

No.14/43/2010-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
Udyog Bhawan, New Delhi

NOTIFICATION

(Final Findings)

Dated 10th April, 2012

Subject: -Anti Dumping Investigation concerning import of Pentaerythritol originating in or exported from the European Union (excluding Sweden).

No.14/43/2010-DGAD : Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred to as the Rules or the AD Rules);

A. PROCEDURE FOLLOWED IN THE INVESTIGATION

1. The procedure described below has been followed with regard to the investigation:
 - i) The Designated Authority under the above mentioned Rules (hereinafter also referred to as the Authority), received an application filed by M/s Kanoria Chemicals & Industries Ltd., Ankleshwar (Gujarat) on behalf of the domestic industry, alleging dumping of Pentaerythritol (hereinafter also referred to as Penta or the subject goods) originating in or exported from European Union (excluding Sweden) (hereinafter also referred to as the subject territory).
 - ii) The Authority, on the basis of prima facie evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject territory.
 - iii) The Authority, in accordance with sub-Rule 5(5) of the AD Rules, notified to the Delegation of the European Union to India about the receipt of information alleging dumping of the subject goods from the subject territory before proceeding to initiate the investigation.

- iv) The Authority issued a public notice No 14/43/2010-DGAD dated 11th January, 2011, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from the subject territory.
- v) The Authority forwarded a copy of the public notice to all the known exporters whose details were made available by the Applicant and the industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- vi) The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India from the subject territory and advised them to submit their views in writing within forty days from the date of issuance of the letter.
- vii) The Authority provided a copy of the non-confidential version of application to the known exporters and the Delegation of the European Union to India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- viii) The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject territory in accordance with Rule 6(4) of the AD Rules:

S.No.	Name of Company	Country
1.	M/s. POLIOLI (SPA)	Italy
2.	M/s. ERCROS S.A.	Spain
3.	M/s. PETROCHEM CARLESS LTD.	UK
4.	M/s. PERSTORP OXO BELGIUM AB	Belgium
5.	M/s. PERSTORP CHEMICALS GMBH	Germany

- ix) In response to the Initiation Notification, M/s. Perstorp Chemicals GmbH, Germany, and M/s. Ercros S.A., Spain, responded.
- x) Questionnaires were sent to the following known importers / users of subject goods in India, calling for necessary information in accordance with Rule 6(4) of the AD Rules:

SN	Name of Company	SN	Name of Company
1.	M/s. Vibgyor Paints Pvt. Ltd., Mumbai	17.	M/s. H.R. Trading Co., Pvt. Ltd., Mumbai
2.	M/s. Sanman Trade Impex Pvt. Ltd., Mumbai	18.	M/s. Leo Chemoplast Pvt., Ltd., Mumbai
3.	M/s. Saraf Chemicals Ltd., Mumbai	19.	M/s. Samir Dye Chem. Mumbai
4.	M/s. Alcon Enterprises, Kolkata	20.	M/s. Berger Paints India Ltd., Mumbai
5.	M/s. A.V.M. Sales Pvt. Ltd., Kolkata	21.	M/s. Century Inka Limited, Mumbai
6.	M/s. Ciba Speciality Chemicals (India) Ltd., Mumbai	22.	M/s. Addison Paints & Chemicals, Chennai
7.	M/s. Decro Paints, Hyderabad	23.	M/s. Coates of India Ltd., Mumbai
8.	M/s. Dujodwala Paper Chemicals Ltd., Raigad	24.	M/s. Hardcastle & WaulMafg. Co., Ltd., Mumbai
9.	M/s. Gargi Industries Prop. Navi	25.	M/s. GoodlassNerolac Paints

	Mumbai		Ltd., Mumbai
10.	M/s. Mitsu Industries Ltd., Mumbai	26.	M/s. Hero Dye Chem Industries, Mumbai
11.	M/s. Resins & Pigments, Pithampur (MP)	27.	M/s. Hindustan Inks & Resins Ltd., Mumbai
12.	M/s. ChemiColour Agency, Kolkata	28.	M/s. IVP Ltd., Thane
13.	M/s. Shalimar Paints Ltd., Hawra	29.	M/s. Jenson & Nicholson (I) Ltd., Kolkata
14.	M/s. Dujodwala Paper Chemicals, Mumbai	30.	M/s. Paras Dyes & Chemicals, Mumbai
15.	M/s. Eastcorp International, Kolkata	31.	M/s. Perstorp Aegies Chemicals Pvt. Ltd., Valsad
16.	M/s. Garware Polyester Ltd., Mumbai	32.	M/s Goodlass Nerolac Paint Ltd., Mumbai

- xi) In response to the Initiation Notification, M/s. Perstorp Chemicals India Pvt. Ltd., Berger Paints India Ltd.; Kansai Nerolac Paints Ltd. and Indian Paint Association have responded.
- xii) 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.
- xiii) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xiv) Investigation was carried out for the Period of Investigation (POI) starting from 1st April 2009 to 30th June 2010 (POI). However, injury examination was conducted for a period from 2006-07, 2007-08, 2008-09 and the POI.
- xv) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange the details of imports of subject goods for the period of investigation and the preceding three years. However, DGCI&S data has not been relied upon in this investigation as the volumes reflected by IBIS information provided by the petitioner are higher than DGCI&S. It has been submitted by the domestic industry that IBIS reports the information by item description and covers the product under consideration reported under other classifications as well.
- xvi) Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain as to whether the anti-dumping duty lower than the dumping margin would be sufficient to remove the injury to the Domestic Industry.
- xvii) The Authority held an Oral Hearing on 7th March, 2012 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 6(6). The parties who attended the oral hearing were advised to file written submissions of the information presented orally. The

interested parties were allowed to present rebuttal arguments/rejoinders on the views/information presented by other interested parties. The Designated Authority has considered submissions received from various interested parties appropriately.

xviii) Arguments raised and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority.

xix) *** in this Final Findings Notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

B.1 Views of the domestic industry

2. Following issues were raised by the domestic industry with regard to the product under consideration and like article:

(i) Pentaerythritol falls under the category of Organic Chemicals, produced in white crystalline powder form, and is classified under Chapter Heading 2905.42 of the Customs Tariff Act. It falls under ITC HS Classification 2905 4200.

(ii) Pentaerythritol can be produced using electro dialysis separation technology or fractional crystallization technology. There is no difference, however, in the product properties produced through the two technologies. Pentaerythritol produced can be of technical grade or nitration grade. The principal difference in the two grades is in purity, crystal size and uniformity of crystals. Other than this, there is no other material difference between Technical Grade Pentaerythritol and Nitration Grade Pentaerythritol. Both the grades are produced out of the same process. In fact, it is only a matter of gradation, after production and at the stage of analytical testing of the product. Pentaerythritol having purity above 98% and better crystal formation can be used in the explosive industry and therefore, this grade has been designated as "Nitration Grade" in commercial parlance. Production process, however, largely results in production of "Technical Grade". Less than 2% production results in nitration grade whereas the production of Di-pentaerythritol is less than 0.5%. More than 97% production is of technical grade. Further, imports are primarily in technical grade.

(iii) A major portion of Pentaerythritol is used in the manufacture of alkyd resins, esters and ether derivatives and nitro-derivatives. Derivatives (e.g. esters, ethers, alkyd resins) are used as drying agent in paint, varnishes and other surface coating industries. In recent years, derivatives are used as lubricant in various industries. The product is mostly used in the manufacture of Alkyd Resins, Resin Esters, Plasticizers, Printing inks, Synthetic rubber, Stabilizers for plastics, Modified drying oils,

Detonators, Explosives, Pharmaceuticals, Core oils and Synthetic lubricants, etc.

(iv) There is no difference in Pentaerythritol produced by the domestic industry and imported from the subject territory. Pentaerythritol produced by the domestic industry and imported from the subject territory are comparable in terms of physical & chemical characteristics, manufacturing process & technology (followed by most of the producers the world over), functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Pentaerythritol produced by the petitioners and imported from subject territory is like article.

(v) Di-Pentaerythritol and Pentaerythritol are two different kinds of products. Di-Pentaerythritol is beyond the scope of the product under consideration.

B.2 Views of the Importers, Consumers, Exporters and Other Interested Parties

3. The exporters have made the following submissions with regard to the product under consideration and like article:

(i) The petitioner has stated in the petition that 'Di-Pentaerythritol' is beyond the scope of the product under consideration. However, the petitioner has also stated that given the volume of imports of nitration grade and production by the petitioner, the fact that complete information on imports of the two grades is not publicly available (the names of the importers are also being truncated by the data providing agencies, including DGCI&S) and its likely impact on the eventual dumping margin and injury, petitioner has provided information combined for the two grades at this stage- both in respect of imports & dumping margin and its own performance.

(ii) Thus, it is clear from this that the petitioner has included in the data information relating to products that are not within the scope of the product under investigation for evaluating imports, dumping margin, material injury including price undercutting, price underselling, etc and causal link. Thus, inclusion of products falling outside the scope of subject goods would lead to incorrect determination of dumping, material injury and causal link. Such data shall not be relied upon. For this reason also, the petition should have been rejected.

B.3 EXAMINATION BY THE AUTHORITY

4. Product under consideration in the present investigations is Pentaerythritol, an organic compound which finds application in manufacture of Alkyd Resin, Rosin Esters, Plasticizers, Printing Inks, Synthetic Rubber, Stabilizers for Plastics, Modified Drying Oils, Detonators, Explosives, Pharmaceuticals, Core

Oils and Synthetic Lubricants etc. Pentaerythritol can be of Technical grade or Nitration grade and both the grades are included within the scope of product under consideration and the present investigation. Pentaerythritol is classified under Customs sub-heading No. 2905.42 under chapter 29 of the Customs Tariff Act, 1975. However, the Customs as well as the ITC HS classifications are indicative only and are in no way binding on the scope of the present investigation.

5. Rule 2(d) of the Anti-dumping Rule specifies that like article means an article, which is identical and alike in all respects to the product under investigation or in the absence of such an article, another article having characteristics closely resembling that of the article under examination.
6. The petitioner claimed that the goods produced by them are like articles to the goods originating in or exported from the subject territory. The Authority notes that Pentaerythritol produced by the domestic industry has characteristics which are similar to those of Pentaerythritol imported from the subject territory. In view of the above, the Authority holds that Pentaerythritol produced by the domestic industry and that being imported from the subject territory are like articles within the meaning of the AD Rules. The Authority also notes that the production process largely results in production of 'Technical Grade', and less than 2% production results in Nitration grade, whereas the production of Di-penta is less than 0.5%. Di-pentaerythritol is, therefore, beyond the scope of the present investigation.
7. It has been argued that the petitioner has included data information relating to products that are not within the scope of the product under investigation for evaluating imports, dumping margin, material injury including price undercutting, price underselling, etc and causal link. Thus, inclusion of products falling outside the scope of subject goods has led to incorrect determination of dumping, material injury and causal link. It is, however, noted that the petitioner has included information only with regard to product under consideration. Technical and nitration grade are two different grades of the product under consideration. Nitration grade is not beyond the scope of the product under consideration. Therefore, combined information for nitration grade and technical grades for the purpose of dumping and injury analysis in the petition does not imply inclusion of data relating to products beyond the scope of the product under consideration.

C. STANDING OF THE DOMESTIC INDUSTRY

C.1 Views of the Domestic Industry

8. Following submissions have been made by the domestic industry with regard to the standing of the domestic industry:
 - a. The petition was filed by M/s. Kanoria Chemicals & Industries Ltd., Ankleshwar, Gujarat. There are two other companies in India who created capacity for production of Pentaerythritol, namely, M/s Asian Paints (India) Ltd. and M/s Perstorp Chemicals India (P) Ltd.
 - b. While Asian Paints primarily produces for captive purposes, the company sells some material in the market also. Petitioner has separately considered production of Asian Paints to such an extent. Further, Perstorp India also produces the subject goods. However, it

has started importing the subject goods in significant volumes. The imports by Perstorp India are significant in volume. In fact, as per petitioner's knowledge, Perstorp has completely switched over to imports and closed production in the POI.

- c. In view of the above, petitioner considers that both Perstorp and Asian Paints cannot be considered as eligible producer of the subject goods in the Country.
- d. Further, petitioner has shown production of Asian Paints separately as captive production and merchant production. Petitioner has considered merchant production of this company for the purpose of determination of standing to file the present petition, even though the petitioner believes that it would be appropriate to exclude whole of the production of Asian Paints, on the grounds that the company is producing the product substantially for its own requirement, it would be seen that the production of petitioner alone is more than 25% of merchant production in the Country. It is evident that the petitioner satisfies the standing to file the present petition.
- e. The petitioner has established that production of petitioner constitutes a major proportion in Indian Production (both after including and excluding captive consumption by Asian Paints) and, therefore, petitioner should be treated as "domestic industry" within the meaning of the Rules.

C.2 Views of the Exporter, Importers, Consumers and Other Interested Parties

- 9. The exporters and consumers have made the following submissions with regard to the standing of the domestic industry:
 - i. Asian Paints Ltd is also an eligible domestic producer for product concerned in the domestic market. Captive producers cannot be excluded from the scope of the domestic industry.
 - ii. The petitioner has stated that Asian Paints Ltd cannot be considered as eligible domestic producers as it is a captive producer and sells only limited quantity of the subject goods in the merchant market. Captive producers cannot be excluded from the definition of the domestic industry merely because they chose not to sell their full production in the domestic market but to use it for making some other down-stream product.
 - iii. Imports by Perstorp are primarily from Germany and should be excluded.

C.3 EXAMINATION BY THE AUTHORITY

- 10. M/s. Kanoria Chemicals and Industries Limited have filed the application. It is a multi product company and is involved in production of number of products. The applicant has imported small volume of the subject goods from Spain directly in 2008-09 and through related company in 2009-10. The volume of imports is quite low as compared to total imports of the product, production by the domestic industry and consumption in India. The Authority holds that the volume of imports made by the petitioner or its related party is too small and the petitioner should be considered as eligible domestic industry within the meaning of Rule 2(b).

11. The applicant submitted that Asian Paints primarily produces Penta for captive purposes and the company sells some material in the market also. Petitioner considered production of Asian Paints to the extent of merchant sales. Perstorp also produces the subject goods. However, it has started importing the subject goods in significant volume and as per petitioner's knowledge, Perstorp has completely switched over to imports and closed production in the POI. The interested parties have argued that production of Asian Paints cannot be excluded merely because they have consumed some volume captively.
12. Post hearing, Asian Paints filed a letter giving therein information on procurement of Pentaerythritol from various sources, including domestic industry and imports from various sources. The domestic industry argued that Asian Paint has imported the Pentaerythritol from subject territory and other countries and volume of such imports is quite significant. The information on record shows as follows with regard to Asian Paints.

SN	Description	POI	2009-10	2010-11
1	Production of Pentaerythritol	5,875	4,700	5,400
2	Imports of Pentaerythritol			
	➤ From subject territory	164	-	1,234
	➤ From other countries	-	-	-
3	Procurement from Kanoria Chemicals	4,928	4,059	3,145
4	Sales volumes of Pentaerythritol	2,570	2,056	2,509
5	Captive consumption of Pentaerythritol	3,030	2,424	2,891

13. The Authority observes that (a) Asian Paints has been producing Pentaerythritol both for captive consumption and merchant sales, (b) even when the company is producing Pentaerythritol and selling in the market, it is buying Pentaerythritol from market – both from domestic and imported sources, (c) volume of purchase by the company both from domestic and imported sources is quite significant, (d) the company has imported Pentaerythritol from amongst subject territory, (e) the petitioner argued that Asian Paints should be held ineligible domestic industry in view of these imports made by them from subject territory, (f) while the company has responded to the Authority, it has not provided injury and costing information and, therefore, in any case the information relating to the company cannot be included for injury determination. The Authority, however, considers it is unnecessary to determine whether or not Asian Paints is an eligible domestic industry in view of the fact that company has not provided injury information and production of petitioner constitutes a major proportion in Indian production.
14. Authority notes that even though Perstorp is participating in the present investigations, the company has not provided any information with regard to its capacity, production and sales of Pentaerythritol from its Indian plant. Nor the company has rebutted the claim of the petitioner that Perstorp has suspended its own production in India and has resorted to imports. Perstorp has also not denied the claim of the petitioner that its production during the POI was nil.

15. Authority notes that the Applicant fulfils the requisite criteria to satisfy standing and constitutes the domestic industry as required under Rule 5(3) and Rule 2(b) of the AD Rules as its share of the subject goods in the domestic market is more than 50%, both with or without captive consumption of Asian Paints. The Authority considers that it is not necessary to decide whether production of Asian Paints should be included to the extent of captive consumption or full production, nor it is necessary to decide whether Asian Paints should be considered as eligible domestic industry in view of its imports, as the applicant satisfies standing after including full production of Asian Paints.

D. DUMPING MARGIN

D.1. Views of the Domestic Industry

16. Following issues with regard to dumping margin and export price were submitted by Domestic industry during the course of investigation:

- i. Normal Value: Efforts were made to get evidence of price of product concerned in the domestic market of European Union. Efforts were also made to get any evidence of price from published sources. However, no such information on price in the domestic market of European Union could not be obtained and, therefore, the normal value has been constructed for all exporters/producers from EU excluding Sweden based on international raw material prices, consumption norms of the industry, estimates of conversion costs, selling, general & administrative expenses and reasonable profit margin.
- ii. Export Price: Export price has been determined on the basis of weighted average import price into India. These prices are assessable values of imports. According to the WTO Agreement on Anti-dumping and Indian Anti-dumping Rules, it is necessary to compare the normal value and export price at the same level of trade. The export price has been, therefore, adjusted for the following expenses, which the exporters and/or the producers in the exporting country should have incurred: Ocean freight, Marine Insurance, Inland transportation, Port handling and port charges and Bank Charges. Accordingly, necessary adjustments as above have been made while calculating the net ex-factory export price.
- iii. Dumping Margin: Considering the normal value and export price as calculated, it is observed that the exporters from the subject territory are resorting to large scale dumping of Pentaerythritol in the Indian market. Existence of significant dumping margin is obvious, given that the exporters from EU preferred to reduce the prices, instead of increasing the same, necessitated as a result of increase in input costs.

D.2 View of Exporters/Importers and Other Interested Parties

17. The exporters and consumers have made the following submissions with regard to normal value, export price and dumping margin:

- a) Normal value presented in the petition is illegal and based on irrelevant evidence:
- i. Petitioner has claimed that prices of the subject goods prevailing in subject territory are not available to them and as a consequence resorted to 'constructing' the normal value.
 - ii. The petitioner has constructed the normal value for the raw material also.
 - iii. Petitioner has used consumption norms given in the SION published by the DGFT, which are always higher.
 - iv. Petitioner has added 5% towards interest and another 5% towards profit.
 - v. Further, they have added 5% towards interest in the CNV for Formaldehyde and another 5% interest on the total cost of Penta also.
 - vi. It is impermissible to consider cost and prices prevailing in India in the absence of availability of data for Europe.
 - vii. Domestic Industry has constructed the normal value based on international raw material prices and consumption norms of the domestic industry. This methodology is not WTO compatible as there is domestic consumption of the subject goods in the exporting country in the ordinary course of the trade.
 - viii. Petitioner has not made use of Market Research Reports that are easily available on website. Data provided by Eurostat can be considered as normal value in EU.
- b) Export price presented in the petition is unsubstantiated:
- i. Evidence for ocean freight has only been provided. No evidence for other deductions has been provided.
 - ii. The remaining four charges have been made at the rate of 0.5% of CIF price. While marine insurance may be linked to CIF value; bank charges, inland transportation, port handling charges cannot be as high as 0.5% of CIF value.
 - iii. The exporter has requested consideration of resale price of Perstorp India as net export price.
- c) For the above reasons, dumping margin is unsubstantiated.
- d) The price difference in the market is due to strengthening of Euro.

D.3 EXAMINATION BY THE AUTHORITY

18. Under section 9A (1) (c), the normal value in relation to an article means:

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

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

19. The Authority notes the contentions of the interested parties with regard to determination of dumping margin. The Authority also notes that the petition is required to contain sufficient prima facie evidence of dumping to justify initiation of investigations, for which the petitioner is required to provide best available information. Now, when one exporter (Perstorp Chemicals GmbH) has provided relevant information, the Authority has adopted the same for determining dumping margin. With regard to the claim that the Petitioner has not made use of Market Research Reports that are easily available on website, the Authority holds that the petition contained sufficient prima facie evidence of dumping. In fact, the dumping margin determined on the basis of questionnaire response establishes existence of significant dumping by the exporters.
20. With regard to the claim that the price difference in the market is due to strengthening of Euro, the Authority notes that it is required to consider the normal value and export price in the same currency, which has been done in the present case. The same shows existence of significant dumping by the exporters.
21. With regard to the claim that resale price of Perstorp India as net export price be considered, the authority notes that the exporter has provided no information or evidence to show that the import price was unreliable in view of association of relationship. The authority further notes that mere existence of relationship is insufficient. It must be shown that the export price is unreliable because of relationship.

D.3.1 Dumping margin for European Union (excluding Sweden)

D.3.1.1 Normal Value for Perstorp Chemicals GmbH, Germany

22. M/s. Perstorp Chemicals GmbH, Germany has provided cost of production and selling price in the EU market to be considered as normal value. M/s Perstorp Chemicals GmbH, Germany has reported total domestic sales of *** MT of subject goods during POI for the total invoice value of EUR ***. Thus, the per unit value works out to EUR***/MT equivalent to US\$ *** /MT. Adjustment has been claimed on account of insurance, commission, inland freight and cost of credit. Information filed by the company has been verified by the Authority and a verification report has been issued to the company. Comments offered by the company have also been considered for determination of normal value. The Authority admits the said domestic sales information as the basis of the normal value in terms of the relevant provisions under the Rules. The Authority has also verified and admitted the adjustments claimed by the exporter as adjustments so far as normal value is concerned. Thus, the normal value at ex-factory level is determined as US\$ ***/MT.

D.3.1.2 Normal value for non-cooperative exporters

23. The questionnaire response filed by the other responding exporter, M/s. Ercros S.A., Spain Ercros, was examined by the Authority and it was found that the company has not provided vital information for determination of dumping margin. The said exporter has provided information pertaining only to export sales to India. In particular, the company provided no information with regard to determination of normal value. The company was informed about this vital deficiency and advised to provide the said information. The company, however, preferred not to provide the relevant information. The Authority notes that individual dumping margin can be determined for a responding exporter only if such responding exporter fully cooperates with the Authority and provides all relevant information for determination of dumping margin. In the absence of any information with regard to determination of normal value, the Authority does not to determine individual dumping margin for the said exporter. In the absence of complete response, M/s. Ercros S.A., Spain is being treated as non-cooperative. The normal value at ex-factory level has been determined on the basis of best available information with regard to the price of the product in the domestic market in Europe.

24. The Authority notes that no other exporter/producer has responded to the Authority in present investigation. For the non-cooperative exporters/producers, the Authority has determined the normal value at the same level as that of the cooperative exporter, i.e., at **US\$ ***/MT.**

D.3.2.1 Export Price for Perstorp Chemicals GmbH, Germany

25. M/s Perstorp Chemicals GmbH, Germany has reported total exports sales of *** MT of the goods during the POI for the total invoice value of \$ ***. Thus, the per unit value works out to US\$ ***/MT. Information filed by the company has been verified by the Authority and a verification report has been issued to the company. Comments offered by the company have also been considered by the company for determination of export price. Weighted average export price (CIF) to India is proposed to be determined at US\$ ***/MT as per data provided by the exporter in Appendix 3A of the exporter's questionnaire response. Price adjustments have been claimed on insurance, commission, freight and cost of

credit. The Authority determines the export price after making adjustments on account of insurance, commission, freight and cost of credit. Accordingly, the export price at ex-factory level is provisionally determined at US\$ ***/MT.

D.3.2.3 Export Price for Non-cooperative exporters

26. M/s Ercros S.A., Spain has reported total exports sales of ***MT of subject goods during the POI for the total invoice value of US\$***. However, due to non-submission of complete response to determine dumping margin, the Authority has treated this exporter as non-cooperative. The Authority also notes that no other exporter from EU (excluding Sweden) has submitted exporter's questionnaire response. Therefore, the Authority has adopted the lowest representative net export price to India of the cooperative exporter, i.e., US\$ ***/MT, for non-cooperative exporters, including M/s Ercros S.A., Spain.

27. On the basis of the above, the dumping margin has been worked out under:

Dumping Margin Calculation:

Exporter/Producer	Normal Value	Net export Price	Dumping Margin	
			US \$/MT	Range %
Perstorp Chemicals GmbH, Germany	***	***	***	30-40
Non-Co-operative producers/exporters including M/s Ercros S.A., Spain	***	***	***	45-55

E. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

E.1 Views of the Domestic Industry

28. The domestic industry has submitted as under:-

- i. The imports from the subject territory have increased in absolute terms.
- ii. Exports from the subject territory are at significantly dumped price.
- iii. Production, sales and capacity utilization of the domestic industry has shown some improvement after the imposition of anti dumping duty on dumped imports from other sources.
- iv. Profit/loss had shown improvement up to 2007-08 and then started deteriorating in 2008-09 to the extent that losses were suffered in the POI.
- v. Profit before interest & taxes, cash profits, return on investments have all shown a similar trend.
- vi. Imports from the subject territory have been undercutting the prices of the domestic industry in the market to a significant degree.
- vii. Imports from the subject territory have forced the domestic industry to reduce the prices steeply during investigation period. Thus, the imports were depressing the prices in this period.

- viii. Employment levels with the domestic industry have not undergone any significant change. Wages paid have increased.
- ix. Inventory level with the domestic industry declined and then increased in the POI.
- x. Domestic industry posted negative growth in terms of price parameters, viz., cash flow, profits, return on investments etc. and market share. Overall, the domestic industry faced negative growth.
- xi. Considering the current influx of dumped imports from the subject territory, potential increase is highly envisaged, given the prices being offered by the foreign producers and the level of price difference between the imports and domestic product.

29. Various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.

E.2 Views of the Exporters, Importers and Other Interested Parties

30. The other interested parties have raised following issues with regard to injury and causal link:

- a) Domestic industry as a whole should be considered for injury analysis – The Authority shall not allow selective cooperation by the domestic producers. The authority shall direct all companies related to the petitioners to furnish full details or treat the petitioners as non-cooperative and terminate the investigation on this ground alone.
- b) All mandatory economic parameters have not been considered while making the injury claims.
- c) Existence of injury has not been established by the petitioner.
 - i. Market share – Considering the capacity of the domestic industry, it has a potential to achieve a market share of 32%. As against this, the petitioner has achieved 36%.
 - ii. There is no sign of injury in capacity, production, sales volume, employment, wages and ability to raise capital investments. The domestic industry is showing remarkable growth in almost all of the injury parameters. The petitioner has conceded that there has been an increase in the capacity, production and capacity utilization of the domestic industry and the domestic industry is showing remarkable growth in domestic sales. Further, there has been a significant growth in the employment and wages of the domestic industry and inventory has actually declined. Also, the domestic industry has commissioned a new plant at Vishakhapatnam and the project is financed by International Finance Corporation which shows that there is no negative impact on domestic industry's ability to raise capital.

- iii. Domestic industry has claimed that there has been a decline in profits. However, this claim is not in consonance of the overall growth posted by the domestic industry.
 - iv. Domestic Industry has not provided any demarcation of loss suffered from export sales and the loss suffered due to domestic sales operations and hence it can be inferred that the claim of loss by domestic industry is solely due to loss on export sales. Therefore, injury to the domestic industry should be attributed to the loss accrued from the export sales.
 - v. The Authority should ensure that any effect of shutting down of the power plant of the domestic industry from 25th August 2009 to 19th October, 2009 on the production and sales of the subject goods should not be attributed to the injury claimed by the DI.
- d) There is no causal link between the alleged injury and imports of the respondents.
- i. Adequate protection has already been provided by the Authority against injury suffered due to imports.
 - ii. Other factors include a steep increase in price of Methanol.
 - iii. Asian Paints has an excess capacity of 2500MT above captive usage. Penta not being the main business, excess production would be injected into the domestic market at bare minimum prices. This means that a part of the alleged injury is due to underselling of subject goods by other domestic producer.
 - iv. Landed price of imports from many countries other than EU are much below the import price from EU.
 - v. German prices are higher than Chinese and Taiwanese prices and volumes from these countries are higher.
 - vi. The price difference in the market is due to strengthening of Euro.
- e) Imports made by Perstorp group are not causing injury to the petitioner – In case of goods initially sold to Perstorp India and re-sold to customers, re-sale price of Perstorp India have to be considered and not the landed value of the imports into India.
- f) Imposition of anti dumping duty is clearly against public interest – Domestic industry is operating at 100% utilization. It would not be in a position to satisfy the need of user industries at internationally competitive prices.
- g) Domestic Industry cannot cater to the demand of the user industry for the subject goods.
- h) DA should not attribute injury caused due to imports from other countries to the present investigation.

- i) Price underselling claims are exaggerated by assuming 22% return on capital employed. The Authority should determine the rate of return based on the past performance of the domestic industry.
- j) Costing information of the petitioner does not include income from by-products. Sodium Formate is the by-product. After inclusion of profits on Sodium Formate, the petitioner's financial position will not show any injury.
- k) Costing of subject goods should be based on Cost Audit Report and cross verified.
- l) Separate margins should be determined for Technical and Nitration grades of Penta due to difference in applications, cost and price.

E.3 EXAMINATION BY THE AUTHORITY

31. The Authority has taken note of submissions made by the interested parties. Annexure II of AD Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products. While examining the volume effect of the dumped imports, the Authority is required to examine as to whether there has been a significant increase in dumped imports either in absolute term or relative to production or consumption in India. With regard to price effect of dumped imports, the Authority is required to examine as to whether there has been significant price undercutting by the dumped imports as compared to price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increase which would have otherwise occurred to a significant degree.
32. As regards the impact of dumped imports on the domestic industry, Para (iv) of Annexure-II of AD Rules states as under: *"The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments."*
33. Production of petitioner constitutes a major proportion in Indian production. Petitioner constitutes domestic industry. No information in the form and manner prescribed has been filed by Asian Paints. Perstorp India also has not filed any information with regard to injury to domestic industry. Thus, the Authority has considered petitioner as the domestic industry for the purpose of the proposed determination in accordance with Rule 2(b). The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties. Further, various issues raised by the interested parties with

regard to injury to the domestic industry have also been considered while examining injury to the domestic industry.

E.3.1 Volume Effect of Dumped Imports

34. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti dumping rules provides as under:

“While examining the volume of dumped imports, the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

E.3.2 Assessment of demand and market share

35. Designated Authority has determined demand as the sum of domestic sales of the domestic industry, sales of other Indian producers and imports of the subject goods in India from all sources after considering both including and excluding captive consumption by Asian Paints. The demand so assessed is shown in the following table. It is seen that demand of the product in the Country has increased in the POI after a decline in 2008-09 (which is attributed to the recessionary effect).

	2006-07	2007-08	2008-09	POI Annualized*
Demand – MT(excluding captive consumption)				
Sales of Domestic industry	5750	6117	5401	6778
Sales of other Indian producers	7479	8342	5092	2056
Imports from EU (excluding Sweden) - Subject territory	256	2900	3575	6935
Imports from China & Sweden – SSR	1296	1588	2496	903
Imports from Taiwan-MTR	260	1252	247	2200
Imports from Other Countries	1428	1136	378	1771
Total Demand	16469	21335	17189	20643
Trend	100	130	104	125
Demand – MT(including captive consumption)				
Sales of Domestic industry	5750	6117	5401	6778
Sales of other Indian producers	10230	11219	7467	4480
Imports from EU(excluding Sweden) - Subject territory	256	2900	3575	6935
Imports from China & Sweden – SSR	1296	1588	2496	903
Imports from Taiwan-MTR	260	1252	247	2200
Imports from Other Countries	1428	1136	378	1771
Total Demand	19220	24212	19564	23067
Trend	100	126	102	120

* POI= April'09-June'10

	2006-07	2007-08	2008-09	POI Annualized*
Market Share in demand excluding captive (%)				
Domestic industry	34.92	28.67	31.42	32.84
Other Indian Producers	45.41	39.1	29.62	9.96
Imports from EU(excluding Sweden) - Subject territory	1.55	13.59	20.8	33.6
Imports from China & Sweden – SSR	7.87	7.44	14.52	4.37
Imports from Taiwan-MTR	1.58	5.87	1.44	10.66
Imports from Other Countries	8.67	5.32	2.2	8.58
Market Share in demand including captive (%)				
Domestic industry	29.92	25.26	27.61	29.39
Other Indian Producers	53.22	46.34	38.17	19.42
Imports from EU(excluding Sweden) - Subject territory	1.33	11.98	18.27	30.07
Imports from China & Sweden – SSR	6.74	6.56	12.76	3.91
Imports from Taiwan-MTR	1.35	5.17	1.26	9.54
Imports from Other Countries	7.43	4.69	1.93	7.68

* POI= April'09-June'10

E.3.3 Import Volume and Market Share

36. The Authority notes that the imports from EU (excluding Sweden) have increased significantly over the injury investigation period. Sales of the domestic industry declined significantly in 2008-09, which is attributed to the recessionary effect and thereafter increased in the POI. Market share of the subject imports have increased significantly over the injury period. Imports from the subject territory have increased significantly in terms of production and consumption in India.

E.3.4 Price Effect

37. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

38. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. A comparison for product concerned was made between the landed value of exported product and the average selling price of the domestic industry for domestic market net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. This

comparison showed that during the period of investigation, the subject goods originating in the subject territory were sold in the Indian market at prices which were lower than the domestic industry's prices. It is, thus, seen that imports were undercutting the domestic prices and margin of undercutting is considered significant.

	Unit	2006-07	2007-08	2008-09	POI
Landed Value	Rs./MT	56,334	84,124	89,252	63,489
Indexed		100	149	158	113
Net Sales Realization	Rs./MT	***	***	***	***
Indexed		100	115	120	99
Price Undercutting	Rs./MT	***	***	***	***
Indexed		100	(25)	(36)	46
Price Undercutting	%	***	***	***	***
Price Undercutting	Range	15-25%	Negative	Negative	5-15%
Non Injurious Price (NIP)					***
Price Underselling					***

39. The Authority notes that the landed price of imports is significantly below the selling price of the domestic industry. Thus, imports of subject goods from the subject territory are significantly undercutting the prices of the domestic industry in the market. It is further noted that the landed price of imports is significantly below the non injurious price of the domestic industry determined by the Authority. The imports are thus have underselling effects on the domestic industry. The Authority also notes that it has consistently considered 22% return on capital employed for determination of non injurious price. Moreover, even if much lower rate of return (say 10%) is allowed, the price underselling continues to be significant and material.

40. Considering the fact that the Authority is also required to look into the dumping and consequential injury to the Domestic Industry and also considering the fact that two of the exporters have provided data, Authority concludes that it is necessary to evaluate the price undercutting and injury margins for the responding exporters. The table below shows the factual position. It is seen that the exports by the responding exporters were undercutting the domestic industry prices and injury margin in respect of these exports is quite significant.

	Unit	Perstorp	All others
Non injurious price	US \$/MT	***	***
Net sales realisation	US \$/MT	***	***
Landed Cost	US \$/MT	***	***
Price undercutting amount	US \$/MT	***	***
Price undercutting %	Range %	10-15	15-20
Injury Margin	US \$/MT	***	***
Injury Margin % of NIP	Range %	30-40	40-50

Price suppression and depression

41. In order to determine whether the effect of such imports is to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree, the Authority has compared trends in cost of production and selling price of the domestic industry over the injury period.

Particulars	Unit	2006-07	2007-08	2008-09	POI
Cost of sales	Rs/MT	***	***	***	***
Change from base year	Indexed	100	94	108	104
Selling Price	Rs/MT	***	***	***	***
Change from base year	Indexed	100	115	119	99

42. The cost and price structure of the domestic industry and the landed value of imports from the subject territory show that the cost has declined by 4% between 2008-09 and POI (i.e., by Rs. *** pmt); whereas net sales realization has declined by 20% (i.e., Rs. *** pmt) during the same period. Further, the price at which material is being sold by the Indian Producers does not provide reasonable return on investment and is below non-injurious price of the domestic industry. The Authority concludes that imports were significantly depressing the prices of the product in the market.

E.3.3 Economic Parameters Relating To the Domestic Industry

43. Annexure II to the Rules requires that the determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down as follows:

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

Actual and potential Production, Capacity and Capacity Utilization, Sales

44. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:-

Particulars	Unit	2006-07	2007-08	2008-09	POI Annualized
Installed capacity	MT	6,000	6,000	6,000	6,000
Trend	Indexed	100	100	100	100

Production	MT	6,267	6,284	6,175	6,437
Trend	Indexed	100	100	99	103
Capacity utilization	%	104	105	103	107
Trend	Indexed	100	100	99	103
Domestic sales	MT	5,750	6,117	5,401	6,778
Trend	Indexed	100	106	94	118
Demand including captive consumption	MT	19,220	24,212	19,564	23,067
Trend	Indexed	100	126	102	120

45. The Authority notes that the production, domestic sales and capacity utilization of the domestic industry shows improvement. However, increase in demand is higher than increase in production and sales of the domestic industry. Further, despite improvements in production, domestic sales and capacity utilisation, the price parameters relating to the domestic industry have significantly deteriorated.

Profits, return on investment and cash flow

46. Profits, return on investment and cash flow of the domestic industry have been examined as under:

Particulars	Unit	2006-07	2007-08	2008-09	POI annualized
Profit before tax	Rs/Lacs	***	***	***	***
Trend	Indexed	100	4,831	2,445	(1005)
Profit before interest and tax	Rs/Lacs	***	***	***	***
Trend	Indexed	100	1,031	553	(205)
Return on capital employed (NFA basis)	%	***	***	***	***
Trend	Indexed	100	951	484	(131)
Cash profit	Rs/Lacs	***	***	***	***
Trend	Indexed	100	1,047	572	(121)
Profit before interest & depreciation	Rs/Lacs	***	***	***	***
Trend	Indexed	100	626	357	(67)

47. The Authority has verified information with regard to profits, return on investment and cash profits claimed by the domestic industry. The above data shows that the profitability improved in 2007-08 as a result of anti dumping duty imposed on imports from other dumped sources. However, the position deteriorated in 2008-09 and worsened in the period of investigation to the extent that significantly losses were suffered. Similar trend is observed with respect to cash profit and return on investment.

48. It was argued that the injury to the domestic industry is partly due to recessionary effect. It is noted in this regard that whereas the domestic industry earned profits in 2008-09, it suffered financial losses during the POI.

49. It was argued that the financial losses to the domestic industry could be due to higher costs on account of depreciation of the new plant. It is however noted that

the depreciation of the new plant has no relevance to the present product, as the two products are different products and the company has maintained separate records of the two products. Further, it is found that deprecation amount charged over the years has not substantially increased in the POI. Above all, it is noted that profit before interest & depreciation has also shown significant deterioration, which clearly establishes that the decline in these parameters is not to higher incidence of interest or depreciation.

50. With regard to the claim that the costing information of the petitioner does not include income from by-products, the Authority has verified information relating to the domestic industry and has found that the same duly accounts for by products income. There is no evidence provided by the interested parties to establish that income from by product products has not been adjusted by the domestic industry.
51. With regard to the claim that costing of subject goods should be based on Cost Audit Report and cross verified, the Authority notes that it has verified the information filed by the domestic industry and the same has been adopted for the proposed determination.
52. The Authority concludes that the profitability of the domestic industry improved initially and thereafter once again deteriorated in POI. It is noted that the product was being dumped from other sources. The Authority conducted midterm review investigations in respect of imports of Pentaerythritol from Taiwan and sunset review investigations in respect of imports from China and Sweden. The Authority concluded in the final findings of those investigations that the performance of the domestic industry deteriorated due to dumping of the product in India. The investigation period of these investigations were Jan.-Dec., 2009. The decline in profits and consequently return on investment and cash profits in the present POI is attributable to fresh dumping from EU.

Employment and wages

53. The Authority notes that the constituent of the domestic industry is a multi product, multi location company and, therefore, there may not be direct effect of dumping on employment levels of the domestic industry. Status of employment levels and wages of the domestic industry has been as under:

Particulars	Unit	2006-07	2007-08	2008-09	POI Annualized
Employment (Manpower strength)	Nos	***	***	***	***
Trend	Indexed	100	108	112	114
Wages	Rs/Lacs	***	***	***	***
Trend	Indexed	100	116	128	149
Profit and Loss	Rs/MT	***	***	***	***
Increase / decrease in comparison to previous year	Rs/MT	***	***	***	***
Salary and wages	Rs/MT	***	***	***	***
Increase / decrease in comparison	Rs/MT	***	***	***	***

to previous year					
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54. The interested parties argued that wages paid by the domestic industry have shown abnormal increase. The Authority therefore examined in detail the claims with regard to wages and whether the increase in wages could have led to the claimed decline in profits of the domestic industry. It is noted that the domestic industry has reported wages charged in respect of production of Pentaerythritol for domestic market. Since the company was earlier having significant exports, which have now declined, the wages charged to the product for domestic has increased to that extent. It is also noted that whereas the cost of production on account of wages increased by about Rs. *** per MT, the profitability of the domestic industry declined by about Rs. *** per MT. It is thus evident that the decline in profitability is far disproportionate to the increase in costs on account of wages. The Authority concludes the claimed deterioration in profitability is primarily because of the steep decline in prices and not any possible abnormal increase in wages.

Productivity

55. The productivity of the domestic industry is given in the following table:

Particulars	Unit	2006-07	2007-08	2008-09	POI Annualized
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	92	88	90
Productivity per day	MT	***	***	***	***
Trend	Indexed	100	100	99	103

56. The Authority notes from the above table that productivity of the domestic industry declined between 2007-08 and 2008-09, but improved slightly in the POI. However, the productivity levels per employee in the POI, even though better than 2008-09 were lower than productivity levels in 2006-07.

Inventories

57. Designated Authority has examined the inventory level of the domestic industry, which is given in the following table:-

Particulars	Unit	2006-07	2007-08	2008-09	POI Annualized
Average stock	MT	627	150	246	267
Trend	Indexed	100	24	39	43

58. Based on the above, Authority notes that the inventory levels of the domestic industry declined in 2007-08 and then increased in 2008-09 and the POI. In fact,

inventory levels with the domestic industry continued to be significant and average level of inventories increased. It has been submitted by the domestic industry that they cannot afford to hold high stock of inventories and have to dispose of the same at whatever prices it can sell the product in the market.

Factors affecting domestic prices

59. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In order to assess the effect of imports on the domestic market, Designated Authority analyzed import prices over the injury period and found that the landed value of imports per MT from the subject territory, in the period of investigation, is lower than the net selling price and non-injurious price. Change in cost structure if any, due to competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors other than dumped imports that might be affecting the prices in the domestic market. The Authority provisionally concludes that there is no viable substitute to this product and the prices were affected due to dumped prices.
60. Designated Authority determined the net sales realization of the domestic industry considering selling price, excluding taxes & duties, rebates, discounts and freight & transportation. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The comparison is done between the net sales realization and the landed price of imports. The Authority concludes that landed value of imports from the subject territory was lower than the net sales realization of the domestic industry for the subject goods during the POI and, thereby, undercutting the selling price of the domestic industry.
61. The price underselling is an important indicator of assessment of injury, and thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been worked out for the domestic producer by appropriately considering the cost of production for the product under consideration during the POI. The Authority found that the landed value of imports per MT, in the period of investigation, is lower than the non injurious price determined for the domestic industry during the period of investigation in respect of the subject territory.

Growth

62. On examination of various economic parameters of the domestic industry, Authority notes that though the volume parameters such as production and sales show improvement; various price parameters of the domestic industry show negative trend, which is in spite of anti dumping duty in force against other dumping sources, and provisionally concludes that resultantly, growth of the domestic industry remained negative.

Ability to raise capital

63. The domestic industry is a multi product company. Their ability to raise further investment is not a significant factor in this case. However, should the dumping from the present source persist, ability of the domestic industry to raise capital would suffer severely.

Conclusion on material injury

64. Some interested parties have argued that domestic industry has not suffered material injury as is evident from improvements in production, capacity utilization, domestic sales. It has also been argued that even at full capacity, the domestic industry could not have improved its market share and adequate protection has already been given to the domestic industry. It has also been argued that injury to the domestic industry is due to steep increase in the prices of methanol. It is also argued that the landed price of imports from other countries is lower than landed price from current subject territory. These interested parties have also argued that imposition of anti dumping duty is not in public interest.

65. The Authority notes that the rules do not provide that the domestic industry should have suffered material injury in respect of each injury parameter. Under the Rules, a determination of injury involves an objective examination of (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products. Information on record shows that there has been a significant increase in the dumped imports, both in absolute terms and relative to production or consumption in India. There has been a significant price undercutting by the dumped imports as compared with the price of like product in India and the effect of such dumped imports is to depress prices to a significant degree. Consequent impact of dumped imports on the domestic industry might be evident from one or more economic parameters. The Authority has examined consequent impact of dumped imports by considering an analysis of various economic parameters listed under the law.

66. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current injury, the Authority concludes that:

- i) The demand of the subject goods has increased from 100 (Index) in base year to 120 (Index) in POI, i.e., it increased by 20%. During the same period, the imports from the subject territory have increased 27 times. It is seen that the imports of the subject goods from the subject territory have increased significantly in absolute terms and in relation to production & consumption in India.
- ii) The subject goods are entering the Indian market at dumped prices and dumping margin of the subject goods imported from the subject territory are substantial and above de-minimis.
- iii) The imports from the subject territory are significantly undercutting the prices of the domestic industry. Further, while cost of production and selling price both have shown a decline, the decline in the selling price is significantly higher than the decline in the cost of production. The imports are thus depressing the domestic prices.

- iv) As a result of the significant increase in imports and significant price difference between the imported and domestic product, the performance of the domestic industry has deteriorated in terms of profits, return on investments and cash profit. The deterioration in the performance during the current period is quite significant and material.
- v) Even though the domestic industry has been able to gain sales volumes, the same have been at the cost of sub-optimal prices in view of presence of dumped imports in the market from the present source.
- vi) Even though production, productivity and capacity utilization has not deteriorated, the decline in profits, return on investment and cash profits is too significant to establish adverse consequent impact of dumped imports on the domestic industry.
- vii) Parameters such as employment, wages, inventories do not show significant adverse impact of dumped imports.
- viii) Dumping margin is quite significant and the price difference is clearly suggestive of adverse consequent impact of dumped imports on the domestic industry.

67. The above analysis shows that the domestic industry has suffered material injury.

F Causal Link

68. As per the AD Rules, the Authority is, inter alia, required to also examine any known factors other than the dumped imports, which at the same time are injuring the domestic industry, so that the injury caused by these other factors are not attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.

69. It was examined whether these other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It was found that:

a. Imports from Third Countries: - The Authority notes that during the POI, imports beyond de-minimus limits have taken place from EU (excluding Sweden), and other countries (China, Sweden and Taiwan) against which investigation have been earlier concluded and Saudi Arabia (against which the domestic industry has filed petition claiming that the same are also dumped imports and the petition is under consideration of the Authority). It has not been shown that the volume of imports not sold at dumped prices have had significant adverse impact on the domestic industry.

b. Contraction in Demand: - The Authority notes that demand of the product under consideration had declined in 2008-09 and then increased in the POI. Decline in demand cannot be considered as the factor that would have impacted the domestic industry. It is noted that the overall demand for subject goods has shown positive growth during the injury period as is evident from the table below.

Particulars	Unit	2006-07	2007-08	2008-09	POI Annualized
Total demand excluding captive	MT	16,469	21,335	17,189	20,643
Trend	Indexed	100	130	104	125
Total demand including captive	MT	19,220	24,212	19,564	23,067
Trend	Indexed	100	126	102	120

c. Pattern of consumption: - No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard.

d. Conditions of competition: - The subject goods are freely importable and there are no trade restrictive practices in the domestic market. The domestic industry competes among one another and at the same time competes with the landed price of the subject goods. Moreover, imports from other sources have sizable presence in the Indian market.

e. Developments in technology: - The investigation so far has not shown that there was any significant change in technology, which could have caused injury to the domestic industry.

f. Export performance of the domestic industry:- The exports of the domestic industry are only 20 MT during the POI and it constitutes less than 1% of their production. Further, exports by the domestic industry have declined significantly over the period. The injury information has been segregated for domestic operations and only performance of the domestic industry with regard to domestic operations alone has been considered with regard to profits, return on investments and cash profits. Therefore, exports could not have affected its overall adverse performance in the current POI with regard to significant deterioration in profits, return on investments and cash profits.

g. With regard to the claim that imports made by Perstorp group are not causing injury to the petitioner, the Authority notes that Perstorp has neither claimed nor established that the export price is unreliable because of association of relationship. Therefore, in a situation where the exporter has not established that the export price is unreliable because of relationship, the CIF export price is required to be considered for determination of dumping margin and injury margin. The same has been done by the Authority.

70. In order to determine whether the effect of such imports is to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree, the Authority has compared trends in cost of production and selling price of the domestic industry over the injury period.

71. No other factor which could have possibly caused injury to the domestic industry has been brought to the knowledge of the Authority. The Authority notes that while listed known other factors do not show injury to the domestic industry, the

following parameters show that injury to the domestic industry has been caused by dumped imports.

i) The subject goods are entering the Indian market at dumped prices and dumping margin of the subject goods imported from subject sources are substantial and above de-minimis.

ii) Subject imports are available at prices lower than domestic industry. Consequently, the consumers are increasingly switching over to imports, thus forcing the domestic industry to offer sub-optimal prices. The price depression felt by the domestic industry is clearly due to dumped imports.

iii) Even though the domestic industry has been able to gain sales volumes, the same have been at the cost of sub-optimal prices in view of presence of dumped imports in the market.

iv) The imports are occurring at low and dumped prices and are undercutting the prices of the domestic industry. Consequently, the domestic industry has been forced to reduce the prices, which has adversely impacted performance of the domestic industry on account of profits, return on investment and cash flow.

v) The imports are undercutting the domestic prices. Resultantly, the domestic industry is faced with price depression in the market, much beyond the decline in the costs.

72. The Authority is of the view that material injury to the domestic industry has been caused by the dumped imports.

G Magnitude of injury and injury margin

73. With regard to the claim that separate margins should be determined for Technical and Nitration grades of Penta due to difference in applications, cost and price, the Authority notes that technical and nitration grades are merely two different grades of Pentaerythritol. The dumping margin and injury margin are required to be determined for the product under consideration. Mere difference between the cost and price of the two product types does not imply that the Authority should determine separate dumping margin and injury margin.

74. The Authority has determined non-injurious prices of the subject goods for the domestic industry taking into account the cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. The injury margins have been worked out as follows:

	Unit	Perstorp	All others
NIP	US \$/MT	***	***
Landed cost	US \$/MT	***	***
Injury Margin	US \$/MT	***	***
Injury Margin as % NIP	Range %	30-40	40-50

Post Disclosure Statement submissions

75. Post Disclosure Statement submissions by the Domestic Industry

- i. The product is sold in two grades – technical and nitration. However, irrespective of the differences in cost and price product under consideration is the same. However, the scope of the product remains the same irrespective of the grades.
- ii. The petitioner constitutes domestic industry and had standing to file the present petition, notwithstanding the small insignificant volume of imports made by the petitioner or its related party.
- iii. Asian Paints cannot be considered as domestic industry in view of significant imports made by the company from subject countries. In any case, the captive consumption of Asian Paints cannot be considered.
- iv. The Authority has rightly rejected the response of Ercros on the ground that the exporter has not fully co-operated with the Designated Authority.
- v. Perstorp had disputed the quantum of normal value determined by the domestic industry. The dumping margin determined by the Authority establishes that the dumping margin is indeed quite significant.
- vi. Domestic industry reiterated its submissions with respect to the injury as follows:
 - a. The imports from the subject country increased significantly in absolute terms and in relation to production & consumption in India.
 - b. Imports are significantly undercutting the prices of the domestic industry.
 - c. Significant undercutting has led to price suppression in the market.
 - d. As a result of significant increase in imports and price difference between the imported and domestic product, performance of the domestic industry significantly deteriorated over the period of investigation in terms market share, profits, return on investment, cash flow and inventories.
 - e. The deterioration in the performance during the current period is quite significant and material.
 - f. In addition to material injury, facts of the case clearly establish that the domestic industry is threatened with material injury by the dumped imports.
- vii. Recommendation of anti dumping duty should be in fixed quantum in terms of US Dollars.

76. Post Disclosure Statement submissions by other Interested Parties

- i) Only five days were given for the submission, wherein this period also coincides with Easter, and therefore, the actual time given to European

parties is even shorter and, therefore, the deadlines for comments cannot be treated as fair by any reasonable standard.

- ii) Investigating authority is not at liberty to reject reliable data in the course of the injury analysis as has been done by rejecting DGCI&S data and accepting the IBIS data as provided by the petitioner merely on the ground that it reflects higher volumes, whereby it better served the purpose of showing the existence of injury to the domestic injury.
- iii) Any losses suffered during the economic crisis are not indicative of trade related losses and, therefore, the investigating authority's reference to negative trends in the domestic industry's performance during the period of economic crisis is irrelevant.
- iv) Market share of domestic industry declined only in the period of 2007-08, i.e., the period of economic crisis. Market share of EU imports increased in line with the decrease in market share of other Indian producers. Perstorp India replaced its Indian production by non – Indian production which has triggered the overall increase in market share of EU and, therefore, initiation of this case itself is unjustified let alone imposition of duties.
- v) Injury analysis is not objective as the Authority was not consistent in its choice of the time periods underlying the injury and the dumping assessment. Most data from the POI was used for the calculation of dumping margin and injury margin but then assessment was made for certain cost elements on the basis of data from the “over the past three years and POI”. This might have inevitably distorted the calculation.
- vi) There is no adverse price effect on the domestic industry. Kanoria Chemicals supplied 63% of their total sales to Asian Paints Ltd. in 2009-10 and nearly 89% of the total products sold to the Asian Paints for the period April 2010-June 2010. Thus, it can be concluded that prices at which Asian Paints has procured Penta from Kanoria Chemicals is the selling price of the DI. The average selling price of Kanoria Chemicals to Asian Paints has declined by mere 0.3% in POI as compared to 2009-10. This is in sharp contrast to the conclusion arrived by the Hon'ble DA that increase in sales volume is on account of sub optimal prices of the DI.
- vii) The importers had also assured the Hon'ble DA that in case of any verification, the vouchers for the above transaction would be provided by Asian Paints Ltd. However, the importers did not receive any communication from the Hon'ble DA with regards to the verification nor the Hon'ble DA has addressed this claim of the importers in the Disclosure report.

- viii) Price undercutting analysis is not based on the facts. Since Kanoria chemicals sold nearly 70% of its products to Asian Paints Ltd in the POI, the selling price to Asian Paints by Kanoria Chemicals can be taken as the domestic selling price of DI. As per the data provided by Asian Paints Ltd, the difference between the DI's selling price and the import price is less than 8% and the same is less than 10-15% as concluded by the Hon'ble DA.
- ix) The Hon'ble DA has concluded that domestic selling price has declined by 20% in POI as compared to 2008-09. POI in the present investigation is for a period of 15 months. Thus as per the DI, the indexed domestic selling price is same in 2009-10 and also in POI. However the price at which Kanoria Chemicals supplied to Asian Paints Ltd during the POI shows an increasing trend on a quarter basis considering 70% of Kanoria's sales are to Asian Paints.
- x) Domestic Industry is not suffering from material injury in terms of production, domestic sales, capacity utilization and market share.
- xi) The importers in their submission had submitted that the decline in profits is on account of expenditure on a new plant by the DI whereas the DA has concluded that; *"It was argued that the financial losses to the domestic industry could be due to higher costs on account of depreciation of the new plant. It is however noted that the depreciation of the new plant has no relevance to the present product, as the two products are different products and the company has maintained separate records of the two products."* However as per the news reports, the DI had planned to produce the PUC from the newly established plant. We would thus request the Hon'ble DA to make a finding as to whether the new plant at Vizag is producing the PUC or any other product.
- xii) There has been a decrease in inventory of Pentaerythritol of the DI, contrary to the findings of the DA that inventory level has raised. As per the Annual report for FY 2010-11 of the DI, the opening stock for Pentaerythritol on April 1, 2009 was 497 MT which decreased to 228 MT on March 31, 2010 and which further decreased to 61 MT on March 31, 2011. Thus it is clear that DI has very low levels of inventory.
- xiii) An assumption that the DI should have a fixed return on capital every year is erroneous and contrary to all norms of an open market as it seeks to create an artificial risk free environment for domestic industry. Hon'ble DA should consider the historical return of the company.
- xiv) The non segregation of injury leads to break in of the causal link as it cannot be established that during the POI, the material injury as claimed

by the DI was on account of the PUC from the subject country only and not from any other sources.

77. Examination by the Authority

Arguments of the Domestic Industry and other Interested Parties have been examined by the Authority hereunder to the extent these are found relevant to the present investigation:

- i) As regards the argument that there is no adverse price effect on the domestic industry, the Authority notes that the information on record clearly shows existence of significant price undercutting. It is also clearly established that the domestic industry has suffered price depression. All arguments on this account are factually incorrect. Further, as regards comparison of 2009-10 with POI, it may be noted that the POI includes entirety of 2009-10 and three months thereafter. The comparison is, therefore, misleading. In any case, the Authority has considered 2006-07, 2007-08, 2008-09 and POI for injury analysis. It would be inappropriate to selectively do comparison.
- ii) As regards the argument that no communication received for verification, the Authority notes that the investigations started on 11th January, 2010. During a period of more than one year, Asian Paints never provided information, nor offered verification of its information. It is only at the stage of post hearing written submissions, they have filed submissions. Even now also, the company has neither expressly supported the petition nor opposed the petition. However, the company appears to be tacitly opposing imposition of anti dumping duty.
- iii) As regards increase in the prices after the POI, it has been consistent practice of the Authority to undertake dumping and injury analysis on the basis of information for the investigation period. It is, however, relevant to point out that the domestic industry has filed a petition in respect of Saudi Arabia, wherein the company has claimed injury in that investigation period. Investigation period of that case is post POI of the present case. Therefore, it does not prima facie appear that the domestic industry is no longer suffering injury.
- iv) With respect to the claim of IPA that petitioner has planned to produce PUC at its newly commissioned plant at Vizag, the record does not show production of Pentaerythritol at the new location. The company has reported the same level of capacity throughout the injury period, which could not have been true, had the company set up additional capacities at the new location. In any case, the Authority notes that information for Pentaerythritol alone has been considered, which has also been verified by the investigating team.
- v) With respect to claims of IPA regarding fall in inventory level of the petitioner, the period considered is 2010-11. However, the POI was April 2009 to June 2010.

- vi) As regards injury from other dumped sources, the rules require the Authority to segregate injury suffered by the domestic industry from undumped imports. Injury suffered by the domestic industry from other dumped imports is not required to be segregated under the law.
- vii) As regards rate of return, firstly, the Authority consistently considers 22% return on capital employed. Secondly, the past period of the product is a period when the domestic industry was suffering injury from other dumped imports. Therefore, the past injury period in any case cannot be a benchmark for determining reasonable rate of return on capital employed.
- viii) As regards no injury in respect of volume parameters, the legal position is very clear. The consequent adverse impact of dumped imports may be established in terms of any one or more parameters listed under the law. It is not necessary that the domestic industry should have suffered injury in respect of all injury parameters.
- ix) With regard to time limits, it is noted that significant time in this case was lost in view of decision of Hon'ble High Courts in India holding that the Designated Authority does not have discretion under the law in a situation where a domestic producer has imported the product or is related to an importer/exporter. Even when the decision of the Hon'ble High Courts were in respect of other products and did not directly pertain to the current case, yet, the decision was directly applicable to the present case and it would not have been appropriate for the Designated Authority to ignore the said decision and issue the findings. It is noted that the Hon'ble High Court of Kolkata issued the relevant order on 19th Aug., 2011, which was stayed by the Hon'ble Division Bench on 23rd Dec., 2011. Further, Hon'ble High Court of Madras had issued the relevant order on 21st Nov., 2011, which was stayed by the Hon'ble Division Bench on 2nd Feb., 2012. It would, thus, be seen that the time available to the Authority was significantly curtailed due to the court orders. Further, on factual aspects of the case, the comments of the interested parties are merely repetitive.
- x) As regards the argument on rejection of DGCI&S import data, the Authority notes that DGCI&S has provided information in respect of specified HS Code whereas IBIS has provided information in respect of specified description, it follows that DGCI&S data may not comprehensively include volume of imports reported during relevant period. In a situation where the volume of imports reflected in DGCI&S data is lower than IBIS data and where it is found from the IBIS data that the imports of product under consideration have been reported in classification other than the classification meant for the product under consideration, it has been consistent position of the authority to consider the correct volume of imports during the period.
- xi) As regards the argument on economic crisis, it is noted that the alleged phenomena of economic crisis was a global phenomena and should have equally impacted both the domestic and export price. It is, however, noted that the producers in subject territory exported the product at significantly dumped prices.

- xii) As regards substitution of production by Perstorp from India to its overseas plants, the authority considers that the facts clearly establish that the exports were at dumping prices and landed price of imports were significantly below the selling price of the domestic industry. The exporter has not established with documentary evidence that its export price to its related entity was unreliable because of association of relationship. Since exporter has not established that the export price was unreliable, the authority has proceeded with its consistent practice of comparing selling price of the domestic industry with landed price of imports at the relevant port. It is only in a situation where the exporter establishes that the export price is unreliable due to relationship that the Designated Authority is required to consider resale price of Indian importer. As regards market share, the authority notes that the consequent adverse impact of dumped imports is clearly established in terms of significant deterioration on account of profits, return on capital employed and cash flow.
- xiii) It is clarified that for the purpose of injury analysis, the authority has considered performance of the domestic industry over the injury period. Further, profits, return on investment and cash profit have been determined considering cost of production and sales revenue for the relevant periods. The authority has not considered cost and price data pertaining to different periods for injury assessment.
- xiv) As regards the issue of temporary nature of injury to the domestic industry, the Authority notes that there is no legal requirement that the domestic industry should have suffered injury during the entire injury period. What the Authority is required to consider is whether the performance of the domestic industry could be considered as injurious during POI, considering the performance over the injury period.
- xv) The Authority notes that the product under consideration was being exported at dumping prices albeit from other sources in earlier period. Therefore, it would not be appropriate to consider return realized by the domestic industry over the injury period. Further, the Authority has consistent practice of adopting 22% return on capital employed for the purpose of determining non injurious price.
- xvi) As regards imports from Saudi Arabia, the domestic industry has filed a petition in respect of these imports and the case is under consideration of the Designated Authority. Under the rules, the Authority is required to segregate injury caused due to un-dumped imports. Injury suffered by the domestic industry from other dumped imports is not required to be segregated. This gets clearly established by the relevant legal provision, which is extracted below.

It must be demonstrated that the dumped imports are, (v) through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a casual relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the designated authority. The designated

*authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, **the volume and prices of imports not sold at dumping prices**, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.*

- xvii) As regards the claim that the Ministry of Finance Notification on extending the time limit to complete the investigation was not available, the Authority notes that the letter as circulated intimating the oral hearing in the subject investigation, clearly stipulated that the date for completion of investigation was 10th April 2012.
- xviii) As regards the change in injury data by the domestic industry the Authority notes that no amendment in injury data has been made by the domestic industry. There was a clarification which was given by the domestic industry with regard to certain figures relating to salary and wages which were not annualized.
- xix) As regards the argument that injury caused due to the competition of the subject goods sold by Asian Paints has not been considered the authority notes that petitioner is supplying significant volumes of the product under consideration to Asian Paints itself. Such being the case, competition with Asian Paint cannot be said to be the principle cause of injury to the domestic industry.
- xx) As regards the submission on imports being inevitable, the Authority notes that it is a settled principle of law that demand supply gap for the product under consideration is totally irrelevant, as existence of demand-supply gap does not justifies dumping.

Conclusion and Recommendations

78. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject Territory below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the Subject Territory.

Indian industry's interest & other issues:

79. The Authority notes that the purpose of anti-dumping duties in general is to eliminate injury caused to the domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the Subject Territory in any way, and, therefore, would not affect the availability of the product to the consumers.

80. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product(s) manufactured by using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practice; would prevent the decline of the domestic industry; and help maintain availability of wider choice to the consumers of the subject goods.

Recommendations

81. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary and recommends imposition of definitive anti dumping duty on imports of the subject goods from the Subject Territory in the form and manner described hereunder.

82. 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 the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed from the date of the

Notification to be issued by the Central Government, on all imports of subject goods originating in or exported from the European Union (except Sweden).

Duty Table

Sl. No	Sub-heading	Description of goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	2905.42	Pentaerythritol	Any	European Union (excluding Sweden)	European Union (excluding Sweden)	M/s. PERSTORP CHEMICALS GMBH	M/s. PERSTORP CHEMICALS GMBH	379	Per/MT	US\$
2.	2905.42	Pentaerythritol	Any	European Union (excluding Sweden)	European Union (excluding Sweden)	M/s. PERSTORP CHEMICALS GMBH	Any	490	Per/MT	US\$
3.	2905.42	Pentaerythritol	Any	European Union (excluding Sweden)	European Union (excluding Sweden)	Any	Any	490	Per/MT	US\$
4.	2905.42	Pentaerythritol	Any	European Union (excluding Sweden)	Any excluding China and Taiwan	Any	Any	490	Per/MT	US\$
5.	2905.42	Pentaerythritol	Any	Any excluding China and Taiwan	European Union (excluding Sweden)	Any	Any	490	Per/MT	US\$

83. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

84. An appeal against the order of the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Smt. Vijaylaxmi Joshi)

The Designated Authority

85.

