

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

New Delhi, the 29th August 2007

Preliminary Findings

Subject: Antidumping investigations involving imports of Phenol originating in or exported from USA, Korea-RP and Taiwan.

NO. 14/5/2006-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, (hereinafter referred as Rules) 1995 thereof;

A. PROCEDURE

2. The procedure described below has been followed:

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s Hindustan Organic Chemicals Ltd., Mumbai and M/s SI Group-India Ltd., Mumbai (formerly known as Schenectady Herdillia Limited) on behalf of the domestic industry, alleging dumping of Phenol (hereinafter referred to as subject goods) originating in or and exported from USA, Korea RP and Taiwan.
- ii. The Authority notified the Embassies/Representatives of the subject countries in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- iii. The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 11th January 2007 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of phenol originating in or exported from the subject countries, in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the injury to the domestic industry.
- iv. The Designated Authority sent copies of initiation notification dated 11.01.2007 to the Embassies of the subject countries in India, known exporters from the subject countries, importers, consumers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

- v. The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassies of subject countries in accordance with Rule 6(3) supra.
- vi. The Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to them, along with the names and addresses of the exporters.
- vii. The Authority sent questionnaires, to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4). However, no questionnaire response has been received from any exporter of the subject goods.
 - a). M/s. Deckota Gasification Company
1600 East Interstate Avenue,
PO Box No. 5540
Bismarck Nd 58506-5540
USA.
 - b). M/s. Dow Chemical Co.
(979) 238-2011
2301 N Brazosport Blvd
Freeport, Tx 77541
USA.
 - c). M/s. Georgia Gulf
Pasadena
3503, Pasadena Freeway
PO Box No. 1959
Zip 77501 Pasadena Texas
USA
 - d). M/s. Shell Chemicals
Deer Park Chemical Plant & Refinery
5900 Highway 225
Deer Park Texas
USA
 - e) M/s. Formas Chemicals & Fibre Corporation
Formosa Plastics Group
201 Tung Hwa North Road
Taipai (Taiwan Roc.)
 - f) M/s. Kumho P&B Chemicals Inc.
319, Hwachi- Dong,
Yeosu City, Cholla Nam-Do
Korea RP.
- viii. Questionnaire was sent to the following known importers and Consumers of subject goods in India calling for necessary information in accordance with Rule 6(4). However, no questionnaire response has been received from any importer of the subject goods.

- 1). M/s. C.J. Shah and Company
105, Bajaj Bhawan
10th Floor, Nariman Point
Mumbai- 400021.
- 2). M/s. Haresh Kumar and Company
1212, Maker Chambers
5 Jamnalal Bajaj Road,
Nariman Point
Mumbai-400021.
- 3). M/s. PCL Industries
M-105, Connaught Place
New Delhi-110001
- 4). M/s. Kantilal Manilal and Company
16, Princess Street
Mumbai-400003.
- 5). Sonkamal Enterprises
10, Dev Darshan Apartment
Old Nagardas Road Andheri (East)
Mumbai-400 069
- 6). M/s. Khetan Brothers
C-17, Dalia Industrial Area
Off New Link Road,
Opposite Laxmi Industrial Estate
Andheri (West) Mumbai-400 058
- 7). M/s. Shubham Dyes & Chemicals Limited
1/26, Roop Nagar,
Delh-110 007
- 8). Acron Enterprises
Plot No. 218-219/3,
G.I.D.C, Naroda, Ahmedabad
Pin Code- 382330, Gujrat.
- 9). M/s. Naiknavare Chemicals Limited
1, Vidya Bhavan, 121, Keluskar Road
Shivaji Park, Dadar (West)
Mumbai (Maharashtra).
- 10). M/s. Paras Dyes & Chemicals
12th Floor, Vijaya Building
17 Barakhamba Road,
New Delhi-1
- 11). M/s. Torrent Pharmaceuticals Limited,
Ashram Road,
Ahmedabad Road 380009
Gujrat
- 12). M/s. United Phosphorus Ltd.
Eadymoney Terrace, 167,
Dr. Annie Basant Road
Worli, Mumbai-400 018
- 13). M/s. Resins & Plastic Ltd.
Cross Rd. B,
Mumbai 400093

- 14). M/s. Kailash Polymers
60, Krishna Market,
Kalkaji, New Delhi.
- 15). Centrum Metalics Pvt. Ltd.
6/221, Deodhar Road,
Matunga-400 019
Mumbai
- 16). M/s. Wonder Laminates Pvt. Ltd.
14, Bhasa, Diamond Harbor road,
Kolkata.
- 17). M/s. Meghdev Enterprises
P.K. House, H/H M.J. Library,
Ellisbridg, Ahmedabad
- 18). M/s. Satguru International
204-D, Pocket-12, Jasola Vihar,
Opp. Appolo Hospital,
New Delhi.
- 19). M/s. High Polymer Labs Ltd.
803, Vishal Bhavan,
95, Nehru Place,
New Delhi.
- 20). M/s. Rainbow colours & Chemicals
14/A, Bhavik Complex
Ghod Dod Rd.,
Surat, Gujrat
- 21). M/s. M/s. Bleach Marketing Pvt. Ltd.
120, Bleach Chem Compound,
Nr. Chandola, Ahmedabad
- 22). M/s. Karmen International (P) Ltd.
31A/20, NP, Sidco Industrial Estate,
Che, Chennai
- 23). M/s. Krishna Antioxidants Pvt. Ltd.
Lopes Maner, I C Colony,
Near Chandra Ho,
Mumbai
- 24). M/s. NGP Industries Ltd.
M-13, Punj House,
New Delhi
- 25). M/s. Farmson Pharmaceutical Gujrat Ltd.
5th Floor, Commerce Centre,
Sayajigunj, Baroda.
- 26). M/s. India Glycols Ltd.
C-124, Okhla Industrial Area,
Phase-I, New Delhi.
- 27). M/s. Singh Plasticisers and Resins (I) Pvt.
B-316, 3rd Floor,
Somdutt Chamber-1
Bhika, New Delhi
- 28). M/s. National Plywood Industries Ltd.
5, Fancy Lane, 700 001
Kolkata.

- ix. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation;
- xi. Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty, lower than the dumping margin, would be sufficient to remove injury to Domestic Industry
- xiii. Investigation was carried out for the period starting from 1st July 2005 to 30th June 2006 (POI). The examination of trends, in the context of injury analysis, covered the periods April 2003-March 2004, April 2004-March 2005, April 2005-March 2006 and the POI.
- xiv. *** in this Notification represents information furnished by the applicant on confidential basis, and so considered by the Authority under the Rules.

B. Product under Consideration

3. The product under consideration is 'Phenol'.

4. **Phenol** is an organic chemical, also known as Carboic Acid, and used in the manufacture of Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide and downstream chemicals. Phenol is classified under Chapter 29 & 27 of Custom Tariff Act under the sub-heading 29071110, 27079900 respectively.

5. It is a basic organic chemical, marketed in two grades viz. Crystalline and Hydrated. The two grades are differentiated on the basis of flow characteristics of Phenol. It is marketed in two forms – loose / bulk and packed.

B.1 Like Article

6. '**Phenol**' manufactured by Domestic Industry is identical to the product under consideration, and is therefore being treated as like article for the purpose of this Investigation.

C. Standing of the Domestic Industry and initiation of the investigation

7. The petition has been jointly filed by M/s Hindustan Organic Chemicals Ltd., Mumbai and M/s SI Group-India Ltd., Mumbai (formerly known as Schenectady Herdillia Limited). There are no other known producers of the product in the country. It is found that M/s SI Group-India Ltd., Mumbai (formerly known as Schenectady Herdillia Limited) has made significant custom duty paid imports of the subject goods from subject country (ies). The Authority has therefore considered it appropriate to exclude M/s SI Group-India Ltd., Mumbai (formerly known as Schenectady Herdillia Limited) from the scope of the

“Domestic Industry”. M/s Hindustan Organic Chemicals Ltd. alone shall constitute “Domestic Industry” for the purpose of the present investigation.

D. Other submissions and issues raised

8. The Authority notes that none of the producers of the subject goods in Korea-RP, Taiwan or USA and, consumers or importers in India has responded to the Designated Authority, nor has any party, other than Domestic Industry, provided any information relevant to the present investigations.

E. Korea-RP

E.1 Normal Value for Korea-RP

9. No exporter has responded to the initiation notification and submitted any information. In absence of any data, the Authority has relied upon the facts available as per Rule 6(8) of the Anti-dumping Rules, to determine the normal value. The normal value has been constructed on the basis of facts available. For constructing normal value, the price of **Benzene** has been taken from the data of DGCIS and for **Propylene** from ICIS LOR Asia. The consumption norms of the domestic industry and also standard input output norms (SION) have been relied upon. For utilities, consumption norm and prices of the domestic industry has been taken, except for power. For power, the rate has been taken as per the available information of power rate in the exporting country. Conversion cost which includes labor, depreciation and manufacturing expenses have been taken as per domestic industry. SGA, including interest, has been taken as per domestic industry. The profit margin @ **** has been considered on the cost of production. By adopting this methodology, the constructed normal value for bulk phenol has been calculated as US\$ ****PMT. For packed material, the cost of packing material of the domestic industry has been added to calculate the normal value. By this method the normal value for packed phenol has been calculated as US\$ **** PMT.

E.2. Export price for Non-cooperating Exporters

10. The data reported by the DGCIS for exports from Korea-RP has been relied upon to calculate the ex-factory export price. The DGCIS data shows import of both bulk and packed material during the POI. Adjustment on account of ocean freight, marine insurance, commission, inland freight, port expenses, bank charges, and credit cost have been made to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price has been calculated as US\$ **** PMT for bulk material. For packed material, the ex-factory export price calculated as US\$ **** PMT.

E.3. Taiwan

E.4. Normal Value for Taiwan

11. No exporter from the Taiwan has responded to the Initiation Notification. In absence of any response, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. For constructing normal value, the price of Benzene has been taken from the data of DGCIS and for Propylene it has been taken from ICIS LOR Asia. The consumption norms of the domestic industry and SION have been relied upon. For utilities, consumption norm and prices of the domestic industry have been taken except for power for which the rate has been taken as per the available information of power rate in the exporting country. Conversion cost has been taken as per the domestic industry.

SGA including interest has been taken as per domestic industry. The profit margin @ **** has been considered on the cost of production. By adopting this methodology, the constructed normal value for bulk phenol has been calculated as US\$****MT. For packed material, the cost of packing material of the domestic industry has been added to calculate the normal value. By this method the normal value for packed phenol has been calculated as US\$**** PMT.

E.5. Export price for Non-cooperating Exporters

12. The data reported by the DGCI&S for exports from Taiwan has been relied upon to calculate the ex-factory export price. The DGCIS data shows export of both bulk and packed material during the POI. Adjustment on account of ocean freight, marine insurance, commission, inland freight, port expenses, bank charges, and credit cost have been made to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price has been calculated as US\$ **** PMT for bulk material. For packed material, the ex-factory export price calculated as US\$ **** PMT.

E.6 USA

E.7. Normal Value for USA

13. No exporter from USA has responded to the initiation notification and submitted any information. In absence of any data, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. For this purpose, average price for Benzene and Propylene reported in ICIS LOR (US Gulf) for the period of investigation has been taken as normal value. The consumption norms of the domestic industry and SION have been relied upon. For utilities, consumption norms and prices of domestic industry during POI have been considered, except for power, for which the rate has been taken as per the available information regarding power rate in the exporting country. The conversion cost has been taken as per the domestic industry. SGA, including interest has been taken as per domestic industry. The profit margin of **** has been considered on the cost of production. By adopting this methodology, the constructed normal value for bulk phenol has been calculated as US\$**** PMT. For packed material, the cost of packing material of the domestic industry has been added to calculate the normal value. By this method the normal value for packed phenol has been calculated as US\$ ****MT.

E.8. Export price for Non-cooperating Exporters

14. The data reported by the DGCI&S for exports from USA has been relied upon to calculate the ex-factory export price. The DGCIS data shows export of both bulk and packed material during the POI. Adjustment on account of ocean freight, marine insurance, commission, inland freight, port expenses, bank charges and credit cost have been made to arrive at the ex-factory export price. By adopting the above method, the ex-factory export price has been calculated as US\$ **** PMT for bulk material. For packed material, the ex-factory export price calculated as US\$ **** PMT.

E.9. Dumping Margin

15. On the basis of normal values and export prices as determined above, the dumping margins for exporters are determined as per table below. As already detailed no exporter response was received and therefore all the exporters from subject countries have been treated as non-cooperating exporters:-

IN US\$ (PMT)

Exporter/Producer From	Normal Value-Bulk	Normal Value-Packed	Export Price-Bulk	Export Price-Packed	Dumping Margin - Bulk	Dumping Margin - Packed	Weighted Dumping Margin –
Korea-RP	****	****	****	****	****	****	27.28%
Taiwan	****	****	****	****	****	****	21.20%
USA	****	****	****	****	****	****	33.45%

16. The dumping margins so determined provisionally are significant and above de minimis level.

F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

F.1 Views of the domestic industry

17. The followings are the views of domestic industry:-

- a) Export price from the subject countries has remained at dumped level during POI. Further, these prices have not increased proportionate to increase in input prices from base period to POI.
- b) Production, sales volumes and capacity utilization of the domestic industry declined after showing improvements in 2004-05.
- c) Profit/Loss (PBT, PBIT and PBDIT) of the domestic industry have all shown significant decline after improvement up to 2004-05.
- d) Market share of the domestic industry declined. This is due to the fact that dumped imports have captured significant market share of demand in India.
- e) Import from each of the subject countries has been undercutting the prices of the domestic industry to a significant degree.
- f) Imports from the subject countries has forced the domestic industry to reduce the price steeply during 2005-06 and proposed investigation period. Thus, the imports were depressing the prices in this period.
- g) Employment levels with the domestic industry have not undergone any significant change.
- h) Salary & wages:- Salary and wages with the domestic industry increased.
- i) Demand and market share:- Whereas the market shares of the imports have increased, that of the domestic industry has declined.
- j) Growth:- Growth of the domestic industry in a number of parameters shows negative trend.
- k) Domestic industry has suffered material injury and is trapped in a vicious cycle of volume effect and price effect. With increase in volume of imports of the subject good from the subject countries into the Indian market as a result of excess capacity with the Foreign Producers, the domestic industry suffered from loss of sale and loss of market share. This resulted in adverse volume effect. Loss of sale forced the domestic industry to reduce their domestic selling price in order to sell the subject good in the domestic market thus resulting in adverse price effect. The exporters further reduced the selling price and as a result, the domestic industry reduced the selling price further and the process continued. Resultantly, domestic Industry faced adverse volume effect and adverse price effect as a result of unfair trade practices of the exporting countries.

- l) Imports from subject countries are adding to the material injury, already being suffered by the domestic industry.
- m). There is significant increase in the import volumes in absolute terms. This increase in imports is in spite of best efforts of the domestic industry to sell their material even at sub-optimal prices. The increase in imports would have been more, had the domestic industry not made efforts to curtail the same by offering lower prices.
- n). Price undercutting is significant. In spite of offering matching prices, there is a positive price difference between the domestic product and imported product. Given nature of the product involved, any price difference between the domestic product and imported product is not acceptable to the consumers and the domestic industry is under constant pressure for price reductions. Domestic industry cannot afford to sell at prices, significantly higher than the imported prices. The only option with the domestic industry is to sell at matching prices. Even a small price difference is in fact huge in this kind of product.
- o). Petitioners conducted extensive analysis of exports from subject countries to world over in terms of its likely impact on the domestic industry. World exports of subject countries are showing increasing trends, clearly implying surplus unutilized capacities with the Foreign Producers which are likely to be offloaded to India at dumped prices.

F.2. Examination by the Authority

F.3 Cumulative assessment of injury

18. As per annexure-II (iii) of the Rules, in case, imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that

(a) The margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article, and,

(b) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

19. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%.

20. With a view to assess the conditions of competition between imported products and the like domestic product, the Authority notes that -

- i) The subject goods have been imported from the subject countries under the same tariff classification;
- ii) The Authority has found that the imported subject goods are commercial substitutes of the domestically produced Phenol.
- iii) The information furnished to the Authority gives a reasonable indication that the exports made from the subject countries compete in the same market, as these are like products.

21. Therefore, the Authority notes that it is appropriate to, cumulatively assess the effect of imports of the subject goods on the domestically produced like article, in the light of conditions of competition between the imported products and the like domestic product.

22. The Authority has taken note of various arguments put forth by the Domestic Industry (There was no response from other interested parties).

23. Annexure II of the AD Rules requires that determination of injury shall involve an objective examination of both:

- (a). The volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and
- (b). Consequent impact of these imports on domestic producers of such products.

24. The Authority while examining the volume of dumped imports is required to examine whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase which otherwise would have occurred to a significant degree.

25. For the purpose of injury analysis the Authority has examined cumulative effect of dumped imports of the subject goods on the domestic industry and its effect on all relevant Economic factors and indices having a bearing on the state of industry to evaluate the existence of injury and causal links between the dumping and injury, if any.

26. Since significant dumping margins have been established for the exports from the subject countries, entire exports from the subject countries have been treated as dumped imports for the purpose of injury analysis and causal link examination.

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

27. The Authority collected transaction wise details of imports of subject goods from DGCIS. As per the data, cumulative imports from subject countries have increased significantly in absolute terms and in relation to imports in India. Imports from Korea-RP, Taiwan and USA constitute 10.66%, 27.21% and 20.59% respectively in the POI. The imports from subject countries are more than de minimis individually. The Authority notes that although the share of imports from USA has been on decline in POI compared to period of injury, (Down to 20.59% in POI as against 35.34% in 2003-04) the share of subject countries in imports, which was 35.34% in 2003-04 increased to 58.46% in POI.

F.4.1. Import Volumes and share of subject country

	Units	2003-04	2004-05	2005-06	Annualized POI
Korea RP	MT	0	32	7017	9765
Taiwan		0	1985	24743	24920
USA		23123	15410	23832	18853
Subject Countries	MT	23123	17427	55591	53538
Trend	Indexed	100	75	240	232
Other countries	MT	42302	47607	37850	38040
Trend	Indexed	100	113	89	90
Total Imports	MT	65425	65034	93441	91578
Trend	Indexed	100.00	99.40	142.82	140

Market Share in Imports					
Korea RP	%	0	0.05	7.51	10.66
Taiwan	%	0	3.05	26.48	27.21
USA	%	35.34	23.70	25.50	20.59
Subject Countries	%	35.34	26.80	59.49	58.46
Trend	Indexed	100.00	75.82	168.33	165.42
Other countries	%	64.66	73.20	40.51	41.54
Trend	Indexed	100.00	113.22	62.65	64.24
		100.00	100.00	100.00	100.00
Production of DI	MT	40094	48403	28754	34275
Imports from subject countries	MT	23123	17427	55591	53538
Imports from subject countries as a percentage of production of DI	%	57.67	36	193.34	156.20

F.5. Demand, Output and Market shares

F.5.1. Growth In Demand

F.5.1.1. Growth in Demand including Captive Consumption

	Unit	2003-04	2004-05	2005-06	Annualized POI
Domestic Industry	Mt	37583	44265	28143	32548
Other Producers	Mt	35090	35410	28475	28289
Total Import	Mt	65425	65034	93441	91578
Total Demand	Mt	138098	144710	150059	152415
Trend	Indexed	100.00	104.79	108.66	110.36

F.5.1.2 Growth in Demand excluding Captive Consumption

	Unit	2003-04	2004-05	2005-06	Annualized POI
Domestic Industry	Mt	37583	44265	28143	32548
Other Producers	Mt	32329	34099	26952	26561
Total Import	Mt	65425	65034	93441	91578
Total Demand	Mt	135337	143399	148536	150687
Trend	Indexed	100.00	105.96	109.75	111.34

28. Demand of subject goods has been determined by addition of domestic sales (including captive sales) of domestic industry and all imports from all countries. The Authority notes that demand for the subject goods had been growing from base year to POI. It grew by 10% during POI as compared to base year i.e. 2003-04.

29. The growth in demand of subject goods excluding captive sales also shows similar trends. As compared to base year it grew by 11%.

30. Imports from subject countries show a growing trend in relation to production of the domestic industry. The imports from subject countries was only 58% in relation to the production of the domestic industry in the base year 2003-04, which has gone up in percentage terms to 156.20% in POI.

F.6. Capacity, production and capacity utilization of the Domestic Industry

	Unit	2003-04	2004-05	2005-06	Annualized POI
Installed Capacity	Mt	40000	40000	40000	40000
Trend	Indexed	100.00	100.00	100.00	100.00
Production	Mt	40094	48403	28754	34275
Trend	Indexed	100.00	120.72	71.72	85.68
Capacity Utilization (%)	%	100	121	72	86
Trend	Indexed	100.00	120.72	71.72	85.68

31. Data of domestic industry on capacity, production and capacity utilisation reveals that the capacity of the domestic industry was 40000 MT during 2003-04 and had not changed during POI. The production of subject goods was 40094 MT during 2003-04 after rising in 2004-05 declined to 28754 MT during 2005-06 and was 34275 MT during POI. The capacity utilisation of domestic industry, which was 121% during 2004-05, declined to 86% during POI, as compared to 100% in the base year 2003-04. The Authority notes that production in 2005-06 suffered because of longer shutdown taken by the Company due to difficulties in procurement of major raw material. However, the company had resumed full production in POI and could have produced to the extent of the volumes achieved in 2003-04 and 2004-05. During POI, while plant was ready to produce up to its installed capacity, it could operate only up to 86% of the capacity.

F.7. Sales volume of Domestic Industry

	Unit	2003-04	2004-05	2005-06	Annualized POI
Domestic Industry	Mt	37583	44265	28143	32548
Trend	Indexed	100.00	117.78	74.88	86.60

32. The data on sales indicates that the domestic industry sold 37583 MT of subject goods during 2003-04 which declined to 32548 MT during POI. The sale of domestic industry thus fell to 87% during POI as compared to base year 2003-04. The Authority notes that the domestic industry could sell 44265 MT during 2004-05 and sales during POI were significantly lower than these levels achieved earlier.

33. The above data on the sales of domestic industry shows that there was a fall in the sales during POI to the extent of 13% over the base year 2003-04 though sales during POI were higher than the sales achieved in 2005-06. As noted above, production during 2005-06 suffered on account of longer shutdown taken by the company, so did the sales. It is also noted that during the year 2004-05, domestic industry could sell 44265 MT as against 32548 MT during POI.

F.8 Demand and Market Share including captive Consumption

	Unit	2003-04	2004-05	2005-06	Annualized POI
Domestic Industry	Mt	37583	44265	28143	32548
Other Producers	Mt	35090	35410	28475	28289
Total Import	Mt	65425	65034	93441	91578
Total Demand	Mt	138098	144710	150059	152415
Trend	Indexed	100.00	104.79	108.66	110.36
Market share in demand					
Domestic Industry	%	27.21	30.59	18.75	21.35
Trend	Indexed	100.00	112.40	68.91	78.46
Other Producers	%	25.41	24.47	18.98	18.56
Trend	Indexed	100.00	96.30	74.68	73.04
Korea RP	%	0.00	0.02	4.68	6.41
Taiwan	%	0.00	1.37	16.49	16.35
USA	%	16.74	10.65	15.88	12.37
Subject Countries	%	16.74	12.04	37.05	35.13
Trend	Indexed	100.00	71.92	221.25	209.86
Import from Other countries	%	30.63	32.90	25.22	24.96
Trend	Indexed	100.00	107.40	82.34	81.49

F.8.1. Demand and Market Share excluding captive Consumption

	Unit	2003-04	2004-05	2005-06	Annualized POI
Domestic Industry	Mt	37583	44265	28143	32548
Other Producers	Mt	32329	34099	26952	26561
Total Import	Mt	65425	65034	93441	91578
Total Demand	Mt	135337	143399	148536	150687
Trend	Indexed	100.00	105.96	109.75	111.34
Market share in demand					
Domestic Industry	%	27.77	30.87	18.95	21.60
Trend	Indexed	100.00	111.16	68.23	77.78
Other Producers	%	23.89	23.78	18.14	17.63
Trend	Indexed	100.00	99.55	75.96	73.80
Korea RP	%	0.00	0.02	4.72	6.48
Taiwan	%	0.00	1.38	16.66	16.54
USA	%	17.09	10.75	16.04	12.51
Subject Countries	%	17.09	12.15	37.43	35.53
Trend	Indexed	100.00	71.13	219.05	207.90
Import from Other countries	%	31.26	33.20	25.48	25.24
Trend	Indexed	100.00	106.21	81.52	80.74

34. Imports from subject countries have increased significantly in relation to consumption in India from 16.74% in 2003-04 to 35.13% in POI.

35. There has been a steady growth in demand of the subject goods. Over the base year 2003-04, the demand in POI was higher by 10%. The share of domestic industry which was at 27.21% in 2003-04 declined to 21.35% during POI. During the same period the share of imports from subject countries which was 16.74% in 2003-04 went up to 35.13% during POI. It is noted that dumped imports have not only captured the growth in demand but also crowded out the domestic industry.

36. The demand (excluding captive sales) of subject goods shows similar trend. It grew by 11% during POI as compared to the base year. The trend indicates that the share of domestic industry which was at 28% in 2003-04 declined to 22% during POI. During the same period the share of subject countries which was 17% in 2003-04 rose to 36% during POI.

G.1. Price Effect of the Dumped imports on the Domestic Industry

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

38. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject countries.

G.1.1. Evaluation of price over period under consideration

	Unit	2003-04	2004-05	2005-06	Annualized POI
Cost of sales	Rs./Mt	****	****	****	****
Trend	Indexed	100.00	132.62	133.22	136.21
Selling Price (NSR)	Rs./Mt	****	****	****	****
Trend	Indexed	100.00	146.88	120.64	122.62

G.1.2. Price undercutting and underselling effects

	Unit	Bulk	Packed	Total Weighted Average (Bulk + Packed)
Net sales realization (POI)	Rs./Mt	****	****	****
Landed price				
Korea RP	Rs./Mt	47699	52980	48788
Taiwan	Rs./Mt	49672	65874	51437
USA	Rs./Mt	47441	74539	49487
Total subject countries	Rs./Mt	48513	67300	50267

Price undercutting				
Korea RP	Rs./Mt	****	****	****
Taiwan	Rs./Mt	****	****	****
USA	Rs./Mt	****	****	****
Total subject countries	Rs./Mt	****	****	****
Price undercutting (%)				
Korea RP	%	****	****	****
Taiwan	%	****	****	****
USA	%	****	****	****
Total subject countries	%	****	****	****
Non Injurious Price	Rs./Mt	****	****	****
Price Underselling				
Korea RP	Rs./Mt	****	****	****
Taiwan	Rs./Mt	****	****	****
USA	Rs./Mt	****	****	****
Total subject countries	Rs./Mt	****	****	****
Price Underselling (%)				
Korea RP	%	****	****	****
Taiwan	%	****	****	****
USA	%	****	****	****
Total subject countries	%	****	****	****

39.. While working out the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

40. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% landing charge and applicable basic customs duty to the value reported in the DGCI&S data of import prices from the subject countries. The price undercutting from subject countries was in the range of 4-10% during POI.

41. For the purpose of price underselling the weighted average landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. It shows that underselling was in the range of 12-17%.

G.1.3 Price suppression and depression effects of the dumped imports:

42. The price suppression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries.

43. The Authority notes that there were upward trends in the cost of sales during the injury period. The cost of sales which was 100 (indexed) in the base year went up to 136.21 in the POI; mainly due to increase in input price of Benzene and LPG which are Petro based products. The Authority notes that though the increase in the selling price was more than the cost up to 2004-05, thereafter the increase in selling price was not proportionate to the increase in cost. The trend of cost of production shows that weighted average cost of

production rose by 36% during POI as compared to base year whereas the selling price had increased only by 23% during POI indicating that the domestic industry could not realize the selling price commensurate with the increase in cost of production.

H. Examination of other Injury Parameters

44. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

H.1. Profits and actual and potential effects on the cash flow

	Unit	2003-04	2004-05	2005-06	Annualized POI
Cost of sales	Rs./Mt	****	****	****	****
Trend	Indexed	100.00	132.62	133.22	136.21
Selling Price (NSR)	Rs./Mt	****	****	****	****
Trend	Indexed	100.00	146.88	120.64	122.62
Profit/Loss	Rs./Mt	****	****	****	****
Trend	Indexed	100.00	229.04	48.18	44.29
Profit/Loss before Tax	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	269.76	36.08	38.35
PBIT	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	252.73	39.14	41.36
Cash Profit	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	261.57	37.26	39.49

45.. The data indicate that weighted average cost of production of the domestic industry went up by 36% during POI as compared to base year against which the weighted average selling price increased only by 23% during POI. The profit per unit which was 100 (indexed) in the base year increased by 129% during 2004-05 and declined in 2005-06 to 48% and 44% during POI. The profit of domestic industry on the domestic sales(PBIT) which was 100 (indexed) in 2003-04 increased by 154% in 2004-05 and declined in 2005-06 to 39% and 41% during POI. The Authority notes that there has been significant deterioration in the profitability of domestic industry during the POI as compared to base year 2003-04.

H.2. Return on investment and ability to raise capital

	Unit	2003-04	2004-05	2005-06	Annualized POI
PBIT	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	252.73	39.14	41.36
Net Fixed Assets	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	92.99	72.98	76.69
Working Capital	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	151.40	121.59	141.50

Capital Employed	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	131.39	104.94	119.30
Return on Capital Employed (NFA Basis)	%	****	****	****	****
Trend	Indexed	100.00	192.35	37.30	34.67

46. The Authority notes that there has been continued decline in the %age return on capital employed earned by the domestic industry. The return on capital employed , which was 100 (indexed) in the year 2003-04 declined sharply to 34.67 in POI.

H.3 Productivity

	Unit	2003-04	2004-05	2005-06	Annualized POI
Productivity per employee	Mt	****	****	****	****
Trend	Indexed	100.00	119.48	73.99	86.94

47. The data on production per employee shows that the productivity increased by 119% in 2004-05 before declining to 87% during POI as compared to base year.

H.3.1 Employment and wages

	Unit	2003-04	2004-05	2005-06	Annualized POI
Employment (Manpower strength)	Nos.	****	****	****	****
Trend	Indexed	100.00	101.04	96.93	98.33
Wages	Rs./Lacs	****	****	****	****
Trend	Indexed	100.00	116.86	120.49	124.10

48. The employment level does not show significant change. In indexed form it declined to 98% during POI as compared to base year. The wages increased by 24% during POI as compared to base year.

H.3.2 Inventories

	Unit	2003-04	2004-05	2005-06	Annualized POI
Opening Stock	Mt	****	****	****	****
Closing Stock	Mt	****	****	****	****
Average Stock	Mt	****	****	****	****
Trend	Indexed	100.00	142.25	133.76	53.55
Average Stock in terms of No. of Days' sales	Nos.	18	21	31	11
Trend	Indexed	100.00	120.77	178.63	61.83

49. The trends in the average inventory show that average inventory declined from 100 in the base year to 54 during POI. The Authority notes that at the beginning of POI the opening inventory was equal to about 2 days sales , which went up to about 19 days sales at the close of POI. In other words, during POI there has been accumulation of inventory as the closing

inventory was nearly 8 times the opening inventory, which reflects an adverse off take.

H.3.3. Growth

50. The growth in demand shows positive trend from base year to POI on year to year basis. The growth in production and sales were positive in 2004-05, negative in 2005-06 and again positive during the POI. The cost of production shows rising trend in 2004-05, 2005-06 and in POI. Growth of selling price shows rising trend in 2004-05 and negative in 2005-06 and positive in POI. Growth of profits shows positive trend in 2004-05 and negative in 2005-06 and positive in POI.

H.4. Investment

51. The authority notes that the domestic industry had not changed the capacity of subject goods from base year to POI. There has been no fresh investment by the domestic industry during the period of investigation and there is no plan for further investment as submitted by them.

H.5 Magnitude of Dumping

52. 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 margins determined against the subject countries, for the POI, are significant.

H.6. Factors affecting prices

53. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred to a significant degree. In order to assess the effect of imports on the domestic market, the Designated Authority analyzed import prices over the injury period. It was found that the landed value per MT in POI was lower than both the net selling price and non-injurious price of bulk phenol in respect of all subject countries. It was also found that the landed value of import per MT in the POI is higher than the net selling price and the non-injurious price in respect of packed phenol from all subject countries excepting Korea RP. Out of total imports from subject countries during POI, the packed and bulk imports are 5% and 95% respectively. The decline in customs duty further resulted in reduction in landed price of imports. Change in cost structure if any, due to competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors that might be affecting the prices in the domestic market. The weighted average cost of production has increased by 36% during POI. The weighted average net selling prices increased only by 23% during the same period. The Authority notes that Landed values of imported material from subject countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. The undercutting during POI was in the range of 3-8% and underselling was in the range of 10-15% during POI.

H.7. Conclusion on injury

54. The examination of above injury parameters indicates that growth in demand was 10% (including captive sales) during POI as compared to base year. Despite overall growth in demand, both the production and sale of domestic industry declined to 85% and 87% respectively during POI as compared to base year 2003-04. During the same period, the imports of subject goods from subject countries increased significantly from 23123 MT in 2003-04 to 53538 MT during POI i.e. it increased by 132%. The share of the imports from subject countries in relation to demand increased from 17% in 2003-04 to 35% during POI whereas the share in demand of the domestic industry declined from 27% to 21% during the same period. The Authority notes that imports have crowded out domestic industry in domestic market. The capacity utilization of the domestic industry, despite growth in demand, declined from 100% to 86% during POI. Thus the installed capacity remained unutilized during POI. Profits (PBIT) declined to 41 during POI as compared to base of 100. The return on net capital employed declined to 21 during POI as compared to 100 of base year 2003-04.

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

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

I. Causal Link

57. In order to reach its conclusions on the cause of the injury suffered by domestic industry and in accordance with article 3.5 of Agreement on Anti-Dumping and as per Para (v) of Annexure-II under Rule 11 under Customs Tariff Act as amended, the Authority examined the impact of all known factors and their consequences on the situation of the domestic industry. Known factors other than dumped imports, which could at the same time have injured the domestic industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports. The significant increase in volume of dumped imports from the subject countries (both in absolute terms as well as in relation to the share in demand) has resulted in significant decline in market share of the domestic industry. Decline in market share of domestic industry as a consequence of increase in market share of subject countries prevented the domestic industry from increasing their sales commensurate to increase in demand in the market. On the contrary, there was a decline, both in production and sale during POI as compared to base year 2003-04. As a result, domestic industry could not optimally utilize its capacity as capacity utilization during POI was only 86%. Consequently growth in production, sales and capacity utilization of the domestic industry suffered as a result of the decline in market share of domestic industry.

58. Significant price undercutting caused by imports prevented the domestic industry from increasing its prices to the extent of increase in costs. Consequently, profits, cash flow and return on investment deteriorated during POI after showing consistent improvement. While domestic industry was able to increase prices in 2003-04 and 2004-05, its performance deteriorated in the POI due to dumped imports which prevented it from effecting legitimate price increases.

59. It is thus provisionally concluded that the imports from the subject countries have caused material injury to the domestic industry.

J. Examination of Other Known Factors

J.1 Volume and prices of imports from other sources

60. The Authority notes that out of total imports, the volumes of imports from other countries are 42%.during POI. The Authority notes that the imports from other countries also have been contributing to the injury of the domestic industry. It has been noted that the imports from other countries are already attracting anti-dumping duties.

J.2 Contraction in demand and / or change in pattern of consumption

61. The Authority notes that there is no contraction in the overall demand during POI. On the contrary; overall demand for subject goods has shown positive growth during the injury period. The total demands of subject goods have shown growth of 10% (including captive sales) during Period of Investigation as compared to the base year. There is also no significant change in consumption pattern of the product in the domestic market, which could be attributed to the injury to the domestic industry.

J.3 Trade restrictive practices of and competition between the foreign and domestic producers

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

63. The Authority notes that there is no restricted practice prevalent in the industry which could be attributed to the injury to the domestic industry.

J.4 Development of technology

64. On the basis of examination of the records of the petitioner, the Authority provisionally holds that development in technology has not been a relevant factor for the injury to the domestic industry.

J.5 Export performance

65. The Authority notes that the export volume of the domestic industry is insignificant during the POI. The performance with respect to various Economic indicators have determined with respect to domestic sales only. Hence, the Authority provisionally holds that material injury suffered by the domestic industry may not be as a result of the export performance of the domestic industry.

J.6. Productivity of the Domestic Industry

66. Productivity of the domestic industry in terms of production per employee has shown decline during POI as compared to base year 2003-04 because of the decline in total production during the same period.

67. No other factor which could have possibly caused injury to the domestic industry has been brought to the knowledge of Authority.

K. Conclusion On Causation

68. Significant increase in the volume of dumped imports has resulted in significant decline in the market share of domestic industry. It is further seen that decline in market share of domestic industry as a consequence of increase in market share of subject imports from subject countries prevented the domestic industry from increasing their sales commensurate to growth in demand. As a result, sales of domestic industry during POI did not increase to such an extent that domestic industry could have optimally utilized its capacity. Consequently, production, sales and capacity utilization of the domestic industry suffered as a result of the decline in the market share of the domestic industry. Significant price undercutting caused by dumped imports prevented the domestic industry from increasing its prices to the extent of increase in costs. Resultantly, profit, cash flow and return on investment of the domestic industry deteriorated in the POI. Significant price-undercutting and substantial increase in the volume of dumped imports adversely affected the performance of the domestic industry in terms of profits, cash flow, and return on investment, which parameters deteriorated in POI after improving till 2004-05.

69. The Authority has therefore, provisionally concluded that the dumped imports originating in the subject countries have caused material injury to the domestic industry within the meaning of Rule 11 of Anti-dumping Rules and article 3.5 of Agreement of Anti-dumping.

L. Magnitude of Injury Margin

70. The non-injurious price determined by the Authority has been compared with the landed value of the exports for determination of injury margin. The weighted average landed price of the exports from the subject country and the injury margins have been worked out as follows:

L.1. Injury margin Calculations

	USD./MT		
Name of company	Injury Margin (Bulk)	Injury Margin (Packed)	Injury Margin (Avg/Weighted)
Exporters from Korea-RP	196	198	196
Exporters from Taiwan	152	-89	137
Exporters from USA	202	-283	181

M. Conclusions

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

A. The subject goods have been exported to India from the subject countries below its normal value;

- B. The domestic industry has suffered material injury;
- C. The injury has been caused by the dumped imports from subject countries.

N. Indian industry's interest & other issues

72. The Authority recognizes that imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or even more sources of supply.

73. 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 in any way, and, therefore, would not affect the availability of the products to the consumers.

O. Recommendations

74. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject countries, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation.

75. Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

76. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.

O.1. Duty Table

S.No	Sub Heading Of Tariff item	Description of Goods	Country Of Origin	Country Of Export	Producer	Exporter	Duty Amount	Unit Measure	Currency
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	2907.1110 and 2707.9900	PHENOL	USA	Any	Any	Any	181	MT.	USD
2.			Any other than Korea RP.,and Taiwan	USA	Any	Any	181	MT.	USD
3	DO	DO	Taiwan	Any	Any	Any	137	MT.	USD
4..			Any other than USA and Korea RP.	Taiwan	Any	Any	137	MT.	USD
5.	DO	DO	Korea RP.	Any	Any	Any	196	MT.	USD
6.			Any other thanTaiwan and USA	Any	Any	Any	196	MT.	USD

P. Further Procedures

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

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;
- (b) Exporters, importers, applicants and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would conduct further verification to the extent deemed necessary;
- (d) The Authority would disclose essential facts before announcing final findings.

R.Gopalan
The Designated Authority