this investigation and no response was received from the producers of Chinese Taipei.

F.1. Methodology of Determination

18. The Authority notes that the Hon'ble Supreme Court of India, in the Civil Appeal No.1294 of 2001, M/s. Reliance Industries Ltd. Vs. The Designated Authority and others has held that the normal value is not exporter-specific but exporting country-specific.

19. In pursuance of the above orders, normal values of the subject goods for the subject countries have been determined. These country-specific normal values have been compared with the export prices for the corresponding subject goods of the individual exporters to determine individual dumping margin of the concerned exporters.

F.2. China PR and Examination of Market economy claims

20. As noted in the previous section, three producers/exporters from China PR filed their responses to the initiation of the investigation. The data submitted by the three cooperating producers/exporters were verified in accordance with the Rules and reports of such verification carried out by the Authority were made available to the respective producer/exporter.

21. The Authority notes that in terms of paragraph 8(2) of Annexure of the Rules, a non-market economy presumption was made against China PR and its exporters. However, the exporters from China PR have claimed market economy treatment for them in terms of the second proviso of the said paragraph and have claimed their normal value in China PR in terms of the principles set out in paragraph 1 to 6 instead of the principles set out in paragraph 7 of Annexure-I, for deciding the claims of the individual producer/exporter for grant of market economy treatment as per the parameters set out in para 8.3 of the said Annexure and facts are as under:

M/s. Shanxi Regent Taiming Chemical Co., Ltd. (RTC)- Producer and M/s Shanxi Regent Works Inc. (RWI)- Exporter

22. The process of formation and asset transfer of the responding company was verified from the records of the company in order to find distortions, if any, carried over from the erstwhile non-market economy conditions of the entity and it is observed as follows:

- a. Initially, M/s. AAA, a county owned enterprise started its business in *** at the producer's address and it was informed that no information was available about initial investments made in ***.

- b. On ****, M/s. BBB was established as a company limited by shares with Registered Capital of RMB **** with 64.93% (RMB ***) of the CCC and 35.07% (RMB ***) of DDD a State Owned Asset Management company. It was reported that *** employees paid the sum of RMB **** (i.e. 64.93% as stated) and documents in support of same were produced for verification. No evidence was produced for 35.07% shares of DDD – the State Owned Asset Management Company that how same was arrived and what fixed assets etc. as well as liabilities were passed on to new company against that part of shares. The valuation report of AAA on the date of transformation i.e. **** with fixed assets register was not made available to evaluate the transparency of the transformation. In response to the verification report, the producer pointed out that transformation made before ultimate privatization in 2005 need not be examined.
- c. An Agreement dated *** entered into between DDD the State owned Asset Management Company and M/s. EEE was produced. As per the said Agreement, DDD agreed to transfer its **** shares to EEE for a consideration of RMB 0(zero) and that EEE agreed to invest additional funds to re-start BBB's production. Further, no details of valuation of assets and liabilities on the date of transfer were made available. In response to the verification report, the producer stated that EEE accepted a liability of RMB*** payable to Local Taxes Bureau. After taking into account the liability to the Local Taxes Bureau, net assets became negative and both parties agreed to transfer shares for zero consideration leaving tax liability to EEE. The company had produced an asset valuation report as on *** and no asset valuation report on the date of transfer i.e.**** was made available.
- d. According to Agreement stated at (c) above, M/s. EEE made investments to the tune of RMB *** and accordingly registered Paid-up capital increased to RMB ***. Thus, M/s. EEE held 91.25% of total equity shares and CCC held remaining 8.75 equity shares. In this regard, capital verification report dated *** was produced.
- e. On ****, M/s. EEE transferred 25% of the shares in BBB to M/s. FFF(a US based company). Consequent to the transfer, BBB was held by EEE (66.25%), FFF (25%) and the CCC(8.75%).
- f. With the transfer of shares from M/s. EEE to M/s. FFF, BBB was transformed from a Chinese enterprise to Sino-foreign equity joint venture. In ***, BBB obtained the Certification of Foreign-invested Enterprise and changed its name to Shanxi

Regent Taiming Chemical Company Ltd (hereinafter referred to as RTC).

- g. M/s. EEE, who held 66.25% in RTC, was established on *** funded by GGG and HHH (a Singapore company) with a original capital of RMB ***. It was stated that GGG was a limited liability company funded by a natural person but is no longer in existence. It was stated that the original shareholders i.e. both GGG and HHH transferred their shares to M/s. Regent Works Inc and FFF respectively in ***. Regent works Inc, is a limited liability company and it is held by two Chinese individuals. Further, in ***, a new shareholder namely, JJJ was inducted into the M/s. EEE as a third shareholder. It was stated that JJJ was established on *** and its share holders are three natural persons, who are Chinese individuals. Details of the consideration paid by JJJ for the purchase of shares in M/s. EEE were not made available for verification.
- h. RTC exported the goods to India through a related entity named Shanxi Regent works Inc. (RWI). One of the shareholders of Regent Works – Mr. Wang Zhi was the Executive Director in Taiming. It was found that the day-to-day operations of both the companies were carried out by Mr. Wang Zhi.
- i. No comments were received from the producer and exporter on the disclosure statement. Further, the producer's contention in response to the verification report that transformation made before ultimate privatization in 2005 need not be examined does not hold good.

23. In view of the above, the Authority holds that significant investment, influence and control over the operations of the company is continued to be exercised by the State and accordingly, the producing company (RTC) has failed to rebut the presumption that they operate under non-market economy conditions. The Authority also holds that in view of the facts stated above, state interference in the operations of exporting company (RWI) could not be ruled out and accordingly, the exporter has also failed to rebut the presumption that they operate under non-market economy conditions.

M/s Jiangyin Shunfei Fine Chemical Factory –Producer and M/s. Goldlink Industries Co Ltd. – Exporter

24. Initially, only the producer i.e. Jinagyin Shunfei Fine Chemical Factory submitted response to the MET questionnaire and the exporter i.e. Goldlink Industries Co Ltd did not file MET questionnaire response. At the instance of the Authority, Goldlink submitted its MET questionnaire response subsequently. The process of formation and asset transfer of the responding companies was verified from the records of the company

in order to find distortions, if any carried over from the erstwhile non-market economy situation of the entity and it is observed as follows:

- (i) M/s. Jiangyin Shunfei Fine Chemical Factory (Shunfei) is a sole-proprietorship entity with its entire capital amounting to RMB *** contributed by one individual Ms. **. The capital was contributed on **. The business Licence was dated **.
- (ii) It was informed that Shunfei had a new plant that was set up in ** on the land taken on rent from the local Authority.
- (iii) It was found that the land had been acquired on lease rental basis by M/s. AAA on behalf of Ms. ** based on an authorization letter issued by her on **.
- (iv) Similarly, Shunfei had stated in the questionnaire response that it had acquired technology from the Institute of Coal Chemistry of Chinese Academy of Sciences (for short "CAS") for RMB **. On perusal of the technology transfer agreement, it was found that it had been signed by M/s. AAA on behalf of Shunfei. During verification, they stated that they had paid RMB. ** towards technology transfer fee.
- (v) No details of the relationship between Ms. ** and M/s. AAA were provided to the Authority. Details as to the consideration paid, if any, to M/s. AAA for the services rendered by them were also not made available.
- (vi) Documents relating to certification for completion of plant construction was produced evidencing completion of (a) Water Treatment workshop on ** (b) Central Control Building on ** (c) MAN Workshop on ** (d) Wind Machine Workshop on ** (e) Finished Product Warehouse on ** and (f) Forming Workshop on **.
- (vii) It was observed that construction of the plant had no relation to the capital transferred by Ms. ** on ** for the reason that the plant constructions were either completed before transfer of money or within 40 days after the transfer of the money. There were vital missing links as to (a) how the plant constructions were completed before the investments were made by the sole proprietor; (b) who did the construction on behalf of Shunfei and at what consideration, if any, before the entity came into existence.
- (viii) Shunfei stated that plant and machinery was purchased from different suppliers and the plant was set up giving contracts for different works. In support of their claim, a contract entered by Shunfei with M/s. BBB for supply of machines detailed therein for RMB ** with relevant

payment details was produced. The contract was dated *** and the machineries were to be delivered on ***. It was noted that plant completion certificates had been issued prior to the date of this contract. Accordingly, most of the plant and machinery should have been purchased earlier.

- (ix) Shunfei had exported the subject goods to India through M/s. Gold Link Industries co Ltd (hereinafter referred to as 'Goldlink'), a limited liability company established on ***. Till ***, Goldlink was 100% state-owned. In ***, 70% of the shares were transferred to *** individuals and the balance 30% of the shares were transferred to CCC – a state owned company. In ***, 30% of the shares held by the state owned company was also transferred to individuals. It was claimed in the MET questionnaire response that on both the occasions, the assets were evaluated independently by an independent accounting firm. However, no evidence in this regard was made available.
- (x) The verification reports on the request of the exporter were made available separately to the producer and exporter and they replied that they had no comments on the verification report.
- (xi) The Authority considered the comments received to the disclosure statement. In their comments, the producer/exporter had claimed that they had reimbursed the amounts spent by other parties towards technology fee, construction of plant, etc after the company was established. The evidence pointed out by the producer in the disclosure statement was reconsidered. However, the fact remains that the circumstances under which one company provided services to another company by spending substantial amounts without any fee or service charge or any interest for the amount spent clearly indicated lack of transparency in the setting up of the company.
- (xii) Further, the producer failed to establish (a) whether the technology fee paid by them reflected market value of technology acquired; and (b) whether the prices of coke-based benzene as well the machinery purchased by them reflected market values.
- (xiii) MET responses filed by both the producer and the exporter were verified to the extent considered necessary. The comments of the exporter that MET response of the exporter was not verified were not correct.

25. In view of the above, the Authority holds that both the companies have failed to rebut the presumption that they operate under non-market economy conditions.

M/s. Changzhou Yabang Chemical Co., Ltd (CYC) - Producer/Exporter

26. The process of formation and asset transfer of the responding company was verified from the records of the company in order to find distortions, if any carried over from the erstwhile non-market economy situation of the entity and it is observed as follows:

- (i) M/s. AAA was established on *** with registered capital of RMB ***. M/s. BBB was established on *** as a Joint Stock company. Business Licence of BBB showed that it had a registered capital of RMB *** millions. A Chinese version of the Articles of Association of 'Yabang Group' listing out *** names of shareholders was made available with incomplete translation. In response to the disclosure statement, four pages of the said articles of association giving names and ID numbers of shareholders in English was made available. From the said translation, authority found that Jiangsu Yabang Group Co Ltd had 31 individuals as shareholders.
- (ii) Changzhou Yabang Chemical Co Ltd (CYC) (responding producer/exporter in this investigation) was established on **** as a Sino-Foreign equity joint venture company with a total share capital of US\$ *** contributed by four shareholders listed below:
 - (a) M/s. BBB with a capital USD\$ *** (49.88% shares);
 - (b) M/s. CCC with a capital USD\$ *** (4.45% shares);
 - (c) M/s. DDD with a capital USD\$ *** (4.85% shares); and
 - (d) Mr. XXX, a Taiwan resident with a capital USD\$ *** (40.82% shares).
- (iii) CYC had provided information about certain changes in the shareholding pattern subsequent to the POI. They have not been taken into consideration as they related to events after the POI.
- (iv) It was informed that a MOU was entered with Land Resources Bureau of Changzhou in *** and land measuring **** sq. meters was allocated to the producer situated at X60005-2 Industrial Park of Wei Village, Xinbei District, Changzhou City for a period of 50 years on lease @ RMB *** per sq.m. The original copy of MOU was produced. It was informed that lease amount was paid full and final in the year ***.
- (v) CYC, the producer was also the controlling shareholder of three subsidiaries (a) M/s. EEE (b) FFF and (c) GGG and supplies raw material to them. The total capital invested by CYC in its subsidiaries was not made available to verify the facts in the questionnaire response & subsequently.

- (vi) In response to the Verification Report, the producer/exporter claimed that detailed information on acquisition of plant and machinery was made available at the time of verification.

27. The Authority found that the documents presented by CYC with regard to fixed assets and other investments in plant and machinery, including ledger copies and depreciation charts did not provide necessary transparency to the process of acquisition of fixed assets. For the foregoing reasons, the Authority holds that CYC failed to establish transparency in its establishment and operations and failed to rebut the presumption that they operate under non-market economy conditions.

F.3 Determination of normal value

28. All the three cooperating producers/exporters from China P.R have failed to rebut the presumption that they operate under Non Market Economy conditions, and accordingly normal value has been determined referring to Para 7 of Annexure I of the Rules which reads as: "In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin."

29. In the initiation notice, it was proposed that Chinese Taipei would be taken as appropriate third country for determining normal value for China PR. However, none of the exporters from Chinese Taipei cooperated in this investigation and no data was available to arrive at normal value for Chinese Taipei. Further, requisite data was not available for Chinese Taipei to determine price from said country to other countries including India.

30. Accordingly for non-market economy producer/exporter from China PR, normal value has been constructed taking into consideration international price of basic raw material 'Benzene', consumption ratio of the cooperating producers in China PR and optimum conversion cost and SGA expenses of the domestic industry in India. In response to the disclosure statement, one of the Chinese producers stated that the value of coke-based benzene should be considered. However, no data with regard to the cost of coke based benzene in a market economy third country or international prices of coke based benzene was made available. Further, no data relating to the difference between the international prices of coke based benzene and petroleum based benzene was made available to the authority. In the absence of such information, Authority considered, based on best information available, the international prices of Benzene irrespective of whether it was coke

based or petroleum based. The normal value so determined is US\$**** per MT.

F.4 Export Price

31. The Authority has determined export price for the following cooperating producer/exporter from china PR as detailed below:

M/s. Shanxi Regent Taiming Chemical Co., Ltd. (RTC)- Producer and M/s Shanxi Regent Works Inc. (RWI)- Exporter

32. RTC made exports to India through M/s. Shanxi Regent Works Inc. (RWI). RWI exported both solid and some molten form MAN to foreign customers. However, only solid form was exported to India. There was only **** sale transaction of molten form to Italy during the POI. In Appendix-2, there were a total of *** transactions of exports to India for a total quantity of *** MT. The customers are end-user as well as wholesaler. The delivery terms are CIF/FOB. Payment terms were usually T/T in advance for old customers and L/C for new customers. Inland transportation had been paid by related company Regent Machinery & Equipment Ltd.

33. The weighted average export price as reflected in Appendix 2 and Appendix 3A and as verified by the Authority was considered. From the said export price, adjustments towards Inland freight, Handling charges, Overseas freight, Overseas insurance, Bank charges, Commission and Credit cost were allowed as claimed by the exporter and as verified by the Authority. In addition, 4% non-refundable VAT was a cost incurred for the export sales while no such cost was incurred on domestic sale. The 4% represented the difference between the VAT paid on purchase of inputs (17%) and the VAT refund allowed on exports (13%). In the constructed normal value, no element had been included towards non-refundable portion of VAT. Therefore, in order to make a fair comparison between export sales and constructed normal value, a deduction towards Non-Refundable portion of VAT at the rate of 4% as claimed and has been made from the export price.

34. Accordingly, the ex-factory export price has been determined for combination of producer/exporter to US\$ **** per MT and the landed value has been determined as US\$ **** per MT.

M/s Jiangyin Shunfei Fine Chemical Factory –Producer and M/s. Goldlink Industries Co Ltd. – Exporter.

35. Shunfei exported the subject goods to India through Goldlink. The subject goods were directly despatched from the factory of Shunfei to Indian destinations and the invoice was raised by Shunfei on Goldlink who in turn, raised invoices on the Indian customer. Goldlink had exported to India through a trader, who earned a commission and the payment was made by the final customers only. The delivery terms were mostly CIF and in one case it was CFR.

36. Goldlink had also exported goods produced by other producers. Total exports of subject goods to India made by Goldlink were *** MT procuring *** MT from other producers. Out of total exports, goods produced by Shunfei were *** MT (***) transactions). The weighted average export price of goods produced by Shunfei and exported by Goldlink as reported in Appendix 2 and as verified by the Authority was considered for the purposes of determining export price. It was submitted that they claim antidumping duty for the combination of producer Shunfei plus exporter Goldlink only. Payment terms were LC 90 days or DA 90 days.

37. From the export price, adjustments towards Inland freight, Credit cost, Overseas freight, Overseas insurance, Export inspection Fee and Commission as reported in Appendix 2 and Appendix 3A and as verified by the Authority has been made.

38. The transactions between Shunfei and Goldlink was domestic transactions and VAT was payable at the rate of 17% on the invoice price of Shunfei. However, at the time of exportation, Goldlink was entitled to a refund of 13% resulting in a net loss of 4% to the exporter. This 4% non-refundable VAT was a cost to the exporter. The exporter did not claim the deduction towards the differential amount of VAT paid @ 17% and VAT refund obtained @ 13%. As the non-refundable VAT portion of 4% was an additional cost to the exporter to be met from the export realization, in order to effect a fair comparison, a deduction towards non-refundable portion of VAT @ 4% has been made from the export price. In response to the disclosure statement, the exporter has stated that there is no need to deduct 4% from the export price. The exporter has stated that it is a cost and not a reduction in export price. Since the said cost is not incurred while selling in the domestic market and no such cost has been factored in the constructed normal value, in order to affect make comparison, it is necessary to either add 4% of the FOB value of exports to the normal value or make a deduction from the export price. Following the consistent practice of the authority, 4% of FOB value has been deducted from the export price towards non-refundable portion of VAT.

39. Accordingly, the ex-factory export price has been determined for combination of producer/exporter as US\$ **** per MT and the landed value has been determined as US\$*** per MT.

**M/s. Changzhou Yabang Chemical Co., Ltd. (CYC)-
Producer/Exporter**

40. CYC made exports to India directly. CYC negotiated the transaction terms with the customers by fax/e-mail, usually, signed the contract. CYC's export sales were not on cash terms. The credit period was indicated as L/C for 60 or 90 days, etc. The customers opened L/C in favour of CYC. After the receipt of L/C, CYC arranged production according to the contract. In occasional cases, CYC asked the customer

to make advance payment by T/T either in whole or in part and the rest to be paid by D/P. The goods were shipped to India on CIF terms.

41. The weighted average export price as reported in Appendix-2 and Appendix 3A and as verified by the Authority has been considered. From the export price, deductions towards Inland freight, Credit cost, Bank charges, Overseas Freight and Overseas insurance as claimed by the exporter and as verified by the Authority has been allowed. The exporter had not claimed any deduction towards differential amount of VAT paid @ 17% and VAT refund obtained @ 13%. Documents in this regard were verified. The 4% non-refundable VAT was a cost to the exporter and the same has been allowed as a deduction from export price. In the comments to the disclosure statement, the exporter pointed out that 4% VAT deduction should be made on the FOB value. The calculations were checked and corrected suitably.

42. Accordingly, the ex-factory export price has been determined as US\$ **** per MT and the landed value has been determined as US\$*** per MT.

Other Exporters from China P.R.

43. The export price for non-cooperating exporters from China PR has been determined based on best facts available taking into account the data examined for the cooperating exporters from China P R. The ex-factory export price has been determined to US\$ *** per MT.

F.5 Dumping Margin – China P.R.

44. On the basis of Constructed Normal Value, the dumping margin for the producer/exporters from China PR has been determined as follows:

Name of the exporter	Normal Value (US\$/MT)	Export Price (US\$/MT)	Dumping Margin (US\$/MT)	Dumping Margin %
Shanxi Regent Taiming Chemical Co Ltd (Producer) and Shanxi Regent Works Inc (Exporter)	***	***	***	38-43%
Jinagyin Shunfei Fine Chemical Factory (Producer) and Goldlink Industries Co Ltd (exporter)	***	***	***	35-39%
Changzhou Yabang Chemical Co Ltd (Producer/Exporter)	***	***	***	37-42%
All other exporters from China P R	***	***	***	62-69%

F.6 Indonesia

PT Justus Sakti Raya

Normal Value

45. PT Justus Sakti Raya was the only exporter from Indonesia who filed a detailed response to the exporter's questionnaire. Due to administrative reasons, no verification was conducted. However, in order to be fair to the cooperating exporter, the data submitted by the exporter in its questionnaire response has been considered for the purpose of determining normal value and export price.

46. The exporter had reported domestic sales in Appendix 1. Weighted Average domestic selling price as reported in Appendix 1 has been considered for determining normal value. The exporter had claimed deductions towards reject/bad debts and inland transportation. In respect of reject/bad debts, it was stated that management charge ***% from total sales especially in domestic sales. Such charges for bad debts/rejects are not direct selling expenses warranting a deduction in arriving at the ex-factory domestic selling price. Therefore, the said deduction has been disallowed. Deduction towards inland transportation has been allowed as claimed by the exporter. In Appendix 1, they had indicated payment terms. However, no evidence had been presented in respect of the credit period extended. Exporter had also not claimed any deduction towards credit cost. Therefore, no deduction towards credit cost has been made. In response to the disclosure statement, the exporter had stated that normal value shall be calculated based on gross invoice value minus inland freight and dumping margin shall be calculated based on CIF export price. The Authority has considered the data provided by the exporter after conducting ordinary course of trade test as required under the rules for determining normal value. Accordingly, normal value for PT Justus Sakti Raya has been determined as US\$ *** per MT only.

Export Price

47. The weighted average export price as reported by PT Justus Sakti Raya in Appendix 2 and Appendix 3A has been considered. Deductions towards Inland freight, overseas freight, overseas insurance and commission as claimed by the exporter has been allowed. Accordingly, the ex-factory export price has been determined to US\$ *** per MT and the landed value has been determined as US\$*** per MT.

Dumping Margin

48. The dumping margin for PT Justus Sakti Raya has been determined as US\$ *** per MT (%)

Other exporters from Indonesia

49. The export price for non-cooperating exporters from Indonesia has been determined based on best facts available taking into account the data considered for the cooperating exporter from Indonesia. Accordingly, the ex-factory export price has been determined to US\$ *** per MT. The said export price has been compared with the normal value determined for Indonesia (as stated for cooperating producer/exporter) and accordingly dumping margin for other exporters from Indonesia has been determined as US\$ *** per MT (%)

F.7 Chinese Taipei

Normal Value

50. None of the exporters from Chinese Taipei responded to the initiation notice. Accordingly, normal value has been determined based on the data of domestic industry. The constructed normal value for Chinese Taipei has been determined by the Authority as US\$.*** per MT.

Export Price

51. None of the exporters from Chinese Taipei responded to the initiation notice. Therefore, ex-factory export price has been determined based on the DGCI&S data. Accordingly, the ex-factory export price for Chinese Taipei has been determined as US\$ *** per MT.

Dumping Margin

52. The dumping margin for all exporters from Chinese Taipei has been determined as US\$ *** per MT (%).

F.8 Dumping Margin Summary

53. As stated above, dumping margins for the exporters from the subject countries are proposed to be determined as follows:

Country	Producer	Exporter	Dumping Margin US\$/MT	Dumping Margin %
China PR	Shanxi Regent Taiming Chemical Co Ltd	Shanxi Regent Works	***	38-45%
	Jiangyin Shunfei Fine	Goldlink	***	35-39%

	Chemical Factory	Industries Co Ltd		
	Changzhou Yabang Chemical Co Ltd	Changzhou Yabang Chemical Co Ltd	***	37-42%
	All Other producers from China PR	Any exporter	***	62-69%
Indonesia	PT Justus Sakti Raya	PT Justus Sakti Raya	***	21-27%
	All other producers from Indonesia	Any exporter	***	34-40%
Chinese Taipei	Any producer from Chinese Taipei	Any exporter	***	15-20%

G. INJURY DETERMINATION

54. The Authority notes that the subject goods have been exported to India at significantly dumped prices from the subject countries and accordingly examines injury to the domestic industry with reference to those dumped imports.

55. The Authority has taken note of the arguments of the interested parties on injury aspect to the extent the arguments were found relevant. The Authority has examined the injury parameters objectively taking into account the facts before it and the arguments of the interested parties.

G.1. Examination of Injury and Causal Link

56. Rule 11 of Anti Dumping Rules read with Annexure –II provides principles for determination of injury and same has been taken into consideration.

57. The application for imposition of antidumping duty was filed by M/s Thirumalai Chemicals Ltd, Ranipet, Tamil Nadu who commands a major proportion of total production of the subject goods in India. As noted earlier, in terms of Rule 2(b) of the Rules the above producer has been treated as the domestic industry for the purpose of this investigation. There was another known domestic producer namely M/s. Mysore Petro Chemicals Ltd. Keeping in mind the spirit of the decision of the Honourable Supreme Court in the case of Reliance Industries Vs Designated Authority, M/s. Mysore Petro Chemicals Ltd was requested to file cost and injury information for the purpose of injury determination and determination of non-injurious price for the domestic industry as a whole. However, M/s. Mysore Petrochemicals Ltd submitted a simple letter stating that they have a plant to manufacture the product concerned using recovery process from wash water of Phthalic Anhydride and their production was around 3000 MT per annum. Since no other information was received from M/s. Mysore Petrochemicals Ltd, the cost and injury information of the applicant domestic producer, constituting the domestic

industry as defined in Rule 2(b), has been examined for determination of injury and Non-injurious price.

58. For the examination of the impact of dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

G.2 Cumulative assessment of injury

59. As per annexure-II paragraph (iii) of the Rules, in case, imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess the 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 the light of the conditions of competition between the imported article and the like domestic article.

60. The Authority observed that the margin of dumping in respect of each of the subject country was more than 2% as may be seen from Annexure II of this disclosure statement.

61. Quantity of dumped imports from the subject countries constituted 93% of the total imports of the product concerned into India during POI. Individually, imports from China PR, Chinese Taipei and Indonesia accounted for 77%, 7% and 9% respectively as tabulated below:.

	[Quantity in MT]							
	2003-2004		2004-2005		2005-2006		POI	
Imports	7993.06	100	5701.45	100	9444.75	100	12455.00	100
Subject countries	3530.77	44	3647.28	64	8048.79	85	11606.33	93
China PR	1860.78	23	2935.96	51	5415.98	57	9550.33	77
Chinese Taipei	1170.99	15	526.50	9	1317.82	14	901.00	7
Indonesia	499.00	6	184.82	3	1315.00	14	1155.00	9
Other countries	4462.3	56	2054.17	36	1395.96	15	848.67	7

Thus, they were individually above the de minimis level of 3% of the total imports of the product concerned into India.

62. There are no significant differences in the characteristics of products exported from each of the subject countries. Imports from the subject countries competed with each other in the Indian market as export prices from the subject countries were within a narrow range.

63. In view of the above, Authority notes that it is appropriate to cumulatively assess the effect of dumped imports of the subject goods, from all the subject countries, on the domestically produced like article in the light of conditions of competition between the imported products and the like domestic product.

64. Annexure II of the AD Rules requires that 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 the like products; and
- (b) Consequent impact of these imports on domestic producers of such products.

65. The Authority while examining the volume of dumped imports is required to examine 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 price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase which otherwise would have occurred to a significant degree.

G.3 Volume Effect of the dumped imports

66. Quantity of imports from the subject countries and other countries were as follows:

[Quantity in MT]

	2003-2004		2004-2005		2005-2006		POI	
Imports	7993.06		5701.45		9444.75		12455.00	
Subject countries	3530.77	100	3647.28	103	8048.79	228	11606.33	329
China PR	1860.78	100	2935.96	158	5415.98	291	9550.33	513
Chinese Taipei	1170.99	100	526.50	45	1317.82	113	901.00	77
Indonesia	499.00	100	184.82	37	1315.00	264	1155.00	231
Other countries	4462.30	100	2054.17	46	1395.96	31	848.67	19

- a. Imports from the subject countries increased from 3531 MT in 2003-04 to 11606 MT during POI.

b. Dumped imports relative to domestic production and demand are shown in the table below:

	[Quantity in MT]			
	2003-04	2004-05	2005-06	POI
Subject countries	3530.77	3647.28	8048.79	11606.33
China PR	1860.78	2935.96	5415.98	9550.33
Chinese Taipei	1170.99	526.50	1317.82	901.00
Indonesia	499.00	184.82	1315.00	1155.00
Other countries	4462.30	2054.17	1395.96	848.67
Total Imports	7993.06	5701.45	9444.75	12455.00
Production of Domestic Industry	10551.00	10708.00	10442.00	11442.00
Captive consumption	766.00	0	106.00	1028.00
Export Sales	483.00	1483.00	867.00	1387.00
Domestic Sales of the domestic industry	9515.00	9734.00	8435.00	8266.09
Total demand (including captive consumption)	18,274.00	15,435.45	17,985.75	21,749.00
Production of domestic industry as % of total demand	58%	69%	58%	53%
Imports from subject countries as % of total demand	19%	24%	45%	53%

67. Production of domestic industry as a % of total demand was 58% during 2003-04. It increased to 69% in 2004-05. It decreased to 58% in 2005-06 and further decreased to 53% during the POI. Further, dumped imports relative to consumption/demand increased from 19%% to 53% during the injury period as shown in the table above.

G.4 Effect of dumped imports on the prices of domestic industry

68. The effect of dumped imports on the prices of the domestic industry has been examined in terms of (a) price undercutting, (b) price underselling, (c) price depression and (d) price suppression.

a) Price undercutting

69. Price undercutting by dumped imports from all the subject countries was ***% during 2003-04. It increased to ***% in 2004-05. It came down to ***% in 2005-06. Again, it increased to ***% during POI.

	[Rs. PMT]			
	2003-04	2004-05	2005-06	POI
Domestic Average Sales Realisation	****	****	****	****

	2003-04	2004-05	2005-06	POI
Landed Value of Imports				
China PR	40612.12	59861.63	63360.27	58,426.73
Chinese Taipei	42059.35	54373.83	64142.91	62,470.14
Indonesia	45136.05	54559.3	65843.43	62,326.35
Subject countries	41731.46	58800.76	63894.10	59,128.69
Other than subject countries	48586.25	64082.08	76971.44	68,152.74
Price undercutting Rs./MT				
China PR	****	****	****	****
Chinese Taipei	****	****	****	****
Indonesia	****	****	****	****
Subject countries	****	****	****	****
Price undercutting (% - range)				
China PR	14 - 17%	14 - 19%	3 - 7%	7-14%
Chinese Taipei	11 - 13%	27 - 30%	1 - 5%	0-5%
Indonesia	2 - 5%	28 - 32%	0 -5%	1-5%
Subject countries	12 - 15%	18 - 24%	4 - 8%	7-12%

70. Price undercutting from China PR increased from ***% in 2005-06 to ***% during POI showing an increase of 81%. Price undercutting from Chinese Taipei decreased by 49%. Price undercutting from Indonesia increased by 117% and for all the subject countries taken together, it increased by 88% as shown below:

	Price undercutting in 2005-06	Price Undercutting during POI	Increase during POI
China PR	***%	***%	81%
Chinese Taipei	***%	***%	-49%
Indonesia	***%	***%	117%
Total Subject Countries	***%	***%	88%

b) Price underselling

71. The price underselling was **%, **% and **% from China PR., Chinese Taipei and Indonesia respectively. The price underselling for the dumped imports from all the subject countries was **%.

	Rs./MT	Price Underselling	
		Rs./PMT	% (range)
Non Injurious Price	****		
Landed value			
China PR	58,426.73	***	7-14%
Chinese Taipei	62,470.14	***	0-5%
Indonesia	62,326.35	***	1-5%
Subject countries	59,128.69	***	7-12%
Sales of Domestic Industry			
Domestic Sales	*****		

c) Price Depression

72. Average Sales realization of the domestic industry decreased from Rs.**** PMT during 2005-06 to Rs.**** PMT (i.e. Rs. ****PMT) during POI though the cost increased during the same period by Rs.**** PMT only.

d) Price Suppression

73. Price suppression indicates the inability of the domestic producer to increase prices commensurate with the increase in costs. Compared to the previous year, costs increased during POI by Rs.*** PMT whereas average sales realization decreased by Rs.**** PMT during the same period. The domestic industry reduced its prices during POI while the costs increased.

[Rs. PMT]					
Sl.No.	Particulars	2003-04	2004-05	2005-06	POI
1	Cost of sales	****	****	****	****
2	Sales Realisation	****	****	****	****
3	Changes compared to Previous Year				
4	Increase in cost of sales		Positive	Negative	Positive
5	Increase in sales realisation		Positive	Negative	Negative
6	Changes compared to base year				
7	Increase in cost of sales				Positive
8	Increase in sales realisation				Positive

74. Compared to the base year 2003-04, costs during POI increased by Rs.**** PMT whereas average sales realization increased only by Rs.**** PMT.

G.5 Consequent Impact of dumped imports on domestic industry

75. The Authority has examined the consequent impact of dumped imports on the domestic industry in terms of various economic factors and indices having a bearing on the domestic industry as explained below:

- (i) **Sales quantities:** Domestic sales quantities decreased from 9515 MT in 2003-04 to 8266 MT during POI recording a fall of over 13% as shown in the table below:

	2003-04	2004-05	2005-06	POI
Domestic Sales (MT)	9,515	9,734	8,435	8,266
Domestic Sales MT (indexed)	100	102	89	87

- (ii) **Market share:** The market shares of the domestic industry, imports from subject countries and imports from other countries are tabulated below:

	2003-04	2004-05	2005-06	POI
China PR	10.18%	19.02%	30.11%	43.91%
China (Indexed)	100	187	296	431
Chinese Taipei	6.41%	3.41%	7.33%	4.14%
Chinese Taipei (Indexed)	100	53	114	65
Indonesia	2.73%	1.20%	7.31%	5.31%
Indonesia (Indexed)	100	44	268	194
Subject countries	19.32%	23.63%	44.75%	53.36%
Subject Countries (Indexed)	100	122	232	276
Other Countries	24.42%	13.31%	7.76%	3.90%
Other Countries (Indexed)	100	54	32	16
Domestic Industry	56.26%	63.06%	47.49%	42.73%
Domestic Industry (Indexed)	100	112	84	76

Market share of domestic industry increased from 56% during 2003-04 to 63% during 2004-05. It decreased to 47% in 2005-06 and further decreased to 43% during POI. Market share of subject countries increased from 19% in 2003-04 to 53% during POI which evidently shows that domestic industry has been crowded out.

- (iii) **Output:** Production of domestic industry increased from 10551 MT during 2003-04 to 11442 MT during POI recording an increase of 8%. However, there was no change in output during base year and POI.

[Quantity in MT]

Particulars	2003-04	2004-05	2005-06	POI
Production	10,551	10,708	10,442	11,442
Production (indexed)	100	101	99	108

Captive consumption out of own production- TCL	766	0	106	1,028
Export sales – TCL	483	1,483	867	1,367
Production for domestic market	9,302	9,225	9,469	9,047
Production for domestic market (indexed)	100	99	102	97
Production for domestic market including captive consumption	10,068	9,225	9,575	10,075
Production for domestic market including captive consumption(indexed)	100	92	95	100

- (iv) **Utilisation of capacity:** Capacity was increased by 65% from 10750 MT to 17750 MT during 2004-05. Capacity utilization came down from 98% during 2003-04 to 64% during POI. .

Particulars	2003-04	2004-05	2005-06	POI
Installed Capacity	10,750	17,750	17,750	17,750
Production	10,551	10,708	10,442	11,442
Capacity utilization	98%	60%	59%	64%

The above table shows that domestic industry is left with significant idle capacity.

- (v) **Productivity:** The domestic industry did not record any fall in productivity.

	2003-04	2004-05	2005-06	POI
Production (MT)	10,551	10,708	10,442	11,442
Production per day (based on 330 days a year)	32	32	32	35
Production per employee	***	***	***	***

- (vi) **Profits:** The profit was Rs. ****PMT during 2003-04. It decreased to Rs. **** PMT in 2004-05. Profits increased in 2005-06 to Rs. ****PMT. However, it turned into a loss of Rs. **** PMT during POI. In terms of indexed numbers, from a profit level of Rs.100 during 2003-04 it has turned into a loss of Rs.113 during POI. The profit/loss has been worked out on the domestic sale excluding captive consumption.

Particulars	2003-04	2004-05	2005-06	POI
Profits (Rs. in lacs)	****	****	****	****
Profit per MT in Rs.	****	****	****	****
Profit per MT in Rs. (indexed)	100	36	77	(113)

(vii) **Return on Investments:** Return on capital employed was **%, **%, **% and (-) **% during 2003-04, 2004-05, 2005-06 and POI respectively. The return on investment has been worked out on the domestic sales excluding captive consumption.

(viii) **Cash flow:** The cash profit of Rs.*** PMT during 2003-04 turned into a cash loss of Rs.** PMT during POI. The cash flow has been worked out on the domestic sales excluding captive consumption.

Particulars	2003-04	2004-05	2005-06	POI
Cash Profit (Rs. in lacs)	***	***	***	***
Cash Profit per MT in Rs.	***	***	***	***
Cash Profit per MT in Rs. (indexed)	100	78	97	(1)

(ix) **Inventory:** Inventory levels have come down marginally during POI as compared to 2005-06.

Particulars	2003-04	2004-05	2005-06	POI
Average inventory (MT)	***	***	***	***
Indexed	100	53	87	55
Inventory in terms of no. of days's sales	***	***	***	***
Indexed	100	52	100	62

(x) **Employment ;** The number of persons employed has been adversely affected as it was reduced from *** persons during 2003-04 to *** persons during POI.

(xi) **Wages:** Average annual wages per person increased from Rs.*** during 2003-04 to Rs.*** during 2005-06. It came down marginally to Rs.*** during POI.

Particulars	2003-04	2004-05	2005-06	POI
Average Annual wages per person [Rs.]	***	***	***	***
Average wages per person per day [Rs.]	***	***	***	***
Indexed wages	100	103	122	118

(xii) **Growth:** Installed capacity was increased by 65% during 2004-05. However, in the three years after increasing the installed capacity, not even 10% of the increased capacity had been utilized. Over 90% of the increased capacity remained unutilized during POI. Though the demand for the product concerned (including captive consumption) increased by 19% during POI as compared to 2003-04, the domestic industry had no increase in its sales or market share.

- (xiii) **Ability to raise Capital or investments**: With a negative return on capital employed, ability to raise capital or investments had been adversely affected.
- (xiv) **Factors affecting domestic prices**: The domestic industry reduced its prices.
- (xv) **Magnitude of margin of dumping**: Margin of dumping from the subject countries individually was significantly higher than the de minimis level of 2%.

76. The examination of above injury parameters establishes that growth in demand was 19% during POI as compared to base year. Despite overall growth in demand, sale of the domestic industry declined by 13% during POI as compared to base year 2003-04. During the same period, the imports of subject goods from subject countries increased significantly from 3531 MT in 2003-04 to 11606 MT during POI i.e. it increased by 329%. The share of the imports from subject countries in relation to demand increased from 19% in 2003-04 to 53.% during POI whereas the share in demand of the domestic industry declined from 58% to 53% during the same period.. The capacity utilization of the domestic industry, despite growth in demand has declined from 98% to 64% during POI. Thus most of additional capacity remained unutilized during POI. The Profit (PBIT) level of Rs.100 during 2003-04 has turned into a loss of Rs.113 during POI. The return on net capital employed declined to 21 during POI as compared to 100 of base year 2003-2004.

77. Imports from subject countries have increased significantly and these had significant price effect resulting in price suppression and price undercutting.

78. On the basis of above analysis, the Authority holds that the performance of the domestic industry deteriorated in terms of production, sales volumes, capacity utilization, market share, factors effecting prices, profits, return on investment, cash profits, collectively and cumulatively showing that the domestic industry has suffered material injury.

79. In view of the above facts the Authority holds that the imports from the subject countries have caused material injury to the domestic industry.

G.6 Causal Link and other factors

a) Submissions by Changzhou Yabang Chemical Co Ltd:

80. Changzhou Yabang Chemical Co Ltd., China PR (CYC) stated that Thirumalai Chemicals Ltd (TCL) ceased operations as regards production of subject goods after the POI due to an increase in the cost of benzene, a key raw material. In this regard, CYC quoted TCL's Annual Report 2005-06 page 6 which stated as under:

“Industry Developments

Volatility in the prices of the Raw Material as also the Company's end products are normal features in this line of business, which has a bearing on the company's operations. Furthermore, prices of Benzene which is also the Raw material for manufacture of Maleic Anhydride (MAN), had touched historic high levels earlier, slightly softening later, but were still higher compared to previous years. Lately, prices of Benzene are on the rise again and consequently, MAN prices are expected to remain firm.”

81. TCL was also importing the product concerned from their joint venture plant in Malaysia and supplying the same to the domestic users of the subject goods. The petitioner had declared that it has changed the technology used in its manufacturing plant in Malaysia. The plant now uses Butane route as opposed to using the Benzene route. Petitioner would produce the subject product in Malaysia through the Butane route as it would be a cheaper process and the cost of raw material would not be as volatile as that of Benzene that is used for manufacturing the subject product in India.

82. Malaysian plant has an installed capacity of 30000 MT. From this fact alone it can be inferred that the reason for regular shut down or slow down in operations of the plant in India was to augment regular supply of the subject goods from Malaysia and compete with the Chinese material being offered to the industrial users in India.

83. The injury to the petitioners was self-inflicted and was being suffered due to the non-absorption of developments in technology. They have quoted the decision of the Designated Authority in Copper Clad Laminates from China PR, Taiwan, Hong Kong, Korea RP, Singapore, Philippines and Thailand wherein the Authority has held as follows: **“Authority, therefore, considers that non-absorption of developments in technology has been a major factor in the injury to the domestic industry”**.

84. Captive consumption and exports of MAN by the petitioner had increased dramatically, and therefore, there was hardly any quantity of the subject product left to sell in the domestic market and cater to the consumers at home who have according to market intelligence, always faced a shortage of the subject goods and consequentially have had to rely on imports to meet their needs.

85. While market share of the petitioner came down over a period of time, this issue could not be linked to voluminous imports from other countries but could be attributed to the investments made in Malaysia and the imports made therein.

86. Costs of sales moved up during the injury period and the net realizations came down in view of the lower production and consequently lower economies of scale. Further, it was necessary to see at what prices the Malaysian imports and indigenous production had been sold to in the domestic market by the domestic industry.

b) Submissions by Shanxi Regent Taiming Chemical Co Ltd and Shanxi Regent Works Inc.

87. It is common knowledge that the applicant had recently set up a unit for manufacture of the subject goods in Malaysia, which was running successfully and earning huge profits for the applicant. Applicant was using Butane based production process to manufacture Maleic Anhydride at its Malaysian plant which was technologically advanced than the benzene based production process employed by the applicant in India. Applicant has chosen not to employ the economically viable technology in India and has instead chosen to pursue the present antidumping investigation in India. Therefore, it is apparent that loss, if any, suffered by the Applicant by manufacture of the subject good in India is on account of production process which does not correspond to the prevalent market demand and not dumping by the companies herein as alleged or at all.

88. Market demand of Maleic Anhydride would not be met by the applicant even if the production capacity of its manufacturing plant is utilized to its maximum. Applicant being the sole producer of the subject goods in India has failed to cater to the rising demand of the subject goods for want of adequate production aptitude.

c) Submissions by Indian Plasticizers Manufacturers Association (IPMA)

89. The only purpose of the application of TCL was to get levied anti dumping duty on Maleic Anhydride and to give boost to TCL Malaysian JV of Maleic Anhydride to capture the entire market.

90. TCL has already converted their MAN Plant to PAN and have decided to abandon the production of MAN in India and feed the local market from their Malaysian Joint Venture.

d) Submissions by Polyester Resin Manufacturers Association (PRMA) and IPMA

91. TCL Malaysian JV has been set up mainly for export to India and it would be appropriate to include Malaysia in antidumping investigations as it has been in regular production for a period of one year and the figure of 8% imports from Malaysia is of the period when the JV has not commenced the production based on Butane technology.

e) Submissions of the Domestic industry

92. The exporters have raised a hue and cry that TCL had not introduced the new Butane route in India though in their Malaysian related company (where they have a 25% stake) they have introduced Butane route. None of the exporters from China PR have the right to raise this issue as all of them are using Benzene route only. When the exporters are themselves using Benzene route, they cannot claim that the Indian domestic producer should not use Benzene route. The decision of the Authority in the copper clad laminates case is not at all applicable to the facts and circumstances of this case. In the case of copper clad laminates, Indian domestic producer was not able to manufacture laminates that can be used in a wide variety of PCBs due to non-absorption of technology while the rest of the world had changed over to newer technologies. In this case, exporters are using Benzene route just like the Indian domestic producer and hence the question of non-absorption of technology does not arise.

93. Merely because the domestic industry has a minority stake in a related company in Malaysia that manufactures the product concerned, one cannot say that the Indian domestic producer should also use the same technology as the Malaysian company. Antidumping law does not contemplate any such requirement.

94. Malaysian JV is not a new venture. It has been in operation for over twelve years. In all these years, TCL has been manufacturing the product concerned in India with some minimal imports of the product concerned from Malaysia. Before the sudden surge of dumped imports from China PR, TCL has been operating its Indian plant to almost full capacity. Only when the dumped imports surged quite significantly at very low prices, TCL had to scale down its production.

95. Contrary to what is alleged by CYC, TCL did not close down its operations due to an increase in the cost of Benzene. In fact, the very statement from the Annual Report 2005-06 clearly states that consequent to the increase in the prices of Benzene, MAN prices are expected to remain firm. While the Annual Report perceives that MAN prices are expected to remain firm, CYC claims that TCL decided to close down its operations due to increase in the prices of Benzene. Nothing can be farther from the truth. Such inferences that distort the factual position shall be rejected outright.

96. In this regard, the Annual Report of 2006-07 which covers the second half of the POI may be seen. In page 6 & 7 of the said report, it has been stated as follows:

“Volatility in prices of the Raw Material as also the Company’s end products **are normal features in this line of business** which can have bearing on the Company’s operations. While since beginning of the year, oil prices continued to rise, during the 3rd quarter of the current year, the Company’s fortunes suffered due to the falling Oil prices. Subsequently,

the prices have remained steady with sporadic firmness being witnessed at times.”

97. While TCL rightly recognizes that volatility in the prices of raw materials is a normal feature in this line of business, the exporters claim that TCL has decided to close down the operations due to increase in the prices of raw materials.

98. In this regard, TCL's Annual Report 2006-07 further states as follows:

“For several years until middle of this year, your Company was operating MAN capacity fully and catering to not just domestic demand but also export which was quite remunerative. However, rampant dumping of MAN into the Country from China during the year adversely affected Company's plans to operate MAN plant fully. Imports of MAN from China were coming at prices which were lower than the prices of Benzene from which MAN is manufactured. Hence, for some time, the MAN plant was shut down and was only operated to cater to the demand of its regular and loyal customers as also to meet captive consumption requirements for manufacture of other value added products. To arrest such unscrupulous imports of MAN, your Company has initiated action for levy of Anti Dumping Duty on import of MAN into our Country from China. The Company is hopeful that with the imminent possibility of an ADD levy soon, dumping of MAN into our Country would cease. Thereby, Company would be able to operate its MAN plant also fully and continuously with decent contribution.”

99. As stated in the Annual Report for the year 2006-07, due to continuous dumping from the subject countries, production of MAN was scaled down. It was operated only to cater to the demand of its regular and loyal customers as also to meet captive consumption requirements for manufacture of other value added products.

100. The claim that TCL has already converted its MAN plant to PAN is nothing but a figment of imagination. The MAN plant is being used sporadically to manufacture MAN only and at other times, it is lying idle. TCL has not converted its MAN plant into PAN. Such rumours shall not be taken into consideration.

f) Examination by the Authority

101. The Authority examined the contentions raised by various interested parties. Firstly, Thirumalai Chemicals Ltd – the domestic producer constituting the domestic industry in this case uses Benzene route to manufacture the product concerned. The producers from China

PR also use Benzene to manufacture the product concerned. Thus, the Authority finds no merit in the argument of the Chinese producers that the injury to the domestic industry was self inflicted due to non-absorption of technology i.e. for not converting the plant to the Butane route.

102 The Authority had examined the details of imports made by the domestic industry from its related company in Malaysia and same are as under:

Year	Imports from Malaysia (in MT indexed)
2003-04	100
2004-05	35
2005-06	26
POI	11

103. Since many interested parties stated that the domestic industry has shut down its production post POI and they are importing from Malaysia and selling it in the domestic market, Authority asked the domestic industry to provide details of imports from Malaysia after the POI. In the written submissions made pursuant to the public hearing, domestic industry stated that they had imported 12 (indexed) MT during the entire year 2006-07 and 4 (indexed) MT during 2007-08. The import figures for 2007-08 were based on IBIS data. Thus, the authority found that the domestic industry had not resorted to importing from Malaysia and supplying it in the domestic market as alleged by the Exporters and other opposing interested parties.

104. The Authority also found that the quantity of captive consumption (1028 MT) and exports (1387 MT) taken together accounted for only about 21% of the total production of the domestic industry during POI and the remaining quantities were sold in the domestic market. Therefore, the allegation that the quantities of captive consumption and exports of the domestic industry increased dramatically and there was hardly any quantity left to sell in the domestic market was not based on the facts.

105. Though the domestic industry has a related company manufacturing the same product in Malaysia through a different technology that would not disqualify the domestic producer in India to apply for antidumping duty in India as there are no such legal restrictions. Further, other commercial issues raised by the interested parties did not contain any merit as explained in the preceding paragraphs. Further, most of the imports from Malaysia were under Advance Licences for manufacturing other value added products for export. Further, authority notes that the domestic producer has stated in its published Annual Report for the year 2006-07 as follows:

“...The Company is hopeful that with the imminent possibility of an ADD levy soon, dumping of MAN into our Country would cease. Thereby, Company would be able to operate its MAN plant also fully and continuously with decent contribution.”

106. In view of the same, Authority holds that there is no merit in the argument that the domestic producer intends to close down their plant and start supplying to their Indian customers from their Malaysian plant.

107. In view of the foregoing, authority holds that imports from Malaysia were not the cause of injury to the domestic industry.

g) Examination of Other Known Factors

108. As required under paragraph (v) of Annexure II to the antidumping rules, authority examined the impact of other factors such as (a) volume and prices of imports not sold at dumped prices; (b) contraction in demand or changes in the pattern of consumption; (c) trade restrictive practices of and competition between the foreign and domestic producers; (d) developments in technology and (e) export performance and productivity of the domestic industry.

109. The imports from other countries except Malaysia were of negligible quantities. Imports from Malaysia were at significantly higher prices than the import prices of the subject countries. Domestic industry claimed that imports from Malaysia were not at dumped prices. Other interested parties did not provide any evidence to the contrary. Further, as stated earlier, imports from Malaysia were not the cause of injury to the domestic industry.

110. The Authority notes that the demand has increased. Anticipating the growth in demand, domestic industry had increased its capacity in 2004-05. However, they were not able to utilize more than 10% of their increased capacity till the end of POI though the demand increased by over 18%. Thus there was no contraction in demand during POI.

111. The Authority noted that there was a single market for the subject goods where dumped imports from subject countries compete directly with the subject goods produced by the domestic industry. Authority also noted that the imported product was sold to meet the similar commercial grades and specifications as domestically produced subject goods and that the imported subject goods and domestically produced goods were like articles and were used for similar applications/ end uses.

112. The Authority noted that there was no restricted practice prevalent in the industry which could be attributed to the injury to the domestic industry.

113. There were no developments in technology that affected the domestic industry vis-à-vis the exporters as both the exporters and the domestic industry used the same Benzene route to manufacture the product concerned.

114. Export performance of the domestic industry was examined. There was no evidence to show that their export performance affected their domestic performance. In any case, injury has been examined with reference to their domestic performance only. Therefore, export performance was not a cause of injury to the domestic industry.

115. The Authority found that there was no loss of productivity and hence it was not a cause of injury.

G.7 Magnitude of Injury and Injury Margin

116. The Authority determined non-injurious price (NIP) for the domestic industry taking into account the cost of production of the domestic producer as stated earlier. NIP determined by the Authority was US\$.**** PMT. This NIP was compared with the landed values of the exports from the exporters from the subject countries for determining injury margin. The Authority notes that the injury margins are significant.

G.8 Determination of Non-injurious price

117. The Authority determined the non-injurious price for the domestic industry as a whole.

118. The non-injurious price determined by the Authority for the subject goods produced by the domestic industry has been compared with the weighted average landed value of the exports from the subject countries for determination of injury margin. The injury margins have been determined as follows:

Country	Producer	Exporter	Injury Margin US\$/MT	Injury Margin %
China PR	Shanxi Regent Taiming Chemical Co Ltd	Shanxi Regent Works	****	4 - 8%
	Jiangyin Shunfei Fine Chemical Factory	Goldlink Industries Co Ltd	****	6 - 9%
	Changzhou Yabang Chemical Co Ltd	Changzhou Yabang Chemical Co Ltd	****	6 - 9%

	All Other producers from China PR	Any exporter	****	14 - 18%
Indonesia	PT Justus Sakti Raya	PT Justus Sakti Raya	****	1 - 5%
	All other producers from Indonesia	Any exporter	****	14 - 18%
Chinese Taipei	Any producer from Chinese Taipei	Any exporter	****	1 - 6%

G.9 Conclusion on Injury and Causal link

119. On the issue of injury and causal link, all the fifteen mandated parameters affecting the domestic industry have been examined. The volume and the price effect from subject countries have been cumulated as per the rules. From the volume and the price effect, it is gathered that the volume of the dumped imports has increased substantially during the injury period and have increased substantially during the POI. The volume of the dumped imports from subject countries is considered significant in relation to the demand as well as in relation to the production of the subject goods in the country. In relation to prices, it is noted that there has been a decline in the prices at the CIF level as well as the landed value of subject goods from subject countries. Following decline in the landed value, it is noted that the dumped imports prices have undercut significantly the prices of the domestic industry in the Indian market. It is also noted that the dumped imports from subject countries have suppressed the domestic industry prices and there is a significant price underselling by domestic industry as the landed prices are significantly below the non injurious price determined for the domestic industry. With regard to the impact of volume and the price effects on the domestic industry, the Authority noted that the dumped imports started surging only from base year 2003-04 onwards. Though production has increased during the injury period, the increase was insignificant and sales have decreased by 13% from 2003-04 to POI. In fact, the capacity utilization has declined significantly since 2004-05 to the POI. With regard to the change in the operating performance, it is seen that the changes appear significant from 2003-04 to the POI. The operating performance of domestic industry shows a significant negative growth from 2003-04 to the POI in terms of profitability, ROI and cash profit.

120.. The above analysis has properly distinguished and separated the effects of all known factors on the situation of the domestic industry from the injurious effects of the dumped imports and it is concluded that these other factors as such did not reverse the fact that the material injury found may be attributed to the dumped imports.

121 It is, therefore, concluded that the dumped imports originating in or exported from the subject countries have caused material injury to the domestic industry within the meaning of Rule 11 of Anti Dumping rules.

H. Indian Industry's interests:

122. 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.

123. 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. It is noted 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. The consumers could still maintain two or even more sources of supply.

I. CONCLUSIONS:

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

- A. The subject goods have been exported to India from subject countries below their normal values.
- B. The Domestic Industry has suffered material injury;
- C. The injury has been caused cumulatively by the dumped imports from subject countries.

125. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports has been compared with the non-injurious price of the domestic industry determined for the period of investigation. The margin of dumping and injury determined by the Authority is indicated in the paragraphs above.

126. Accordingly, the Authority recommends that the definitive anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of subject goods under chapters 84, 76 and 37 originating in or exported from subject countries. The Anti-Dumping duty shall be the amount mentioned in column 9 of the following table to be imposed from the date of Notification to be issued in this regard by the Central Government on all the imports of subject goods falling under Chapter 84, 76 and 37 of the Customs

Tariff Act, originating in or exported from the subject countries.

Sl. No.	Heading	Description of goods	Specific ation	Country of origin	Country of Export	Producer	Exporter	Amount US\$ per MT	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	29171400	Maleic Anhydride	Any	China PR	China PR	Shanxi Regent Taiming Chemical Co Ltd	Shanxi Regent Works	82.35	MT	US\$
1	-do-	-do-	-do-	China PR	China PR	Shanxi Regent Taiming Chemical Co Ltd	Any Other Exporter	203.61	MT	US\$
2	-do-	-do-	-do-	China PR	China PR	Jiangyin Shunfei Fine Chemical Factory	Goldlink Industries Co Ltd	94.34	MT	US\$
3	-do-	-do-	-do-	China PR	China PR	Jiangyin Shunfei Fine Chemical Factory	Any Other Exporter	203.61	MT	US\$
4	-do-	-do-	-do-	China PR	China PR	Changzhou Yabang Chemical Co Ltd	Changzhou Yabang Chemical Co Ltd	94.32	MT	US\$
5	-do-	-do-	-do-	China PR	China PR	Changzhou Yabang Chemical Co Ltd	Any Other Exporter	203.61	MT	US\$
6	-do-	-do-	-do-	China PR	China PR	Any Other Producer	Any Exporter	203.61	MT	US\$
7	-do-	-do-	-do-	China PR	Any country other than China PR	Any	Any	203.61	MT	US\$
8.	-do-	-do-	-do-	Any country other than China PR, Indonesia and Chinese Taipei	China PR	Any	Any	203.61	MT	US\$
9	-do-	-do-	-do-	Indonesia	Indonesia	PT Justus Sakti Raya	PT Justus Sakti Raya	54.04	MT	US\$
10.	-do-	-do-	-do-	Indonesia	Indonesia	PT Justus Sakti Raya	Any exporter	203.61		
11.	-do-	-do-	-do-	Indonesia	Indonesia	Any Other Producer	Any Exporter	203.61	MT	US\$
12.	-do-	-do-	-do-	Indonesia	Any country other than Indonesia	Any	Any	203.61	MT	US\$
13.	-do-	-do-	-do-	Any country other than Indonesia, China PR & Chinese Taipei	Indonesia	Any	Any	203.61	MT	US\$

14.	-do-	-do-	-do-	Chinese Taipei	Chinese Taipei	Any	Any	23.13	MT	US\$
15.	-do-	-do-	-do-	Chinese Taipei	Any country other than Chinese Taipei	Any	Any	23.13	MT	US\$
16.	-do-	-do-	-do-	Any country other than Chinese Taipei, China PR & Indonesia	Chinese Taipei	Any	Any	23.13	MT	US\$

127. An appeal against this order shall lie before the Customs Excise and Service Tax Appellate tribunal, in accordance with the relevant [provisions of the Act.

(R. Gopalan)
Designated Authority