

14/19/2003-DGAD
Government of India
Ministry of Commerce
Directorate General of Anti-Dumping and Allied Duties
Udyog Bhavan

New Delhi dated the 18th January, 2005

Subject: Anti Dumping Investigations concerning import of Toluene Di-Isocyanate originating in or exported from Chinese Taipei (Taiwan), EU, Japan, Korea RP and USA – Final finding

Procedure

1. (i) The Petition for anti dumping duty of imports of Toluene Di-Isocyanate (TDI) from Chinese Taipei (Taiwan), EU, Japan, Korea RP and USA appropriately updated was received by the Authority alleging dumping of Toluene Di-Isocyanate (TDI) from Chinese Taipei (Taiwan), EU, Japan, Korea RP and USA.

ii) Preliminary scrutiny of the application filed by the petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was, therefore, considered as properly documented.

iii) On the basis of sufficient evidence submitted by the petitioner the Authority decided to initiate the investigation against imports of TDI from Chinese Taipei (Taiwan), EU, Japan, Korea RP and USA on 20th October 2003. The Authority notified the Embassies of Chinese Taipei (Taiwan), EU, Japan, Korea RP and USA in New Delhi about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with the sub-Rule 5(5) of the Rules.

iv) A public notice was issued dated 20th October 2003 and published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods classified under customs sub head 29291002 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from Chinese Taipei (Taiwan), EU, Japan, Korea RP and USA.

v) A copy of the public notice was issued to the known exporters (whose details were made available by petitioner) and were given them an opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2):

vi) A copy of the public notice was forwarded to the known importers (whose details were made available by petitioner) of subject goods in India and were advised to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).

vii) A questionnaire was sent to elicit relevant information to the 10 known exporters and 5 importers/user, in accordance with the Rule 6(4):

viii) The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation in accordance with **Rule 6(2)** with a request to advise all concerned exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the known exporters was also sent to the Embassy of the subject countries in accordance with Rule 6(3). Response/information to the questionnaire/notification was filed by the following exporter/producer “M/s Mitsui Takeda Chemicals, Inc Japan (MTCI) only.

ix) Response/information to the questionnaire/notification was filed by large number of Importers/users. The users stated that they used both the imported subject goods as well indigenous product produced by M/s NCPL. All the views of the importers and exporters have been analyzed in this report as considered relevant by the Authority.

x) Additional Information regarding injury was sought from the petitioner(s), which was also furnished by the petitioner.

xi) Non-confidential version of the evidence presented by various interested parties was kept available in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).

xii) Cost investigation was also conducted to work out best cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner.

xiii) The investigation of dumping and injury covered the period from 1st April 2002 to 30th June 2003 (also called the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 1st April 1999 to the end of the POI (also called period under consideration or injury period). The import data has been examined from IBIS, Mumbai, DGCIS and data submitted by the exporters and importers. However after examining all the data including the transaction wise data from DGCIS and IBIS, Mumbai, it was considered appropriate to rely on the information submitted by the exporters, importers, and transaction wise data from the IBIS (international business information system), Mumbai as DGCIS

data does not show the full volume of the imports with respect to the subject goods. In accordance with Rule 16 of The Rule supra, the essential facts/ basis considered for these findings were disclosed to known interested parties and comments received on the same are duly considered in Final Findings

Following abbreviations are used in this Disclosure:

2. a) Authority Designated Authority
- b) Subject Countries Chinese Taipei (Taiwan), EU, Japan, Korea RP and USA.
- c) Subject Goods/Toluene Di-Isocyanate (TDI) Product under consideration
- d) Domestic Industry/petitioner/applicant M/s Narmada Chematur Petrochemical Ltd., Bharuch, Gujarat (NCPL)
- e) POI Period of Investigation (1st April 2002-30th June 2003)
- (f) Exporter (cooperating) M/s Mitsui Takeda Chemicals, Inc, Japan (MTCI)

The views of the all the exporters (cooperating and non-cooperating), importers and other interested parties have been taken into account and have been analyzed in the respective heads.

PRODUCT UNDER CONSIDERATION

(3) The product under consideration in the present petition is Toluene Di-Isocyanate. Toluene Di-Isocyanate (TDI) is an organic chemical. It is a clear liquid and is used for production of Flexible Polyurethane Foam, which in turn is used in various applications. TDI is manufactured in various grades. Toluene Di-Isocyanate is an organic chemical classified under Chapter 29 of the Customs Tariff Act. The detailed custom classification of TDI is 29291020. Several interested parties have raised the issue that the product should not include any blends nor it should include any other organic compound other than TDI. No submissions have been received after the issue of the disclosure statement from any interested parties on the issue of product under consideration. The Authority after examining all the issues concludes that the product under consideration is Toluene Di-Isocyanate or TDI (hereinafter also referred to as subject goods).

LIKE ARTICLE

(4) The petitioner has claimed that goods produced by it are like articles to the goods originating in or exported from subject countries. There is no significant difference in the subject goods produced by the petitioner and those exported from subject countries. Petitioner claims that the two are technically and commercially substitutable. Rule 2(d) of the Anti-dumping Rule specifies that like articles mean an article, which is identical and alike in all respects to the product under investigation or in the absence of such an article, another article having characteristics closely resembling those of the articles under examination. In order to establish that subject goods produced by the domestic industry is a Like Article to that exported from subject countries, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority. On basis of the detailed investigation, the Authority notes that the subject goods produced by domestic industry has characteristics, which are similar to those imported from subject countries and to those sold in the market of exporting countries. In view of the above the Authority holds that TDI produced by the domestic industry and those being imported from and sold in the subject countries are like articles within the meaning of the rules.

DOMESTIC INDUSTRY

(5) The application was filed by M/s. Narmada Chematur Petrochemicals Limited. The Authority notes that the applicant is the sole producer of the subject goods in the Country and, therefore, accounts for total Indian Production. The applicant fulfills the criteria of domestic industry in terms of rule 2b read with rule 2d and has the required standing in terms of rule 5(3)a to file the application for Anti-Dumping Investigation.

Normal Value, Export Price and Dumping Margin

(6) Under Section 9A (1) I of the Customs Tariff Act 1975, Normal value in relation to an article means:

- The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-

- Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)”;

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

7. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)I. Only exporter M/s Mitsui Takeda Chemicals Inc, Japan (MTCI) have responded to the questionnaire in the form and manner required as per letter to the exporters and exporters questionnaire, MTCI has responded to the exporters’ questionnaire by giving information with regard to various appendices mentioned in the exporters’ questionnaire. The Authority, after the public hearing, has verified all the data submitted by the cooperating exporter with regards to the cost of production, domestic sales price and the export price including all the adjustments claimed by the exporter. The Authority has assessed the normal value for the cooperating exporter after making all the adjustments required to be made at the ex-factory level as claimed by the exporter. The authority has assessed ex factory export price of the cooperating exporter after allowing various adjustments as claimed by the exporter while arriving at net export price at the ex factory level. The Authority has worked out a Dumping margin by making a comparison between the normal values at the ex factory level and export price at ex factory level. The comparison did not show the existence of dumping of the subject goods by the exporter during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined and is negative. Detailed verification report has subsequently been sent to the exporter for their comments if any.

Other Exporters from Japan and other subject countries

8. The Authority notes that none of the other exporters from Japan and other countries have responded to the exporters’ questionnaire in the form and manner prescribed therein. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested parties. Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore normal values have been determined for the

countries concerned with regards to the prices prevailing in their domestic market as evidenced by the leading journal. The export prices have been determined as per the data made available by the IBIS (transaction wise data culled out from the customs daily lists) as the DGCIS data has reported fewer imports under the given customs head. The ex-factory export price has been arrived at taking the weighted average export price during the POI after making applicable adjustments towards commission, ocean freight, etc and thereafter the dumping margin for the Non cooperating exporters has been established.

Dumping Margin

Country	NV (\$ / MT)	EP (\$ / MT)	DM		
			\$ / MT	Rs / MT	%
MTCI , Japan (Coop)	****	****	(****)		(5.5)
Japan (All Others)	****	****	****		20.46%
EU	****	****	****		61.75
Taiwan	****	****	****		16.52
Korea	****	****	****		16.11
USA	****	****	****		63.42

Injury: Volume of dumped imports from subject countries, their effect on prices and consequent Impact on the domestic industry illustrating parameters as per 3.4 of the ADA – Verified data.

9.

15 injury parameter no.	Particulars	Unit	1999-00	2000-2001	2001-2002	2002-2003 & 2003 - 2004 (15 months)	POI ANNULISED
1	Natural & Potential Decline in Sales						
	Actual sales						
	Sales (Domestic)	MT	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	164.57	166.13	173.91	173.91
2	Profits						
	Cost of Production	Rs./MT	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	89.39	81.98	71.76	71.76
	Net Sales Realisation	Rs./MT	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	116.28	91.70	89.26	89.26
	Profit/Loss	Rs./MT	-****	****	****	****	****

	<i>Trend</i>	<i>Indexed</i>	-100.00	123.80	-4.97	67.01	67.01
	Total Profit/Loss	Rs. Lacs	*****	****	*****	****	****
	<i>Trend</i>	<i>Indexed</i>	-100.00	203.87	-8.25	145.68	145.68
3	Output						
	Production	MT	7812	10153.5	10770	16581	13264.8
	<i>Trend</i>	<i>Indexed</i>	100.00	129.97	137.86	169.8	169.8
4	Market share						
	In imports						
	Imports						
	Japan	MT					
	Korea RP	MT	150	0.00	200.00	280.00	224.00
	USA	MT	401.227	486.39	586.58	155.39	124.31
	Chinese Taipei	MT	0	0.00	50.00	58.50	46.80
	European Union	MT	2098.63	307.86	328.58	83.59	66.87
	Dumped imports from Subject Countries	MT	2649.86	794.25	1165.16	577.48	461.98
	<i>Trend</i>	<i>Indexed</i>	100.00	29.97	43.97	21.79	21.79
	Other Countries & Non Dumped imports from subject countries	MT	1593	1774.35	2346.70	1697.76	1358.21
	<i>Trend</i>	<i>Indexed</i>	100.00	111.4	147.3	106.6	85.3
	Total Imports	MT	4243.00	2568.60	3511.86	2275.24	1820.20
	<i>Trend</i>	<i>Indexed</i>	100.00	60.54	82.77	53.62	53.62
	Market share in Imports						
	Japan	%	0.00	0.00	0.00	0.00	0.00
	Korea RP	%	3.54	0.00	5.69	12.31	12.31
	USA	%	9.46	18.94	16.70	6.83	6.83
	Chinese Taipei	%	0.00	0.00	1.42	2.57	2.57
	European Union	%	49.46	11.99	9.36	3.67	3.67
	Dumped imports from Subject Countries	%	62.45	30.92	33.18	25.38	25.38
	<i>Trend</i>	<i>Indexed</i>	100.00	49.51	53.13	40.64	40.64
	Other Countries and dumped imports from	%	37.55	69.08	66.82	74.62	74.62

	subject countries						
	<i>Trend</i>	<i>Indexed</i>	100.00	124.01	119.96	11.18	11.18
	In Demand						
	Demand						
	Sales of NCPL	MT	****	****	****	****	****
	Imports	MT	4243.00	2568.60	3511.86	2275.24	1820.20
	Demand	MT	9924.00	11917.60	12949.86	14625.24	11700.20
	<i>Trend</i>	<i>Indexed</i>	100.00	120.09	130.49	112.48	112.48
	Share in Demand						
	Domestic industry	%	57.25	78.45	72.88	84.44	84.44
	<i>Trend</i>	<i>Indexed</i>	100.00	137.04	127.31	154.61	154.61
	Dumped imports from Subject Countries	%	26.70	6.66	9.00	3.95	3.95
	<i>Trend</i>	<i>Indexed</i>	100.00	24.96	33.70	46.70	46.70
	Other Countries and un dumped imports from subject countries	%	23.82	14.89	18.12	11.61	11.61
	<i>Trend</i>	<i>Indexed</i>	100.00	62.51	76.09	3.26	3.26
5	Productivity						
	Productivity per Employees						
	Employees	Nos.	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	99.13	96.94	97.82	97.82
	Productivity per Employee	MT	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	131.12	142.21	173.59	173.59
	Productivity per day*	Day/MT	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	129.97	137.86	169.80	169.80
	* Considering 360 days of production in a year						
6	Return on Investment						
	NFA	Rs. Lacs	****	****	*****	****	****
	Working Capital	Rs. Lacs	****	****	****	****	****
	Capital	Rs.	****	****	****	****	****

	Employed	Lacs					
	Trend	Indexed	100.00	94.92	89.80	88.82	88.82
	Return on capital employed	%	****	****	****	****	****
	Trend	Indexed	100.00	284	112	189	189
7	Utilization of Capacity						
	Capacity	MT	10000	10000	10000	10000	10,000
	Trend	Indexed	100.00	100.00	100.00	100.00	100.00
	Capacity Utilization	%	78.12	101.54	107.70	132.65	133
	Trend	Indexed	100.00	129.97	137.86	169.80	169.80
8	Factors affecting domestic prices						
	Export Price						
	Japan	Rs./MT	83,700	100,730	79,720	77,200	77,200
	Korea Rp	Rs./MT	92,230.00	-	91,080	79,000	79,000
	USA	Rs./MT	82,270.00	101,010	84,270	80,590	80,590
	Chinese Taipei	Rs./MT	-	-	71,170	82,070	82,070
	European Union	Rs./MT	80,810.00	100,410	78,930	73,430	73,430
	Landed Value						
	Japan	Rs./MT	118,352	137,345	108,698	99,414	99,414
	Korea Rp	Rs./MT	130,413	#VALUE!	124,188	101,732	101,732
	USA	Rs./MT	116,330	137,727	114,902	103,780	103,780
	Chinese Taipei	Rs./MT	Not available	Not available	Not available	105,686	105,686
	European Union	Rs./MT	114,265	136,909	107,621	94,559	94,559
	Selling Price of domestic industry	Rs./MT	****	****	****	****	****
	Index		100	116.3	91.7	89.26	89.26
	Price undercutting %						
	Korea RP		0-3%				
	USA						0-3%
	Chinese Taipei						2-5%

	European Union						(7-10%)
	Cumulative						<1%
	Price suppression and depression						
	Cost of production		****	****	****	****	****
			100	89.39	81.98	71.76	71.76
	Landed Value	Rs./MT					
	Japan	Rs./MT	118,352	137,345	108,698	99,414	99,414
	Korea Rp	Rs./MT	130,413	Not Available	124,188	101,732	101,732
	USA	Rs./MT	116,330	137,727	114,902	103,780	103,780
	Chinese Taipai	Rs./MT	Not available	Not available	Not available	105,686	105,686
	European Union	Rs./MT	114,265	136,909	107,621	94,559	94,559
9	Magnitude of Margin of Dumping		Mentioned in the earlier paragraphs				
10	Actual and potential negative effect on cash flow						
	Cash Losses						
	Depreciation	Rs. Lacs	****	****	****	****	****
	Profit/Loss	Rs. Lacs	- ****	****	- ****	****	****
	Cash Profit	Rs. Lacs	****	****	****	****	****
	Trend	Indexed	100.00	555.49	270.59	317.33	317.33
11	Inventories						
	Closing Stocks	MT	****	****	****	****	****
	Trend	Indexed	100.00	48.47	125.60	96.73	96.73
12	Employment						
	Employees	Nos.	****	****	****	****	****
	Trend	Indexed	100.00	99.13	96.94	97.82	97.82
13	Wages						
	Wages paid to employees	Rs. Lacs	****	****	****	****	****
	Trend	Indexed	100.00	108.04	154.05	152.87	152.87
14	Growth (from base)						
	Growth in Turnover	%		29.97	37.86	112.25	112.25

	Growth in Sales Volume	%		64.57	66.13	117.39	73.91
	Growth in Demand	%		20.00	30.00	12.48	12.48
15	EXPORTS						
	Export sales	MT	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	211.08	27.03	632.43	632.43
	Net Sales Realisation	Rs./MT	****	****	****	****	****
	<i>Trend</i>	<i>Indexed</i>	100.00	111.65	73.52	83.95	83.95

Views of the various interested parties and Analysis by the Authority

a) Domestic consumption/demand

10. The domestic consumption/demand is based on the sales of the Domestic Industry, imports from the subject countries and imports from other countries into India. On this basis, the domestic demand or consumption of the subject goods in the domestic market increased from 9924.00 MT in 1999 - 2000 to 11700 MT in the period of investigation representing an increase of 11.18%.

Cumulative Assessment of the effects of imports concerned

11. The Authority examined whether imports of subject goods originating in subject countries should be assessed cumulatively as per Article 3.3 of the Agreement on Anti-Dumping and Rule 11 of the Anti Dumping Rules Under the Customs Tariff Act.

- a. The margin of dumping established in relation to the imports from each of the subject countries was above the de minimus threshold as defined in Article 5.8 of the Agreement on Anti-Dumping and Rule 14 of the Anti Dumping Rules and Volume of dumped imports from each of these countries was not negligible.
- b. The domestic product and product supplied by producers in various countries are like articles; and the imported products and domestically produced subject goods can and are being interchangeably used. Response filed by the various interested parties and correlation of the same with customer wise sales of the domestic industry makes it evident that there are a number of parties who have resorted to purchase from the domestic industry and imports from subject countries. It is further noted that subject goods supplied by various countries compete in the same market. Further, it is also noted that products supplied by various producers in subject countries are being marketed in India during the

same periods through comparable sales channels and under similar commercial conditions.

12. In the light of the above, the authority has considered that the criteria set out in article 3.3 of the Agreement of Anti-Dumping and as per para iii of the Annexure II under Rule 11 were met with respect to imports from subject countries and therefore imports from these subject countries should be cumulated for the purpose of injury determinations.

Imports originating in the subject countries.

Volume

13. The absolute volume of dumped imports of the product under consideration from subject countries into the domestic market decreased by 79% over the period under consideration. As a share in total demand, it declined by 60%. The authority further notes that the domestic consumption increased by 11.2% during the period under consideration. It is therefore concluded that there has been an increase in demand and but the volume of dumped imports has significantly decreased over the period under consideration.

Share of subject countries in total imports

14. Over the period under consideration, the share of the dumped imports from the subject countries in the total imports decreased by 79% percentage points. The market share held by the dumped imports in the total imports decreased from 62% to 25% during the POI. It is therefore noted that the share of dumped imports has declined significantly in the share of the total imports.

15. On the basis of above examination, the it is concluded that there has been a significant decline in the market share of dumped imports of the subject countries as a share of total demand and it has declined significantly during the POI as compared to previous years.

Prices

Evolution of Price over the period under consideration

16. Between 1999-00 and the POI, the average CIF prices of the imports originated in subject countries decreased by less than 4 percentage points during the period under consideration or injury period.

Price Undercutting (PUC),

17. A comparison for comparable types of the product concerned was made between the exporting producers and the domestic industries average selling price in the domestic market, net of all rebates and taxes to unrelated customers, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The CIF import prices of the subject countries concerned were adjusted for post importation basic customs duties. This comparison showed that during the period of investigation, the subject goods originating in the subject countries were sold in the domestic market at prices which very marginally undercut the domestic industry's prices when expressed as a percentage of the domestic selling prices of the domestic industry. In fact, the margin of price undercutting was insignificant. (Less than 1 per cent).

(f) Price Underselling (PUS)

18. The Authority has also examined the claim of the petitioner that the domestic industry is suffering on account of the decline in the profitability from the sale of subject goods. The Authority notes that price underselling is an important indicator to make an assessment of the injury. The Authority has worked out the Non-injurious price for the product under consideration and compared the same with the landed value to arrive at the extent of price underselling. The analysis shows an incidence of price underselling to the domestic industry. However, this incidence of price underselling has been determined when the volume of dumped imports are less than 4% of the total demand.

Price Depression and Price Suppression

19. As noted in the preceding paragraph, selling prices of the domestic industry have declined by little more than 10% during the Injury Period i.e. 1999-00 to POI. However, the selling prices appears to have declined due to the significant reduction in the cost of production of the subject goods of the domestic industry while the import prices of dumped subject goods from subject countries have shown a marginal decline.

20. However, there is no price suppression in this case as cost of production (COP) has declined by 28% during the same period with Net selling price (NSR) declining a little more than 10% and landed value declining by a range of 10% during the same period.

Situation of the Domestic Industry

Preliminary remarks

21. As per paragraph (iv) of Annexure II to the Anti-dumping Rules, the examination of the dumped imports on the Domestic Industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity, factors affecting domestic prices, the magnitude of margin of dumping, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Various interested parties have submitted the arguments that there is no material injury to the domestic industry during the period of investigation (POI). The interested parties comprising of exporters and importers have argued that most of the injury parameters as enshrined in the 3.4 of the antidumping agreement do not reflect any injury to the domestic industry. However, the domestic industry has maintained that they have suffered injury on account of various factors. It has been submitted by the domestic industry that the trends of the analysis for the injury purpose should be taken taking the base year 2000-01 and not the 99-00. However, the Authority notes that price undercutting and price underselling for the purpose of injury analysis is done for the POI only and only the trends pertaining to various other indices of injury as specified in the 3.4 of the ADA has been done with the base year 99-00. It is further noted by the Authority that the domestic industry has achieved a capacity utilisation of 78% during the second year of its commencement of operation and therefore injury analysis would not get affected by taking 99-00 as base year. Further, the base year has been chosen having in mind the extended period of injury trend analysis as per the practice of the directorate. It is further noted that one of the aims of the trend analysis is to remove any bias towards exceptionally good or bad year thereby removing the distortions in the long term trend. After the disclosure statement, the domestic industry has extended the similar arguments for keeping the base year as 2000-01. After examining the submissions made by the domestic industry, it is considered appropriate to confirm the Authority's observation and analysis as reported in the disclosure statement. With regards to the submissions by the domestic industry about few errors in reporting the indexed figures and errors in determination of cost of production (and its treatment of by-products), profits, net sales realisation, ROC and interpretations concerning these parameters, it is noted that during the meeting with the authorised representative of the domestic industry held on 5th of January 2005, all the issues concerning the injury along with the few errors of reporting the indexation have been clarified to the domestic industry. Further, in this final finding, all the issues raised in the response to the disclosure statement have been fully addressed.

Production, Capacity and Capacity Utilization

22. It can be seen from the above table that the production of the Domestic Industry increased by more than 50% from the base year to POI. There has been no increase in the production capacity of the Domestic Industry during the period under consideration. Further, it may also be noted that the capacity utilization of the Domestic Industry has significantly increased during POI. In fact, the capacity utilization during the POI was 133%.

Sales Volumes

23. It may be seen from the above table that there has been a significant increase in the sales volume of the domestic industry in the period of investigation as compared to the base year. It may be seen that the total demand/consumption has increased by 11.2% during the injury period whereas petitioner's sales volume increased by 73% during the same period. Thus, the sales volume of the domestic industry has increased much more than the increase in the demand of the subject goods in India.

Sales Prices

24. It may be seen from the table that the selling prices of the domestic industry have consistently been declining. However, the decline in the sales price has been much less than the decline in the cost of the production of the domestic industry. In view of the fact that there has been little decline in the sale price during the injury determination period, it is concluded that the domestic industry did not get injured significantly on account of this parameter.

Market share

25. The table below shows that the market share of petitioner has increased from 57% to 84.4% during the period of injury. Over the same period, market share of the dumped imports has declined by 54%. It may also be noted that the total market in India has grown by 11.2% during the period of injury.

Stocks

26. It may be seen that the stocks of the Domestic Industry has declined by 4% during the injury determination period. There has not been any significant adverse effect on the trend of inventory-production or inventory- sales volume ratio of the domestic industry during the injury period.

Profitability

27. The reduction in prices by the Domestic Industry to compete with the dumped imports did not appear to have affected the profitability of the Domestic Industry during the POI as compared to the base year. The profitability as compared to the base year has shown a significant uptrend. It is noted that the domestic industry had submitted details of the cost of production but had not included or shown adjustments in the cost for the by products generated in the production process. As per consistency practice, the impact of by product realization during the period concerned has been made to arrive at the COP and profitability.

Cash Flow

28. Being a multi-product company, the Authority does not propose to conclude its findings on this parameter.

Return on Investments

29. It may be seen that the return on investment has increased from *****% during the base year to *****% in the POI. As there has been significant rise in the ROI of the domestic industry, no adverse impact on the domestic industry is proposed to be concluded on account of this parameter.

Ability to Raise Capital

30. The Authority has examined this parameter and proposes to conclude that it is not adversely affected by this parameter during the injury determination period.

Employment and Wages

31. There has been a little change in the employment numbers of the domestic industry. It has been indicated in the Annual report of the Company that increases in the wages over the years is on account of normal increments and accordingly the Authority does not propose to conclude injury on account of this parameter.

Productivity

32. It is seen that the productivity of the Domestic Industry has increased. Hence, decline in productivity is not a factor causing injury to the domestic industry.

Factors affecting domestic prices

33. It clearly shows that the prices from the subject countries have decreased from their levels in base year to POI. However, the level of price undercutting appears to be

very insignificant and decline in the export prices has been much less than decline in the COP of the domestic industry. There has been a decline in the selling prices of the domestic industry during the injury period, however, there has been greater decline in the COP during the same period to the domestic industry.

Magnitude of Margin of Dumping:

34. The margin of dumping ranges between negative to 65% from the subject countries and is considered significant by the Authority.

Growth

35. It may be noted that the overall market has shown 11.2% growth during the period of investigation as compared to the base year. The sales volume of the domestic industry has increased much more than the rise in the domestic demand during the period of investigation while the total sales revenue has also increased significantly. The growth of the domestic industry is positive in terms of market share during the period of investigation as compared to base year. At the same time the imports from the subject countries declined by 75% and there has been a significant uptrend in the profitability of the firm during the injury period.

Issues raised by the domestic industry after the disclosure and examination by the Authority:

36. (i) With regard to the query (termed error by domestic industry) after the disclosure, it is confirmed that the price under-cutting and price underselling has been determined only for the POI. However, the price depression and price suppression has been determined for the injury period, as a whole.

(ii) As regard the submissions of domestic industry that it is mandatory to look into causes of threats of material injury to the domestic industry, it is concluded that the investigation was not initiated on the basis of threat as there were no claims from the domestic industry in this regard and hence, it is not relevant to analyze the threat issue at this stage in this investigation.

(iii) Cumulated landed value from all subject countries have been determined for the POI for the purpose of price undercutting and price underselling.

(iv) With regard to errors in indexing where the original data has also been mentioned, it is noted that indexation has been corrected.

Issues raised on treatment of by products Domestic Industry:-

37. a During the POI, out of total quantity of 13164 MT sold, 4,680 MT were exported. The bye-products are generated at production stage and quality exported is same as quality sold in Domestic Market. Hence, there is no clear-cut record on by product generated from Domestic quantity and from Export quantity. The domestic industry has represented that under the circumstances the realization may be distributed between the Domestic and Export on the basis of respective quantity. They have further added that bye product credit amounting to only Rs.****/- (being Rs.****/MT) be reduced from the cost of production of TDI-Domestic rather than Rs.****/MT-. They maintained that as a result of this adjustment, the over all profit reported for POI will go down by Rs. **** lacs leading to several changes the Injury Parameters. They have added that broad basing of previous three years was desirable to remove the effect of any abnormality. In this connection, they have drawn the attention to the fact that realization of by Products especially HCL was very high during POI and in previous three years, the same was **** to ****% of realization in POI. Based on the logic explained to them, they have added for broad basing, it is equally important to take an average realization of last three years to remove the abnormal reduction in cost of production by an abnormally hefty figure.

b. It has been submitted by the domestic industry that disclosure statement presumably considers by-product realization at Rs.****/MT of TDI, which is on higher side and detrimental to the interest of this Petitioner. The domestic industry has submitted that the bye-product credit may be considered at an average realization for last three years especially in light of the fact that anti dumping duty determined will be effective for next five years. It has been further submitted by them that the bye product is generated at production stage and that level it is not clear whether the production will go to domestic market or export market. Hence, it is imperative to distribute the same on the basis of quantity for domestic and export Market.

Examination by the Authority of views expressed by the Domestic Industry in response to the Disclosure Statement

38. The Authority has examined all the issues raised by the domestic industry. It was noted during the course of verification that the company in the process of manufacture of the subject goods also produces number of by products. By product realisation is shown as part of other income and not deducted from the cost of production of the subject goods. Further, a number of letters were sent to the company after verification to get clarification about the treatment of by products in the cost. The company vide its letter dated 4-6-2004 admitted that the amount of realisation of the by- product like Hydrochloric Acid, Ortho Toluene – Dia Mine and MDI have been ignored on account of its highly volatile market condition.

39. In order to arrive at the actual cost of the subject goods for a particular period it is necessary to adopt the actual rates of raw materials and similarly by products as prevailed during that period. It is noted that details of the sale of these by products during the POI and the last three years as obtained at the time of verification had been deducted from the cost of the subject goods during respective years to arrive at the actual cost of production. In this regard it is clarified that the company has furnished different sets of information with regard to the details of by products sold during injury period. Information submitted subsequent to the verification is different from the one obtained at the time of verification. In response to the disclosure statement the domestic industry has submitted another set of information which is different from the earlier submissions. In view of the above the Authority has adopted the by product realization as per the information obtained during verification at the premises of the Domestic Industry to arrive at the cost of production.

Conclusion on Injury

40. The Authority has examined all the parameters to determine whether imports of subject goods have caused material injury within the meaning of rule 11 and its annexure II. With regard to volume effect of dumped imports from the subject countries, it is noted that the volume of dumped imports from subject countries declined significantly over the injury period in absolute as well as related terms. During the injury determination period, dumped imports from the subject countries declined significantly in volume by 79% and in market share by 60% (from 62% in 99-00 to 25.38% in the POI). Further, the share of dumped imports from subject countries in the total demand declined significantly during the injury period (more than 80%) while the share of non-dumped imports declined by approximately 50%. However, the share of domestic industry in the total demand improved significantly during the same period where it went up from 57% to 84%. On the basis of above examination, it is concluded that there is no volume effect with regard to dumped imports from subject countries during the present investigation. With regard to trend of import price of the subject goods from subject countries, it has been seen that these prices have declined by (2 to 14% from various subject countries as shown in the table above and cumulatively they have declined by 3.5% during the injury period. There is no price suppression during the same period as the cost of production has declined (28%) more than the decline in sales price (10.23%) with landed price declining by 10% during the same period. As the import prices of dumped subject goods from subject countries not undercut the domestic selling prices significantly (less than 1%), the price undercutting on account of dumped imports is considered as insignificant. With regard to the impact on the domestic industry because of price and volume effects on account of dumped imports, it is noted that the market share of the domestic industry increased significantly (more than 40%) during the injury period. In fact, the

growth in the market share of domestic industry is significantly much higher than growth in the demand of the subject goods in India. The domestic industry's sales have increased significantly during the same period and its capacity utilization has increased significantly (133%). With regard to growth parameters, it is seen that there has been a positive growth in the parameters like turnover, sales volume, demand, capacity utilization, production. The domestic industry which was incurring loss during the base year has reported a significant profit during the period of investigation while its return on capital employed has doubled during the same period. With regard to other parameters of injury as enumerated in the earlier paragraphs, the authority did not find injury to the domestic industry with reference to most of the parameters such as production, capacity, capacity utilization, sales, employment, wages, productivity, cash profits, inventories as a percentage of sales, and inventories as a percentage of production. It is also noted by the Authority that while the margin of dumping continues to be significant from the subject countries with the exception of Japan, where all the imports have been found to be un-dumped, there has not been any material impact or material injury on account of dumped imports from subject countries. Therefore, on the basis of the above, it is concluded that the domestic industry did not suffer material injury during the period of investigation.

Conclusions:

41. The Authority after considering the foregoing, concludes that

1. The subject goods have been imported from the subject countries except Japan below their normal value.
2. The domestic industry has not suffered material injury.

42. Accordingly, the Authority does not recommend imposition of anti dumping duties on imports of subject goods from subject countries.

(Dr. Christy Fernandez)
Designated Authority