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F.No.14/26/2012-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi-110001

Dated 11.12.2014

NOTIFICATION

(Final Findings)

Subject: Final Findings in the anti-dumping investigation concerning imports of Pentaerythritol originating in or exported from Russia-reg.

No.14/26/2012-DGAD: Having regard to the Customs Tariff Act, 1975 as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof:

A. BACKGROUND OF THE CASE

2. Whereas, M/s Kanoria Chemicals & Industries Limited (hereinafter also referred to as the applicant) filed a duly substantiated application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the Rules), alleging dumping of Pentaerythritol (hereinafter referred to as the subject goods), originating in or exported from Russia (hereinafter referred to as the subject country), and, thus, for initiation of anti-dumping investigation and for levy of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country.

3. And whereas, the Authority found sufficient prima facie evidence of dumping of the subject goods originating in or exported from the subject country and injury to the

domestic industry and causal link between dumping and injury and initiated the anti dumping investigation vide Notification No 14/26/2012-DGAD dated 21st June, 2013 to investigate into the alleged dumping, and consequent injury to the domestic industry, in terms of Rule 5 of the Anti-dumping Rules, and to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

B. PROCEDURE

4. The procedure described below has been followed in this investigation:

- i) The Authority notified the Embassy of the subject country in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject country before proceeding to initiate the investigation in accordance with the Anti-dumping Rules.
- ii) The Authority issued a public notice no 14/26/2012-DGAD dated 21st June, 2013, published in the Gazette of India, Extraordinary, initiating the anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject country.
- iii) The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the Anti-Dumping Rules.
- iv) The Authority provided a copy of the non-confidential version of the application to the known exporters of the subject country in accordance with the Anti-dumping Rules. A copy of the application was also made available to other interested parties, upon request.
- v) Copies of the letter and the exporters' questionnaires sent to the exporters/producers in the subject country were also sent to the Embassy of the subject country in India along with a list of known exporters / producers with a request to advise the known exporters / producers from the subject country as also other exporters / producers from the subject country to respond to the questionnaires within the prescribed time limits.

- vi) The Authority sent exporters questionnaires to elicit relevant information to the following known exporters in the subject country in accordance with the Anti-dumping Rules:
- a) JSC %Metafrax+, Russia, Gubaha, Perm region, 618250
 - b) Russia Tech.Chem Co Ltd, VO UL. Kapitanskaya, 307, Saint Petersburg . 197724, Russian Federation
 - c) Chemiolux, Moscow, Milutinskiy per.18/3, Russia
- vii) None of the exporters filed response to the exporters questionnaire in the form and manner prescribed by the Authority. However, the following made miscellaneous submissions:
- a) Joint Stock Company Metafrax, Russia; and
 - b) Ministry of Economic Development of the Russian Federation, through The Trade Representation of the Russian Federation in the Republic of India
- viii) The Authority forwarded a copy of the public notice to the following known importers/users/user associations (whose names and addresses were made available to the Authority) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4):

User Associations

- a) Indian Paints Association, Calcutta
- b) Indian Resin Manufacturers Association, Mumbai
- c) Indian Small Scale Paint Association, Mumbai

Importers/Users

- a) Addison Paints & Chemical Ltd., Chennai, Tamil Nadu
- b) Berger Paints India Limited, Mumbai
- c) Century Enka Limited, Mumbai
- d) Ciba Specialty Chemicals (India), Mumbai
- e) Coates Of India Ltd, Mumbai
- f) Decro Paints, Hyderabad
- g) Dujodwala Paper Chemicals Ltd., Raigad

- h) Gargi Industries Prop, Thane, Navi Mumbai
- i) Goodlass Nerolac Paints Ltd, Mumbai
- j) Hardcastle & Waud Mfg Co Limited, Mumbai
- k) Hero Dye Chem Industries, Mumbai
- l) Hindustan Inks & Resins Ltd, Mumbai
- m) IVP Ltd., Maharashtra
- n) Jenson & Nicholson (I) Ltd., Kolkata
- o) Mitsu Inds. Limited, Mumbai
- p) Paras Dyes & Chemicals ,Mumbai
- q) Resin & Pigments, Pitham pur, Madhya Pradesh
- r) Perstorp Chemicals India Pvt Ltd, Vapi
- s) A.V.M. Sales Pvt. Ltd., Kolkata
- t) Alcon Enterprises, Kolkata
- u) Chemi Colour Agency, Kolkata
- v) Eastcorp International, Kolkata
- w) Garware Polyester Ltd., Mumbai
- x) H. R. Trading Co. Pvt. Ltd, Mumbai
- y) Leo Chemoplast Pvt. Ltd., Mumbai
- z) Samir Dye Chem, Mumbai
- aa) Sanman Trade Impex Pvt. Ltd., Mumbai
- bb) Saraf Chemicals Ltd., Mumbai
- cc) Vibgyor Paints Pvt. Ltd., Mumbai
- dd) Dujodwala Paper Chemicals Limited, Mumbai
- ee) Shalimar Paints Ltd., Hawrah

ix) None of the importers/users/associations filed any responses to the questionnaire. However, the following made miscellaneous submissions:

- a) Sandeep Organics Pvt Ltd, Mumbai
- b) India Paint & Coating Association, New Delhi
- c) Bharat Solvent & Chemical Corporation, New Delhi

x) The Period of Investigation (POI) for the purpose of the present investigation was from 1st January, 2012 to 31st December, 2012. The examination of

trends in the context of injury analysis covered the periods 2009-10, 2010-11, 2011-12 and the POI.

- xi) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods into India for the past three years, including the period of investigation, and the said information was obtained from the DGCI&S and has been adopted in this investigation.
- xii) Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xiii) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).
- xiv) The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv) In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 9th September, 2014 which was attended by only the domestic industry and their representatives. The domestic industry which presented its views in the oral hearing was requested to file written submissions of the views expressed orally.
- xvi) The submissions made by the domestic industry and other interested parties during the course of the investigation and considered relevant by the Authority have been examined and addressed in this investigation.
- xvii) At the request of the Authority, the Central Government extended the time period to complete the investigations up to 20th December, 2014.
- xviii) On the spot verification of the information and data submitted by the domestic industry was carried out to the extent deemed necessary.

- xix) Information provided by the interested parties on confidential basis was examined by the Authority 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. Wherever possible, the interested parties were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xx) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded these essential facts on the basis of the 'facts available' and treated such parties as non-cooperative.
- xxi) A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 21.10.2014. The post Disclosure Statement submissions received from the domestic industry and the opposing interested parties have been considered, to the extent found relevant, in this Final Findings Notification.
- xxii) *** in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxiii) The exchange rate adopted for the POI is 1 US \$ =Rs 53.69.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1 Submissions by the Domestic Industry

- 5. The following submissions have been made by the domestic industry:
 - i. The product being dumped in the Indian market is Pentaerythritol. Pentaerythritol is an organic compound. The term erythritol indicates the presence of four hydroxyl groups, and the prefix penta indicates that there are five carbon atoms in the molecule.
 - ii. Pentaerythritol can be produced using electro dialysis separation technology or fractional crystallization technology. There is no difference, however, in the

product properties of the products produced through the two technologies. Pentaerythritol 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. 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. However, Pentaerythritol considered as Nitration Grade can be used for production of Alkyd Resins and other products (where the other grade, %Technical Grade+ Pentaerythritol, is used). Even though there is no major difference in the two grades, the two command some difference in the prices. Normally, nitration grade carries a higher price.

iii. The production process, however, largely results in production of Technical Grade. Less than 2% production results in nitration grade, while 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. Di-Pentaerythritol and Pentaerythritol are two different kinds of products. Di-Pentaerythritol is beyond the scope of the product under consideration.

iv. Pentaerythritol 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.

v. There is no known difference in the subject product produced by the domestic industry and the subject product exported from the subject country. Both have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing, tariff classification, etc. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably.

vi. As far as the contention of the opposing interested parties that Pentaerythritol with purity above 98% should be kept beyond the scope of the product under consideration, it is contended that the domestic industry is producing and supplying Nitration grade and the same is being imported into India and, therefore, there is no justification for its exclusion. Majority of the demand for Nitration is being met by the domestic industry.

C.2 Submissions made by the producers/exporters/other interested parties

6. As the domestic industry is producing Pentaerythritol Nitration grade less than 2% only, it should be kept beyond the scope of the product under consideration. Nitration grade purity is above 98%. So, any Pentaerythritol with purity above 98% should be kept beyond the scope of the product under consideration. Mono Pentaerythritol Grade should also be kept beyond the scope of the product under consideration.

C.3 Examination by the Authority

7. The Authority has considered the submissions of the domestic industry and the opposing interested parties and proposes to conclude as under:

i. The product under consideration in the present investigation is Pentaerythritol. Pentaerythritol is an organic compound. The term %erythritol+ indicates the presence of four hydroxyl groups, and the prefix %penta+ indicates that there are five carbon atoms in the molecule. Pentaerythritol can be produced using electro dialysis separation technology or fractional crystallization technology. There is no difference 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. Both the grades are produced out of the same process. 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. However, Pentaerythritol considered as %Nitration Grade+ can be used for production of Alkyd Resins and other products (where the other grade %Technical Grade+ Pentaerythritol is used). 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. Di-Pentaerythritol and Pentaerythritol are two different kinds of products. Di-Pentaerythritol is beyond the scope of the product under consideration.

ii. As far as the contention of the opposing interested parties that as the domestic industry is producing Pentaerythritol Nitration grade less than 2% only, it should be kept beyond the scope of the product under consideration. Nitration grade purity is above 98%. So, any Pentaerythritol with purity above 98% should be kept beyond the scope of the product under consideration. The Authority notes that an examination of the documents provided by the domestic industry shows that Penta NG is 98% and the domestic industry is producing and selling Penta NG of 98% or more purity. Since the domestic industry is selling Penta of 98% or above purity, there is no justification for its exclusion.

iii. As far as the contention of the opposing interested parties that Mono Pentaerythritol Grade should also be kept beyond the scope of the product under consideration, the Authority notes that Mono Pentaerythritol has been included within the purview of anti dumping duties in the past as well. Moreover, none of the interested parties have justified the need for exclusion of either grade from the scope of product under consideration.

iv. The interested parties desired to know what is the crystal size & uniformity of crystals of Technical & Nitration Grade. The domestic industry clarified that 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. The Authority notes that technical grade and nitration grade have been included within the purview of anti dumping duties in the past as well. Moreover, none of the interested parties have justified the need for exclusion of either grade from the scope of product under consideration.

v. Pentaerythritol 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, and Core oils and Synthetic lubricants, etc. Pentaerythritol is classified under Chapter 29 of the Customs Tariff Act, 1975 under the Customs Code 29054200. However, Customs classification is indicative only and in no way binding on the scope of the investigation.

vi. With regard to the issue of Like Article, Rule 2(d) of the AD Rules defines like article as follows:

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

vii. The Authority has examined the matter and notes that there is no known difference in subject goods produced by the domestic industry and that imported into India from the subject country. The subject goods produced by the domestic industry and that imported from the subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties has raised any objection in this regard. In view of the same, the Authority holds the subject goods produced by the domestic industry are like article to the subject goods imported from the subject country in accordance with the Anti-dumping Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Views of the Domestic Industry

8. The Domestic Industry has made the following submissions with respect to the scope of domestic industry and standing:

- I. The petitioner in the present investigation is Kanoria Chemicals & Industries Limited.
- II. Apart from the petitioner, the product under consideration is being produced by Asian Paints (India) Ltd (~~%Asian Paints+~~). While Asian Paints manufactures the product under consideration, the company captively consumed 52% of its production of Pentaerythritol in 2011-12. The production of Asian Paints to the extent of captive consumption should not be included in the eligible production, as this production does not compete with the dumped material supplied by the foreign producers or sales made by the Indian producers.
- III. Earlier, there was one more producer of the product under consideration, Perstorp Chemicals India (P) Ltd. (~~%Perstorp India+~~). However, Perstorp India has had no domestic production of the product since 2009-10.
- IV. Neither Asian Paint nor Perstorp India can be considered eligible domestic industry.
- V. The petitioner does not import the subject goods from the subject country. Further, it is not related to any exporter or importer of the subject goods from the subject country.
- VI. For the purpose of standing, the petitioner has calculated Indian production both including and excluding captive consumption of Asian Paints. The production of the petitioner constitutes more than 70% of the total Indian production when captive consumption of Asian Paints is excluded and about 55% of the total Indian production when captive consumption of Asian Paints is included. Therefore, the petitioner constitutes domestic industry in both the cases.
- VII. The petitioner had sufficient standing to file the petition on behalf of the Indian domestic industry for the product concerned.
- VIII. The argument that the petitioner has no locus standi to file the complaint is without any basis and is against established law and practice in this regard. Domestic industry is defined under Rule 2(b) and the petitioner satisfies the same. In fact, interested parties themselves have claimed that the petitioner is the sole manufacturer of the product, which implies the petitioner is a domestic industry for the product under consideration.

D.2 Views of exporters/importers/users and other opposing interested parties

9. The complainant has no locus standi to file the complaint. The complainant is the sole manufacturer of Pentaerythritol in India and sells the subject goods in the open

market in India. Hence, it does not qualify within the definition of the term 'industry' since it is the sole manufacturer for selling purposes in India.

D.3 Examination by the Authority

10. The Authority has examined the issue as under:

- i. The Authority notes that Rule 2(b) of the Anti-dumping Rules provides as follows:
“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”
- ii. The petition was filed by Kanoria Chemicals & Industries Limited (hereinafter referred to as the 'applicant'). The company is a producer of the product under consideration in India and has not imported the product from the subject country during investigation period. It is not related to any producer in the subject country or importer in India.
- iii. Aside from the applicant, Asian Paints (India) Ltd. (hereinafter referred to as 'Asian Paints') manufactures the like article in India. The applicant has claimed that the captive and merchant markets constitute two separate markets and that the dumped imports enter the latter. It has been claimed that captive producers do not compete with the dumped material to the extent of captive production. It has been further claimed that Perstorp Chemicals India (P) Ltd. (hereinafter referred to as 'Perstorp India'), which has capacities for the production of Pentaerythritol, is not producing the product at present.
- iv. The Authority notes that it is not necessary to determine whether or not Asian Paints is eligible to be included within the scope of domestic industry since the production of the applicant is sufficient to constitute a major proportion of total Indian production whether or not the captive production of Asian Paints is included. With respect to Perstorp India, it is noted that the company is not manufacturing the product during the period of investigation and so cannot be considered eligible to be included within the scope of domestic industry.
- v. It is noted that the production of the applicant in the investigation period constituted 71.54% of Indian production when production for captive use was excluded. When captive production is included, the share of the applicant was 54.68%.

- vi. After an examination of the issue, it is noted that the production of the applicant constitutes a major proportion in Indian production (both after including and excluding captive consumption by Asian Paints) and, therefore, the applicant has been treated as domestic industry within the meaning of the Rules. The Authority, after examining the facts, proposes to determine that the applicant constitutes domestic industry within the meaning of Rule 2(b) of the Anti-dumping Rules, and the petition satisfies the criteria of standing in terms of Rule 5 of the Rules.

ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

E.1 Normal Value, Export Price and Dumping Margin

11. The Authority notes that none of the exporters/producers from Russia has responded to the initiation notification by filing exporter questionnaire in the manner and format prescribed. However, M/s. JSC Metafrax has made brief submissions.

E.2 Views of the domestic industry

12. JSC Metafax has not cooperated with the Authority in the form and manner prescribed. Mere submissions about prevailing prices in Russia or cost of production of the exporter are entirely meaningless unless the exporter files questionnaire response in the form and manner prescribed; and cooperated to verification of its data. The exporter has attempted to give impression that there was only one price for the product throughout the period. Format E enclosed with the costing information shows that the price of the product under consideration varied quite significantly in the present period of investigation, thus, clearly establishing absence of static price throughout the period.

| Month | Quantity | NSR |
|---------|----------|-------|
| | MT | Rs/MT |
| JAN-12 | *** | *** |
| FEB-12 | *** | *** |
| MAR-12 | *** | *** |
| APR-12 | *** | *** |
| MAY-12 | *** | *** |
| JUN-12 | *** | *** |
| JULY-12 | *** | *** |
| AUG-12 | *** | *** |
| SEP-12 | *** | *** |
| OCT-12 | *** | *** |
| NOV-12 | *** | *** |
| DEC-12 | *** | *** |
| Total | *** | *** |

13. The selling price in Russian market cannot be accepted unless it is established that the same is above the cost of production in accordance with provisions of Annexure-1 to the Rules. This analysis of profitable sales is required to be made on invoice by invoice sales of the exporter in the domestic market of the exporting country. It is also relevant to point out that the cost of production is also required to be provided in a particular form and manner prescribed and the Designated Authority is required to satisfy itself that the cost of production claimed by the exporter is as per Accounting Standard of the exporting country and reasonably reflects the cost associated with production and sale of the product under consideration. In case, the company is a multi product company, elaborate investigation is required to ascertain whether cost assessments are reasonable and appropriate. It is widely known fact that determination of dumping margin for a cooperating exporter is an elaborate exercise, which the exporter has attempted to put under the carpet by substituting some negative numbers for selling price in Russia and cost of production of the exporter.

14. Since the exporter has not filed the questionnaire response in the form and manner prescribed and thus has not cooperated for verification of its data, the exporter is not entitled to claim its normal value or export price or dumping margin. In fact, the exporter cannot even claimed individual dumping margin without a complete questionnaire response. It is, thus, contended that the Authority cannot determine the dumping margin for JSC Metafrax without questionnaire response.

15. None of the producers/ exporters in Russia has filed questionnaire response. The petitioner made efforts to get evidence of price of product concerned in the domestic market of Russia and to get evidence of price from published sources. However, it could not collect any information/evidence such as price lists or quotations of producers of subject goods in the domestic market of Russia due to lack of relevant information in public domain and, therefore, it has constructed the normal value in the case of imports from Russia based on the raw material prices and consumption norms of the domestic industry, prevailing price of power in Russia, estimates of conversion costs, selling, general & administrative expenses and reasonable profit margin.

E.3 Views of the exporters/importers/users and other opposing interested parties

16. M/s. JSC Metafrax has contended that their total production of Pentaerythritol in 2012 is 22,500 metric tons. Out of which approximately 10,500 metric tons is sold in domestic market and 12,000 metric tons are exported to 17 countries. The export of Pentaerythritol to India in 2012 is 1,275 metric tons which is only 10.6% of its total export of Pentaerythritol. The ex-factory cost of production of Pentaerythritol is 43,250.00 Ruble/metric ton. They have further contended that their sale of Pentaerythritol made in Russia is above the cost of production plus profit. The weighted average selling price of Penaterythritol in Russia is not below the weighted average

cost of production during the normal years. The normal selling price of Pentaerythritol in Russia is Ruble 55,500.00 per metric ton. This includes cost of production, general and administrative expenses, profit and VAT of 18%.

17. The exporter has further contended that the export price of Pentaerythritol to India is Ruble 47,150.00 per metric ton during the year 2012. In no way, the export price of Pentaerythritol is less than the production cost. There is no dumping of Pentaerythritol done by the Russian manufacturers done into India.

18. It has been contended by the importers that the complainant has failed to furnish any evidence with regard to the price prevailing (normal price) in domestic market in Russia, so as to make out a case of dumping. More precisely, in the event of non availability of normal price and non comparison of normal value of the subject goods manufactured and sold in the domestic market in India, no case is made out.

E.4 Determination of Normal Value for producers and exporters

19. As provided under the law, the Authority is required to consider selling price of the product when meant for consumption in the domestic market of Russia for determining normal value in Russia. The applicant submitted that there is no evidence of actual selling price prevailing in the domestic market of Russia. None of the exporters in Russia has cooperated with the Authority with questionnaire response. The submissions made by M/s. JSC Metafrax in this regard are unsubstantiated. The Authority notes that in the absence of any response from any Russian producer in the form and manner prescribed, the normal value cannot be determined on the basis of questionnaire response of a producer in Russia. The Authority has, therefore, constructed normal value by considering international price of major raw material, Methanol, estimates of cost of production, duly adjusted to include selling, general & administrative costs and profits. The normal value so determined is in the dumping margin table below.

E.5 Determination of Export Price for producers and exporters

20. Since none of the exporters from subject country has responded to the Authority through complete and duly substantiated questionnaire response, the Authority has determined Export Price in respect of imports from Russia on the basis of best information available in accordance with Rule 6(8) of the AD Rules. The applicant has determined export price on the basis of imports of the product under consideration in India, as reported by IBIS, the data supplying agency. The Designated Authority has also got the transaction wise import data from the DGCI&S. It is seen that the volumes and prices of imports reported by both DGCI&S and IBIS are comparable. The Designated Authority has considered the data received from DGCI&S and determined

the export price considering all imports of the product under consideration in India. Price adjustments have been made on the basis of claims made by applicant domestic industry in view of non cooperation from the exporters from Russia. Export price so determined at ex-factory level is in the dumping margin table below.

E.6 DUMPING MARGIN

21. Considering the normal value and export price as determined above, the dumping margin determined is as follows. It is seen that the dumping margins are more than de-minimis and significant.

Dumping Margin Table

| | | |
|------------------|---------|-------|
| Normal Value | US\$/MT | *** |
| Export Price | US\$/MT | *** |
| Dumping Margin | US\$/MT | *** |
| Dumping Margin | % | *** |
| Dumping Margin % | Range | 30-40 |

F. ASSESSMENT OF INJURY AND EXAMINATION OF CAUSAL LINK

INJURY

F.1 Views of the Domestic Industry

22. The domestic industry has submitted that:

- a) Demand has shown a largely continuous increasing trend both, including and excluding captive consumption.
- b) Imports of the subject goods from Russia have increased significantly when compared with the base year. Imports from Saudi Arabia, against which anti-dumping investigation has been terminated on 8th November, 2013, and from Chinese Taipei, against which a sunset review investigation has been initiated by the Authority, have increased. The imports from other countries attracting anti-dumping duty (China PR and EU excluding Sweden) have declined in the POI.
- c) There were no imports from Russia in 2009-10. The share of imports from Russia has increased considerably in terms of imports of the subject goods into India, and consumption and production in India in the POI when compared with 2010-11.

- d) There has been significant price undercutting in the POI and the previous year.
- e) Landed price of imports are substantially below the cost and selling price of the Domestic Industry. Whereas both cost of production and selling prices increased over the period, the increase in the selling price is less than the increase in the cost of production.
- f) Though production has increased slightly, capacity utilization has declined in the POI. Domestic sales volume has declined from 2009-10 to the POI.
- g) The market share of the domestic industry has declined with the increase in imports of the subject goods from Russia and other existing sources.
- h) The domestic industry has been running into losses since 2009-10. Losses have been substantial in the POI. Imports are entering the Indian market much below costs. Per unit cost of sales has increased significantly in the POI when compared with the base year and the previous year. However, the cost of sales per unit of the product has exceeded the per unit selling price, considerably affecting profitability throughout the injury period.
- i) The cash profits have severely declined over the period to the extent that cash losses have been reported since the base year. Return on Capital Employed has declined substantially in the period of investigation when compared with the base year.
- j) Inventories with the domestic industry have increased in the POI when compared with the base year, and increased significantly when compared with the previous year.
- k) The productivity of the domestic industry has been improving though the rate of increase in production has declined. However, in spite of increase in productivity, the domestic industry has suffered financial losses in the POI.
- l) There are no other factors aside from dumping causing injury to the domestic industry. Aside from the subject country, imports are entering the country from certain other countries, but these are already subject to anti-dumping duties or investigations. Imports from any other country are below *de minimis*. Demand for the product has increased. There have been no changes in pattern of consumption, technology, trade restrictive practices or conditions of competition that have caused the injury. The export performance of the domestic industry has not caused the injury claimed.
- m) There is a causal link between dumped imports from Russia and the material injury being caused to the domestic industry since imports are undercutting the domestic industry's prices.

- n) As far as the as the issue of demand supply gap is concerned, it is contended that though there was significant demand supply gap for the product, yet it is well understood practice and established principle that the demand supply gap does not imply that the anti dumping duty cannot be imposed.
- o) As far as the argument that the petitioner has attempted to eliminate healthy competition from the market is concerned, the argument is just opposite to the position consistently advanced by the Authority 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 country in anyway and, therefore, would not affect the availability of the products to the consumers. Further, imposition of duty eliminates unfair trade practice and does not create the same.
- p) As far as the argument that in the event of non availability of normal price and non comparison of normal value of the subject goods manufactured and sold in the domestic market in India, no case is made out, it is contended that the issue is well settled. The petitioner has given best available information. None of the producers from Russia has provided information in the form and manner prescribed. The interested parties have not been able to show that some information with regard to normal value in Russia was publically available and the same has been ignored by the petitioner.
- q) Imports from Saudi Arabia are at a price higher than the import price from Russia. In any case, the investigation conducted by Authority in respect of Saudi Arabia clearly establishes that the imports from Saudi Arabia were at undumped prices. Further, in the absence of filing of the exporters questionnaire response, the information provided by the petitioner has to be relied upon which clearly shows significant price undercutting being caused by Russian imports.
- r) The Authority is required to consider the performance of the domestic industry in respect of product under consideration and not performance of all the products of the company. The information provided by the petitioner clearly shows significant deterioration in the performance of the domestic industry in respect of a number of vital injury parameters.
- s) The price increases are required to be seen along with cost increases. It would be seen that increases in the price of the product are far lower than increases in the cost of production. These increases in cost of production are on account of increases in input cost and, therefore, it is legitimate expectation of the petitioner that it would increase its product price in proportion to the increase in cost of production. However, the

petitioner has not been able to increase its price in proportion to the increase in cost of production, thus, leading to significant decline in profitability to a situation where petitioner is now suffering significant financial losses, cash loss and negative return on investment.

- t) The argument that the import of subject goods from Russia into India is quite small as compared to the demand in India has no basis. Import price from Russia is undercutting the domestic price and, therefore, causing price form of the injury to the domestic industry.
- u) Performance of the domestic industry deteriorated materially in respect of profits, cash flow and return on investment.
- v) It would, thus, be seen that there is no substance in submissions of the interested parties made before the Authority. Further, in view of the above submissions, and submissions earlier made, domestic industry submits that the investigation has clearly established that:
 - i. Product under consideration is being exported to India at dumping prices from the subject country.
 - ii. Both dumping margin and injury margin in the POI are significantly positive.
 - iii. Domestic industry has suffered material injury as a result of dumping.
 - iv. Definitive anti dumping duties are required to be imposed in accordance with the dumping margin and injury margin.
 - v. The form of measure is required to be kept as fixed quantum.

F.2 Views of the opposing interested parties

23. The other interested parties have made the following submissions with respect to material injury to the domestic industry:

- a) The complainant is having a production capacity of nearly 6,000 MT/ annum of the subject goods, whereas the industrial requirement in India is approximately 22000 MT/ annum. This leaves a huge gap between the demand and supply situation, having an impact on the commercial interests of the paint and resins industry.
- b) The complainant has attempted to eliminate healthy competition from the market with respect to the subject goods and create its monopoly with regard to manufacture and sale of subject goods, which tantamount to anti-competitive and unfair trade practices.
- c) Imports from Saudi Arabia and Russia are around the same price even though freight from Russia is much higher than Saudi Arabia. Moreover, the petitioner is also selling on same landed price in India, then how can it be called price undercutting.

- d) There has been no significant price undercutting by the subject goods imported from Russia as compared to the price of the like article in India. The landed price of imports from Russia is not lower than the selling price of the domestic industry. Hence, there is no decline in the market share of the domestic industry. In fact, the market share of the domestic industry has been increasing constantly over the past few years.
- e) As per the information available at the portal of moneycontrol.com, the net profit of so called %domestic industry+ consisting exclusively of the complainant has shown considerable growth in sales, net profit and profitability. Hence, there is no impact on profits and return on investments of the domestic industry due to imports of subject goods from Russia.
- f) The domestic industry has been able to substantially increase its prices. Paint industry is in bad shape due to increase in price of raw material.
- g) The import of subject goods from Russia into India is quite small as compared to the demand in India.
- h) Production, sales and capacity utilization of the complainant has shown substantial growth and improvement during the last 4 years. Similarly, profit before tax, cash profits and ROI of the complainant have shown a substantial growth during the last 4 years.
- i) The plant of Pentaerythritol of the Domestic Industry is facing pollution problem. The pollution department is shutting the plant.
- j) Reserve & Surplus, profit before tax from continuing operations / cash flow from operating activities, earning per share, profit before exceptional & extraordinary items & Tax, profit before extraordinary items & Tax, profit before Tax, profit for the year for the Domestic Industry in fact improved.

F.3 Examination by the Authority

24. In consideration of the various submissions made by the domestic industry and other opposing interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry.

25. Rule 11 of Antidumping Rules read with Annexure. II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, % . taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles .+ In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped

imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

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

27. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Kanoria Chemicals & Industries Ltd., constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows:

F.4 Volume Effect of dumped imports and Impact on domestic Industry

a) Demand and Market Share

28. The Authority has determined demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports of the subject goods in India from all sources, both including and excluding captive consumption by Asian Paints. The demand so assessed can be seen in the tables below, both including and excluding captive production. It is seen that demand of the product under consideration in the country has increased up to 2011-12 and then declined slightly in the POI. However, the demand has increased during the POI as compared to the base year. Whereas the sales of the domestic industry have declined over the injury period, the imports of the subject goods from the subject country started in 2010-11 and have increased till POI.

Demand and Market Share in India (including captive consumption)

| Description | Unit | 2009-10 | 2010-11 | 2011-12 | POI* |
|---------------------------------|------|---------|---------|---------|-------|
| Sales of Domestic Industry | MT | 6,725 | 6,629 | 6,518 | 6,327 |
| Sales of Other Indian Producers | MT | 4,549 | 5,400 | 5,400 | 5,400 |
| Imports . Chinese Taipei (SSR) | MT | 2,507 | 1,223 | 1,641 | 1,895 |

| | | | | | |
|--------------------------------|----|--------|--------|--------|--------|
| Imports . Russia (on-going) | MT | 0 | 300 | 900 | 1,153 |
| Other countries attracting ADD | MT | 7,643 | 5,700 | 4,524 | 1,908 |
| Other countries | MT | 1,167 | 6,362 | 7,784 | 10,001 |
| Total Demand | MT | 22,592 | 25,614 | 26,766 | 26,684 |
| Market Share | | | | | |
| Domestic Industry | % | 29.77 | 25.88 | 24.35 | 23.71 |
| Other Indian Producers | % | 20.14 | 21.08 | 20.17 | 20.24 |
| Imports- Chinese Taipei (SSR) | % | 11.10 | 4.77 | 6.13 | 7.10 |
| Imports . Russia (on-going) | % | - | 1.17 | 3.36 | 4.32 |
| Other countries attracting ADD | % | 33.83 | 22.25 | 16.90 | 7.15 |
| Other countries | % | 5.16 | 24.84 | 29.08 | 37.48 |

**POI – January 2012-December 2012.*

Demand and Market Share in India (excluding captive consumption)

| Description | Unit | 2009-10 | 2010-11 | 2011-12 | POI* |
|---------------------------------|------|---------|---------|---------|--------|
| Sales of Domestic Industry | MT | 6,725 | 6,629 | 6,518 | 6,327 |
| Sales of Other Indian Producers | MT | 2,125 | 2,509 | 2,592 | 2,592 |
| Imports . Chinese Taipei (SSR) | MT | 2,507 | 1,223 | 1,641 | 1,895 |
| Imports . Russia (on-going) | MT | 0 | 300 | 900 | 1,153 |
| Other countries attracting ADD | MT | 7,643 | 5,700 | 4,524 | 1,908 |
| Other countries | MT | 1,167 | 6,362 | 7,784 | 10,001 |
| Total Demand | MT | 20,168 | 22,723 | 23,958 | 23,876 |
| Market Share | | | | | |
| Domestic Industry | % | 33.35 | 29.17 | 27.20 | 26.50 |
| Other Indian Producers | % | 10.54 | 11.04 | 10.82 | 10.86 |

| | | | | | |
|--------------------------------|---|-------|-------|-------|-------|
| Imports . Chinese Taipei (SSR) | % | 12.43 | 5.38 | 6.85 | 7.94 |
| Imports . Russia (on-going) | % | - | 1.32 | 3.76 | 4.83 |
| Other countries attracting ADD | % | 37.90 | 25.08 | 18.88 | 7.99 |
| Other countries | % | 5.78 | 28.00 | 32.49 | 41.89 |

*POI – January 2012-December 2012.

b) Import volumes and market shares

29. 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. Volume of imports and imports in relation to production and consumption in India are given in the table below:

| Import Volume | Unit | 2009-10 | 2010-11 | 2011-12 | POI* |
|---|----------------|---------|---------|---------|--------|
| Russia | MT | - | 300 | 900 | 1,153 |
| <i>Trend</i> | <i>Indexed</i> | - | 100 | 300 | 384 |
| Chinese Taipei | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 49 | 65 | 76 |
| Other countries attracting ADD | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 75 | 59 | 25 |
| Other countries | MT | 1,167 | 6,362 | 7,784 | 10,001 |
| <i>Trend</i> | <i>Indexed</i> | 100 | 545 | 667 | 857 |
| Total Imports | MT | 11,317 | 13,585 | 14,849 | 14,957 |
| Imports from Russia in relation to: | | | | | |
| Total Imports | % | - | 2.21 | 6.06 | 7.71 |
| Consumption (including captive consumption) | % | - | 1.17 | 3.36 | 4.32 |
| Consumption (excluding captive consumption) | % | - | 1.32 | 3.76 | 4.83 |

| Import Volume | Unit | 2009-10 | 2010-11 | 2011-12 | POI* |
|--|------|---------|---------|---------|-------|
| Production (including captive consumption) | % | - | 2.53 | 7.56 | 9.68 |
| Production (excluding captive consumption) | % | - | 3.34 | 9.89 | 12.66 |

*POI – January 2012-December 2012

30. The Authority notes that imports of the subject goods from Russia began in 2010-11, and have increased till POI. The share of imports from Russia has increased in relation to total imports into India, and also in relation to apparent demand/consumption in India and total production in India. The Authority further notes that though the percentage of imports itself is not high, it has increased over the injury period.

F.5 Price Effect of the Dumped imports on the Domestic Industry

a) Price Undercutting and Price Underselling

31. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject country has been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of subject goods of the domestic industry have been compared with landed value of imports from the subject country. A comparison for subject goods during the period of investigation was made between the landed value of dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission offered by the domestic industry have been adjusted. 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 evaluated for the domestic industry by appropriately considering the cost of production for the product under consideration during the POI. The position is as follows:

| Particulars | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|--------------|-------|---------|---------|---------|--------|
| Landed price | Rs/MT | - | 69,850 | 81,759 | 97,513 |

| | | | | | |
|---------------------------|----------------|---|-------|-------|-------|
| of import | | | | | |
| <i>Trend</i> | <i>Indexed</i> | | 100 | 117 | 140 |
| NSR of domestic industry | Rs/MT | - | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | | 100 | 124 | 141 |
| Price undercutting amount | Rs/MT | - | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | | 100 | 322 | 185 |
| Price undercutting % | % | - | *** | *** | *** |
| Price undercutting % | Range | - | 0-10% | 5-15% | 0-10% |

Price Underselling

| | | |
|---------------------------|---------|-------|
| Non-injurious Price of DI | Rs/MT | *** |
| Landed Value | Rs/MT | *** |
| Price Underselling | Rs/MT | *** |
| Price Underselling | % | *** |
| Price Underselling | % Range | 20-30 |

32. The Authority notes from the above that the landed prices of the subject goods were below the selling price of the domestic industry showing price undercutting being caused by the dumped imports from Russia. It is further noted that the landed price of imports from Russia is less than the non-injurious price of the domestic industry, thereby, resulting in price underselling.

b) Price Suppression and Depression

33. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of sales. The given data shows that the domestic

industry's selling price has remained below its cost of sales throughout the injury period, signifying existence of price suppression effect. The trends in this regard are summarized below:

| Description | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|-------------------------|----------------|---------|---------|---------|--------|
| Cost of Sales | Rs/MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | - | 100 | 117 | 141 |
| Selling Price | Rs/MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | - | 100 | 122 | 139 |
| Landed price of imports | Rs/MT | - | 69,850 | 81,759 | 97,513 |
| <i>Trend</i> | | - | 100 | 117 | 140 |

34. The Authority notes that the selling price of the subject good of domestic industry during the injury period has increased. However, the increase is not in the same proportionate to that of cost of sales over the same period. Further, the selling price of the domestic industry remains below the cost of sales throughout the injury period. The landed price of imports from the subject country during the injury period has also increased. However, the increase in landed price is far lower than the increase in the cost and selling price. Further, the landed price of imports is below the cost of sales and net sales realization throughout the injury period. Therefore, it is noted that dumped imports are suppressing the prices of domestic industry in the domestic market.

F.6 Impact on Economic Parameters of the Domestic Industry

35. Annexure II to the Anti-dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual 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.

36. Various injury parameters relating to the domestic industry are discussed herein below.

a) Capacity, Production, Capacity Utilization and Sales

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

| Particulars | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|-----------------------|------|------------|------------|------------|------------|
| Installed Capacity | MT | 6,000 | 6,000 | 7,000 | 7,000 |
| Production-PUC | MT | *** | *** | *** | *** |
| <i>Trend</i> | | <i>100</i> | <i>100</i> | <i>101</i> | <i>101</i> |
| Production-NPUC | MT | *** | *** | *** | *** |
| Total Production | MT | *** | *** | *** | *** |
| <i>Trend</i> | | <i>100</i> | <i>100</i> | <i>101</i> | <i>101</i> |
| Capacity Utilization | % | 108 | 109 | 94 | 94 |
| <i>Trend</i> | | <i>100</i> | <i>100</i> | <i>86</i> | <i>86</i> |
| Domestic Sales Volume | MT | 6,725 | 6,629 | 6,518 | 6,327 |
| <i>Trend</i> | | <i>100</i> | <i>99</i> | <i>97</i> | <i>94</i> |

38. The Authority notes that the capacity of the product concerned was enhanced by the domestic industry in 2011-12. The volume of production has increased slightly over the injury period. The capacity utilization has fallen in 2011-12 and the POI with the increase in capacity.

39. It is noted that the sales volume of the domestic industry has declined over the injury period despite increase in demand.

b) Profits, Return on Capital Employed and Cash Profit

40. The profits, return on investment and cash profit of the domestic industry have been examined as under:

| Particulars | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|---------------|--------|---------|---------|---------|-----|
| Cost of Sales | Rs./MT | *** | *** | *** | *** |

| | | | | | |
|--|---------|-------|-------|-------|-------|
| <i>Trend</i> | | 100 | 111 | 130 | 157 |
| Selling Price | Rs/MT | *** | *** | *** | *** |
| <i>Trend</i> | | 100 | 106 | 129 | 147 |
| Profit/ Loss per unit | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | | (100) | (258) | (154) | (427) |
| Profit/ Loss | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | | (100) | (255) | (150) | (402) |
| PBIT | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | | (100) | (221) | (126) | (359) |
| Cash Profit | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | | (100) | (410) | (205) | (707) |
| Return on Capital Employed (NFA basis) | % | *** | *** | *** | *** |
| <i>Trend</i> | | (100) | (273) | (121) | (265) |

41. The Authority notes from the above as under:

- (i) Both the selling price and cost of sales of the domestic industry increased over the injury period. However, the increase in cost of sales of the domestic industry was much higher than the increase in the selling price.
- (ii) Profitability was negative throughout the injury period. Profitability was significantly adverse in the period of investigation.
- (iii) Profits, cash profits, profit before interest & tax and return on capital employed, all followed the same trend as that of profitability. All these parameters were negative during the entire injury period.
- (iv) It is clear that the domestic industry has been suffering continued injury in terms of profit-related parameters. The position of the industry with respect to these parameters has deteriorated substantially in the period

of investigation as a result of dumping from fresh sources in addition to existing sources.

c) Employment and Wages

42. The status of employment levels and wages of the domestic industry has been as under:

| Description | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|------------------|----------|---------|---------|---------|-----|
| Employment | Nos. | 67 | 67 | 67 | 67 |
| Salary and Wages | Rs. Lacs | *** | *** | *** | *** |

43. It is noted from the above that the employment level remained constant over the injury period. This is despite increase in capacity and production. Salary and wages increased over the injury period.

d) Productivity

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

| Description | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|---------------------------|------|---------|---------|---------|-------|
| Productivity Per Employee | MT | 97.10 | 97.51 | 97.91 | 97.92 |
| Productivity Per Day | MT | 18.59 | 18.67 | 18.74 | 18.74 |

45. The Authority notes that the productivity per employee and productivity per day remained at the same level over the injury period.

e) Inventories

46. The Authority has examined the inventory level of the domestic industry which is given in the table below.

| Description | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|---------------|------|------------|-----------|----------|------------|
| Average Stock | MT | *** | *** | *** | *** |
| <i>Trend</i> | | <i>100</i> | <i>30</i> | <i>1</i> | <i>112</i> |

47. It is noted from the above table that the inventory of the domestic industry declined till 2011-12 and increased substantially in the period of investigation. Further,

it has increased in the period of investigation in relation to the base year.

f) Magnitude of Dumping

48. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined by the Authority against the subject country in the POI is above *de-minimis* and significant.

g) Ability to raise capital

49. The applicant has argued that given the current state of affairs where the product is consistently not performing well because of persistent dumping, any fresh investment is not envisaged. However, the Authority notes that the ability to raise capital investment in the event of dumping is not relevant since the domestic industry is a multi-product industry.

h) Growth

50. With regard to the growth of the domestic industry, the position is as under:

| Particulars | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|----------------------------|------|---------|---------|---------|-------|
| Production | % | - | 0.43 | 0.42 | 0.13 |
| Domestic Sales | % | - | -1.43 | -1.68 | -2.93 |
| Inventory | % | - | -69.81 | -95.32 | 7,826 |
| Profit per MT | % | - | -158 | 40 | -177 |
| Return on Investment (NFA) | % | - | -7.37 | 6.48 | -6.14 |

51. The Authority notes that the domestic industry has shown negative growth in terms of profit and return on capital employed despite anti dumping duty being in force and revised upwards. The Authority notes that though the production of the domestic industry increased over the injury period, yet the magnitude of increase in production has declined over the period. Domestic sales have declined. Inventories first declined and then increased substantially in the period of investigation. Overall growth of the domestic industry over the injury period was adverse.

i) Factors Affecting Domestic Prices

52. The examination of the import prices from the subject country and other

countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that without antidumping duty, the landed value of the subject goods imported from the subject country is below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling, both with and without anti-dumping duty, in the Indian market. It is also noted that the demand for the subject goods was showing significant increase during the POI and, therefore, it could not have been a factor affecting domestic prices. Thus, the principal factor affecting the domestic prices is landed value of subject goods from the subject country and other dumping countries.

F.7 Other Known Factors and Causal Link

53. The Authority has examined whether other known factors could have caused injury to the domestic industry as follows:

(a) Contraction in demand and / or change in the pattern of consumption

54. The Authority notes that demand for the product has grown over the injury period, except a slight decline in the POI. However, demand for the product under consideration has increased in the POI as compared to the base year. Hence, a decline in demand cannot be causing injury to the domestic industry. Further, the Authority has found no evidence of a change in the pattern of consumption of the product.

(b) Volume and Prices of imports not sold at dumped prices

55. The Authority notes that apart from the subject country, imports of the subject goods from EU (excluding Sweden) and China are attracting anti dumping duties. The Authority had initiated an anti-dumping investigation in respect of imports from Saudi Arabia, which have been terminated by the Authority as the margin of dumping determined by the Authority for the only exporter in Saudi Arabia was de-minimis. Further, the Authority had initiated an SSR investigation on imports originating in or exporter from Chinese Taipei in which the Authority has recommended to the Central Government for imposition of anti dumping duty vide its Final Findings dated 16.10.2014. As regards the imports from all other countries, the Authority notes that the volume of imports is de-minimis.

(c) Trade restrictive practices of and competition between foreign and domestic producers

56. The Authority notes that the subject goods are freely importable and there are no trade restrictive practices in the domestic market. Further there is no perceptible

competition among the domestic producers, except that is obvious of a market economy. It is noted that there is a single market for the subject goods where dumped imports from the subject country compete directly with the subject goods supplied by the domestic industry. It is also noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(d) Developments in Technology

57. The Authority notes that there are no developments in technology with respect to the product or its manufacture that could have resulted in the injury caused to the domestic industry.

(e) Export performance

58. The Authority notes that the domestic industry does export the product. However, the exports in 2011-12 became nil and remained less in the POI in comparison to the base year. However, information relating to injury has been examined separately for domestic operations to the extent possible. Any deterioration in the export performance of the domestic industry is, therefore, not a possible cause of the injury.

| Particulars | Unit | 2009-10 | 2010-11 | 2011-12 | POI |
|----------------------------------|------|---------|---------|---------|-----|
| Exports by the Domestic Industry | MT | 20 | 40 | - | 10 |

(f) Productivity of the domestic industry

59. The Authority notes that productivity of the domestic industry has increased slightly over the period in accordance with the increase in production. Hence, a decline in productivity cannot be a cause for the injury.

(g) Performance of other products

60. The Authority notes that the performance of other products being produced and sold by the domestic industry is not a possible cause of the injury found since all parameters were examined with respect to the like article in this investigation.

61. The Authority notes that while the known other factors listed above do not appear to have caused the injury determined, the following parameters show that injury to the domestic industry has been caused by the dumped imports.

- a. The volume of imports from the subject country has increased since they commenced in 2010-11.
- b. Imports of the subject goods from the subject country are undercutting the domestic industry prices and also causing price suppression.

- c. Domestic sales of the product have declined over the injury period despite increase in demand.

F.8 Conclusion on Injury and Causation

62. The Authority notes that there has been an increase in the volume of dumped imports from the subject country in absolute terms and relative to apparent consumption and production in India, though the share of imports from the subject country is not very high. Production of the domestic industry has increased, but sales have declined over the period. Profit-related parameters of the domestic industry have all been significantly adverse. Inventories have been significant. They declined until the previous year and then increased substantially in the period of investigation.

63. The Authority notes that the domestic industry was suffering injury on account of dumping of the subject goods from other countries even before imports from Russia commenced. There have been investigations conducted and duties imposed on these imports. However, due to the price undercutting and price suppression specifically found in this investigation, it is clear that imports from the subject country are causing injury to the domestic industry.

F. 9 Magnitude of injury and injury margin

64. The Authority has determined the non-injurious price for the domestic industry, taking into consideration the cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed value of the subject goodsqimports from the subject country to determine the injury margin. The injury margin has been worked out as follows:

Injury Margin

| Particular | US \$ /MT |
|---------------------------|-----------|
| Exchange Rate | 53.69 |
| Non Injurious Price (NIP) | *** |
| Landed Price | *** |
| Injury Margin | *** |
| Injury Margin % | *** |
| Injury Margin % Range | 20-30 |

- 65. It is noted that the level of injury margin, as determined, is considered significant.

G. INDIAN INDUSTRY’S INTEREST & OTHER ISSUES

66. 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 country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

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

H. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

H.1 Post Disclosure Statement submissions by the opposing Interested Parties

68. Following are in brief the post Disclosure Statement submissions made by the opposing interested parties:

A. Metafrax, Russia

- (i) Enough time was not given to file detailed reply as per required performance considering communication problem and language issues due to very long distance. Detailed reply was not accepted by the Authority when submitted.
- (ii) Time given for comments to disclosure is short.
- (iii) Looking at Indo-Russia trade relation, due consideration may be given to submissions by Metafrax.
- (iv) Kanoria caters to only 27% of demand and wants to create artificial shortage of the product.
- (v) Share of Russia is not more than 5% and landed price is higher than local selling price in India.

B. INDIAN PAINT & COATING ASSOCIATION

- (i) Most of the paint consumers are importing due to quality issues as Kanoria offers 95% product while all imported products are 98% on a cheaper price.

- (ii) Even if anti dumping duty is imposed, Kanoria will be not be able to fulfill entire demand.
- (iii) Kanoria is not upgrading quality and quantity to become cost effective. It is trying for a monopolistic situation with anti dumping duty on a number of countries. With the imposition of anti dumping duty on the only country left, thousands of small & medium scale manufacturers would suffer due to this additional cost in their raw material.
- (iv) Asian Paints is also importing huge quantity instead of buying from Kanoria due to quality and pricing issues.
- (v) Association was not given a fair chance to represent their case even when the association was registered within the time period for filing objection.

C. SANDEEP ORGANICS PVT LTD, MUMBAI

- (i) JSC Metafrax has dumped Penta in India in large and regular quantity. There should be anti dumping duty imposed on it.
- (ii) Before calculating anti dumping duty, current US\$ to INR exchange rate and profit of Aarya Enterprise, UAE (Exporter) and RMF Chemicals, Switzerland (Manufacturer/ Producer JSC Metafrax, Russia Export House/ Sister Company/ Agent) should be considered.
- (iii) CFR prices of Penta were in the range of 1600-1700.
- (iv) Penta from Russia is exported in 2 purity levels . 95-96% and 98-99%.
- (v) COA of domestic/ local manufacturer and Russia should be compared.

D. BHARAT SOLVENT & CHEMICAL CORP

- (i) Response to initiation was filed on 31.7.2013 and detailed response to questionnaire on 19.9.2013. However, the Authority has not taken into account the submissions made by the interested party.
- (ii) Total output of Kanoria is merely 23.71% of demand (excluding captive consumption). It is legally wrong to give it the status of domestic industry.
- (iii) There is gross devaluation of Indian Rupee in the international market during POI. Even the position of Ruble vs Indian Rupee has strengthened.
- (iv) The burden of proof regarding dumping lies on the complainant. No evidence of normal value has been given by the petitioner. Information submitted by Matafrax was rejected on flimsy grounds that it is not submitted in the prescribed proforma.
- (v) Export price stated in the complaint is unrealistic and not based on market research reports.
- (vi) Demand of Penta in India is higher than production capacity of Kanoria.
- (vii) There is no injury to petitioner due to imports from Russia as their financial statement shows profits in the POI.

- (viii) Kanoria has recently expanded capacity for production of Penta at Vishakhapatnam. This has reduced the overall accounting cost factor and reduced profit in short term only.
- (ix) Increase in price of methanol has increased the cost of production of domestic industry.
- (x) Wrong management decisions and policies of the alleged domestic company have further aggrieved the condition.
- (xi) Domestic industry has not provided demarcation of loss suffered on domestic sales.
- (xii) Price underselling claims are exaggerated by assuming 22% return on capital employed.
- (xiii) Domestic industry has not included income from sale of by-product, Sodium Formate, to offset losses.
- (xiv) There is scarcity of Penta in the country. Asian Paints has also imported.
- (xv) The import of Penta from Russia is far less than import from other countries such as Sweden and Saudi Arabia.
- (xvi) There is increase in sales of other producers and demand. Comparatively decrease in sales of Kanoria shows that imports from Russia has no effect on the domestic industry.
- (xvii) If sales of domestic industry have declined then why capacity has been expanded.
- (xviii) Data given by Kanoria is incorrect because in the case against EU, the sale in 2009-10 is stated to be 6778MT whereas in this complaint it is stated to be 6327MT.

H.2 Post Disclosure Statement submissions by the Domestic Industry

69. Following are in brief the post Disclosure Statement submissions made by the domestic industry:
- (i) Non-injurious price may be re-determined considering actual cost of production.
 - (ii) Product under consideration is exported to India below its normal value resulting in dumping from the subject country.
 - (iii) Both dumping margin and injury margin in the Period of Investigation are significant and positive from the subject country.
 - (iv) Domestic Industry has suffered material injury.
 - (v) The anti dumping duty is required to be imposed definitively in fixed form and the duty expressed in US\$ terms.

G.3 Examination by the Authority

70. The Authority has addressed these issues to the extent considered relevant as under:

- (i) As regards the contention that enough time was not given to file detailed reply, the Authority notes that the Anti Dumping Agreement or Indian rules do not provide for additional time because of communication problem and language issues or distance involved.
- (ii) It is incorrect that reply given by Metafrax was not accepted/considered by the Authority. The Authority has in fact duly considered the submissions made by Metafrax in the present Findings.
- (iii) The Authority notes that while rules envisaged no minimum time that should be allowed by the Authority for the purpose of comments to Disclosure Statement. It is noted that in any case, Metafrax has not demanded additional time for filing comments to Disclosure Statement. Thus, the contention that enough time has not been given to offer comments to Disclosure Statement cannot be accepted.
- (iv) The Authority has given due consideration to the submissions made by Metafrax. Each and every submissions made by Metafrax has been carefully considered and evaluated while rendering these Findings.
- (v) The Authority notes that a number of interested parties have contended that the domestic industry cannot meet complete demand of the product in the country. While it is true that the domestic industry cannot meet complete demand of the product in the country, the Authority has not recommended any ban on imports, nor imposition of anti dumping duties shall prevent a party from importing the product or an exporter to sell the product.
- (vi) As regards the contention of Metafrax that share of Russia is not more than 5%, the Authority notes that the rules with regard to negligibility provide negligibility in the context of imports of the product from the country under investigation and its share in total imports. Imports from Russia during relevant period were 7.7% of total imports in India which is clearly significantly beyond negligible limits provided under the law.
- (vii) Metafrax has contended that landed price of import from Russia is higher than the local selling price in India. The Authority however notes that the information on record clearly shows that landed price of import from Russia is lower than selling price of the domestic industry in India.

- (viii) Indian Paint & Coating Association has contended that most of the paint consumers are importing due to quality issues. Kanoria offers 95% purity product while all imported products are 98% and at a lower price. It is, however, noted that the claim is unsubstantiated. Further, sales invoices and product specifications provided by the petitioner shows that it produces and supplies product having 98% purity. It is also noted that there have been a number of investigations concerning the product under consideration and in none of the investigations in the past, either a consumer or the association has established a quantified material difference in quality or specifications. The investigation has shown that the goods produced by the domestic industry are technically and commercially substitutable to the goods imported from Russia and other countries.
- (ix) The Authority notes that purpose of anti dumping is not to create monopolistic situations. The purpose is to address the unfair situations created by the dumping practices. Further, it is noted that anti dumping duties have been imposed on the product under consideration on different countries. However, the Association has not provided any quantified and verifiable information showing that thousands of small & medium scale manufacturers suffered due to this additional cost in their raw material. It is, thus, concluded that the contention that thousands of small & medium scale manufacturers suffered due to this additional cost in their raw material is wholly unsubstantiated and unverifiable.
- (x) It has also been contended that Asian Paints is also importing huge quantity instead of buying from Kanoria due to quality and pricing issues. It is, however, noted that Asian Paint has not made any such argument and has not provided any documentary evidence to establish the same. On the contrary, petitioner domestic industry has provided documentary evidences showing sales being made to Asian Paint over the period. Further, the information provided by the domestic industry shows that their sales to Asian Paints have not shown material decline.
- (xi) Indian Paint & Coating Association has contended that the Association was not given a fair chance to represent their case even when the association was registered within the time period for filing objection. The Authority notes in this regard that the Association cannot plead ignorance about the present investigations. The Authority has given ample opportunity to all interested parties to provide relevant information to present their views.
- (xii) While Metafrax has contended that the company has not resorted to dumping, Sandeep Organics Pvt Ltd, Mumbai, has mentioned that JSC Metafrax has dumped Penta in India in large and regular quantity and there should be anti dumping duty imposed on it.

- (xiii) As regards the contention with regard to that the Authority should consider current exchange rate and expense and profit of exporting companies, the Authority notes that the Authority considers exchange rate prevailing during the period of investigation. It would not be appropriate to consider current exchange rate selectively for the import price. It is without any basis to assume that only exchange rate has changed over the period and all other parameters have remained the same.
- (xiv) As regards claims for price adjustments, the Authority notes that any such adjustment is feasible only when response to questionnaire has been filed by the exporter concerned. Moreover, the authority notes that any such adjustment would at the least increase the dumping margin.
- (xv) Sandeep Organics Pvt Ltd, Mumbai contended that there is one more exporter of Penta which was not sent letters by DA. It is, however, clarified that the Designated Authority has issued public notice.
- (xvi) Sandeep Organics Pvt Ltd, Mumbai stated that 3 names were given by Aarya Enterprises in their letter to Designated Authority and the same are not mentioned in the disclosure statement. The Authority however notes that the Authority has taken care of all the submissions made by Sandeep Organics Pvt Ltd, Mumbai.
- (xvii) The Authority notes that Sandeep Organics Pvt Ltd has stated that CFR prices of Penta were in the range of 1600-1700. The export price considered by the Authority is also in the same region. However, since the company Aarya Enterprise, UAE has not filed response to questionnaire in the form and manner prescribed, in any case, the Authority is not in a position to determine individual dumping margin.
- (xviii) Bharat Solvent also contended that since output of Kanoria is merely 23.71% of demand (excluding captive consumption), it is legally wrong to give it the status of domestic industry. The Authority however notes that Rule 2(b) provides that "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term "domestic industry" may be construed as referring to the rest of the producers. In the instant case, the investigation shows that production of petitioner constitutes a major proportion in Indian production. The Authority notes that consideration of petitioner share in Indian demand is

not appropriate in determining the scope of domestic industry, as the rules require the authority to consider major proportion on the basis of Indian production.

- (xix) A number of interested parties have contended that US\$ has significantly appreciated after the period of investigation. The authority notes that it would not be appropriate to selectively consider US\$ in the recent period. The Authority fixed a period for detailed investigation and it would not be appropriate to selectively consider parameters prevailing at present. Significant changes in any of the parameters leading to the present determination in a subsequent period require a review to be undertaken which can be considered under Rule 23 as per the law.
- (xx) Bharat Solvent contended that the burden of proof regarding dumping lies on the complainant and no evidence of normal value has been given by the petitioner. Bharat Solvent has also contended that information submitted by Matafrax was rejected on flimsy grounds that it is not submitted in the prescribed proforma. The Authority holds that the petitioner had discharged its initial burden of proof with regard to existence of dumping. It was now for the exporters to file information in the form and manners prescribed and establish that they did not export at a price below normal value. However, none of the Russia manufacturers have filed questionnaire response in the form and manner prescribed and therefore dumping margin could not be determined on the basis of questionnaire response of such companies. With regard to the contention that information submitted by Matafrax was rejected on flimsy grounds that it is not submitted in the prescribed proforma, the Authority notes that response to questionnaire cannot be accepted unless the same is in the prescribed formats. There are material gaps in the response filed by Matafrax and the information contained therein is grossly insufficient to determine dumping margin on the basis of the same.
- (xxi) Bharat Solvent contended that export price stated in the petition is unrealistic and not based on market research reports. It is noted that the export price has been determined on the basis of IBIS and, therefore, the same is sufficient for the present purposes.
- (xxii) Some of the interested parties have contended that the petitioner has earned profits in the period of investigation. The investigation has however shown that the petitioner has suffered financial losses in the product under consideration in the period of investigation. It is noted in this regard that petitioner has earned significant crores in the period of investigation on account of sale of its caustic soda plant, which is clearly not relevant for the present purposes.

- (xxiii) It has been contended that petitioner has recently expanded capacity for production of Penta at Vishakhapatnam, which has reduced the profits. It is, however, noted that no capacity expansion has been undertaken by the company at Vishakhapatnam. The expansion in capacity has taken place at Ankleshwar and the same has been considered in the present determination. As regards allegation of decline in profit due to capacity expansion, the Authority determined profits after eliminating additional cost in the new plant. The data still shows that domestic industry has suffered significant financial losses.
- (xxiv) Some interested parties contended that price of methanol has increased the cost of production of domestic industry. The Authority considers whatever be the reason for increase in cost of production, the rule requires Authority to determine whether the effect of dumped imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree. It is seen in this regard that the selling price of the domestic industry has increased much less than the increase in the cost of production. The imports are suppressing the prices of the domestic industry in the market.
- (xxv) Some interested parties contended that the adverse performance of the domestic industry is due to wrong management decisions and policies of the domestic company. These interested parties have however not quantified how wrong management decisions and policies of the domestic company has resulted in deterioration in performance. Further, the investigation has not shown that decline in performance is due to wrong management decisions and policies of the domestic company.
- (xxvi) Some of the interested parties have contended that domestic industry has not provided profit/loss in domestic sales. It is, however, clarified that profit/loss has been considered only in respect of domestic operations.
- (xxvii) It has been contended that price underselling claims are exaggerated by assuming 22% return on capital employed. It is however, seen that even if return on capital employed is not considered and only cost of production of the domestic industry is considered, the data clearly establishes existence of significant price underselling. The landed price of imports is below cost of production of the domestic industry.
- (xxviii) It has been contended that domestic industry has not included income from sale of by-product, Sodium Formate, to offset losses. It is clarified that profit/loss and NIP has been determined after deducting sale value of Sodium Formate.

- (xxix) It has also been contended that there is scarcity of Penta in the country and Asian Paints has also imported. The Authority notes that the present petition and proposed anti dumping duty is not intended to ban the imports in the country.
- (xxx) It has been contended that import of Penta from Russia is far less than import from other countries such as Sweden and Saudi Arabia. It is, however, noted that import from Russia were NIL in 2009-10 and 300 MT in 2010-11. Imports increased to almost four times in period of investigation as compared to 2010-11. Further, imports from Russia constituted 4.32% of demand in India. It is also noted that import price from Russia on an average basis were lower than the import price from other countries not attracting anti dumping duties.
- (xxxi) It has been contended that there is increase in sales of other producers and demand and decrease in sales of Kanoria shows that imports from Russia has no effect on the domestic industry. It is, however, noted that market share of domestic industry and other producers declined. Moreover, the primary injury in the present case is in the form of adverse price effect of imports on the domestic industry. Performance of the domestic industry deteriorated in respect of profits, cash profits and return on investments. It has also been contended that if sales of domestic industry have declined then why capacity has been expanded. It is, however, noted that the capacity additions by the domestic industry are far lower than the present and potential demand of the product in the country. It does not appear a situation where injury to the domestic industry has occurred due to capacity additions.
- (xxxii) As regards the contention about incorrectness in the data of sales, it is clarified that 6778 MT was annualized sale of the domestic industry in POI (April 2009 . June 2010) in the EU case. 6327 MT is the sale of the domestic industry in POI (Jan . Dec 2012) of the present case. Actual sale of the domestic industry in 2009-10 is 6725 MT.

I. CONCLUSION

71. After examining the submissions made by the opposing interested parties and the domestic industry 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 country 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 country.

J. RECOMMENDATIONS

72. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, 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 to recommend imposition of definitive anti-dumping duty on imports of the subject goods from the subject country in the form and manner described hereunder.

73. 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 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 the subject goods originating in or exported from the subject country.

Duty Table

| S. No | Heading | Description of goods | Specification | Country of origin | Country of export | Producer | Exporter | Duty amount | Unit of measurement | Currency |
|-------|---------|----------------------|---------------|-------------------|-------------------|----------|----------|-------------|---------------------|----------|
| 1 | 2905 42 | Pentaerythritol | Any grade | Russia | Russia | Any | Any | 474 | MT | US\$ |
| 2 | 2905 42 | Pentaerythritol | Any grade | Russia | Any | Any | Any | 474 | MT | US\$ |
| 3 | 2905 42 | Pentaerythritol | Any grade | Any | Russia | Any | Any | 474 | MT | US\$ |

74. 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.

75. An appeal against the order of the Central Government arising out of this findings notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J K Dadoo)
Designated Authority