

Ministry of Commerce

NOTIFICATION

New-Delhi, the 15th February, 2002

FINAL FINDINGS

Subject: Anti-Dumping investigations concerning import of Hexamine from Saudi Arabia and Russia.

12/1/2000-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, 1995 thereof:

A. PROCEDURE

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification no. 12/1/2000-DGAD dated 15th May, 2001 with regard to anti-dumping investigations concerning imports of Hexamine from Saudi Arabia and Russia and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the said findings within forty days from the date of the letter;
- c. The Authority provided an opportunity to all interested parties to present their views orally on 24/9/2001. All parties presenting views orally were requested to file written submissions of the views expressed orally at the time of the public hearing. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.
- d. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;
- e. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;

- f. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, have been duly considered in these findings;

*** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION

2. The product involved in the present investigation is Hexa Methylene Tetramine known as Hexamine in market parlance. Hexa Methylene Tetramine is a white crystalline powder with a sweet metallic taste. In the pure form, it is colourless and odourless. It crystallizes in rhombic dodecahedrons. Hexa Methylene Tetramine compound is also known as Ammoform, Methenamine, Cystamine, Cystogen, Urotropine. It is classified under custom sub- heading 2921.29 of the Customs Tariff Act, 1975 and ITC No.2921.2901. The classification is however indicative only and is in no way binding upon the scope of the present investigations.

The most important industrial use of Hexamine is for the manufacture of solid phenolic resins. The other important use is for the manufacture of a high explosive cyclonite. Hexamine being anti-bacterial in action is used as a urinary antiseptic. It is also used for-

- Adhesives
- Coatings
- Sealing compounds
- In the preservation of hides
- As a rubber vulcanization accelerator
- As a corrosion inhibitor for steel
- Dye fixative
- Fuel tablet for camping stoves
- Stabiliser for lubricating and insulating oils

The Authority confirms the preliminary findings on product under consideration.

C. LIKE ARTICLES

3. Rule 2(d) of the anti-dumping rules specifies that "Like Articles" means an Article which is identical or 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 examinations.

In order to establish that Hexamine produced by the domestic industry is a Like Article to that exported from Saudi Arabia and Russia, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority also finds that there is no argument disputing that Hexamine produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Hexamine imported from the subject countries both commercially and technically. Hexamine produced by the domestic industry has been treated as Like Article to the product exported from Saudi Arabia and Russia within the meaning of Rule 2(d).

In view of the above, the Authority confirms the preliminary findings on Like Articles.

D. Domestic Industry

4. The petition was filed by M/s Simalin Chemicals Industries Ltd., Baroda and M/s Rockhard Petro Chemical Industries Ltd., Indore, alleging dumping of Hexamine originating in or exported from Saudi Arabia and Russia. The production of Hexamine by the petitioners has been as under:-

| | 1997-98 | 1998-99 | 1999-2000 | 2000-2001 6 months | POI |
|-------------------------|---------|---------|-----------|--------------------|-------|
| Petitioners | | | | | |
| Simalin | 1747 | 1771 | 2693 | 1317 | 4010 |
| Rockhard | 362 | 864 | 1053 | 137 | 1190 |
| Other producers | | | | | |
| Kanoria Chemicals | NA | 3141 | 3820 | 1595 | 5415 |
| Hitech | NA | 730 | 800 | 650 | 1450 |
| Total Indian Production | 2109 | 6506 | 8366 | 3699 | 12065 |

M/s Kanoria Chemicals & Industries Ltd., have supported the petition. The petitioners account for 43.09% of the total production in the POI and the petitioners and supporter together account for 87.98% of the total Indian production. The Authority notes therefore that the petitioner constitutes "domestic industry" and has the required standing to file the present petition under the Rules.

E. Period of Investigation:-

5. Investigations were carried out for the period 1st April, 1999 to 30th September, 2000 (18 months). The investigations were initiated on 20th February, 2001.

6. Other Issues:-

(A) Submissions made by M/S Saudi Formaldehyde Chemical Company Ltd. :-

1. At the outset SFCCL would like to confirm that we are very much willing and interested to participate in the investigation process. SFCCL has annexed a formal representation in the form of a duly filled in Exporter's Questionnaire.
2. The reason that SFCCL could not submit its case to the Designated Authority earlier was non receipt of timely communication in this regard. Section A, article 1 (v) of the Gazette of India (Extraordinary) Notification, Part 1, Section 1, No. 129 dated 15th May, 2001 announcing provisional imposition of anti-dumping duties on supply of Hexamine originating in or exported from Saudia Arabia mentions that the Authority forwarded a copy of the public notice to the known exporters and gave them the opportunity to make their views known. SFCCL has never received the said copy of the public notice. Strangely, Section A, Clause 1 (ix) indicates an incorrect address of our company in which even the name of the city in which SFCCL offices/Petrochemical Complex exists, is not mentioned. Apparently, the reasons for our not receiving the public notice could be the incomplete address furnished by the petitioners for reasons best known to them. SFCCL did not get adequate opportunity to respond before the Preliminary Findings.
3. SFCCL has a definite claim with regard to normal value and export prices of Hexamine, which is being submitted in the form of duly filled in exporter's questionnaire (both confidential and non confidential versions). It would be apparent from the said duly filled in questionnaire that no claim for dumping Hexamine by SFCCL in India is tenable.
4. SFCCL exports is formaldehyde/derivatives (Hexamine is a formaldehyde derivative) products to many countries and has never had price dumping claim in its 11 years of corporate existence. Actually SFCCL has failed to compete effectively with other manufacturers especially in the Indian sub continent, losing a number of orders due to pricing limitation. We had to regret supplies to a very large number of Indian users since they insisted on buying the product at unacceptable price levels.
5. It is notable that there is no market for Hexamine in the kingdom of Saudia Arabia and therefore, we do not have any domestic sales of Hexamine nor do we export Hexamine to Some other Gulf Cooperation Council Countries.
6. SFCCL does enjoy a raw material price advantage by virtue of its location in the kingdom of Saudi Arabia as compared to Indian producers. The prices of main raw material for Hexamine (methanol/formaldehyde and ammonia) are considerably higher in India as compared to international price levels. Some Indian producers (petitioners) are not able to effectively compete with

international manufacturers partially due to high raw material pricing and partly on account of process in efficiency in their plants.

(B) Submissions by Span Overseas Ltd.:-

1. Span Overseas Ltd. has been appointed by M/S Trigon Gulf FZCO, Jebel Ali, Dubai, UAE who are the exporter (Traders) of Russian origin, Hexamine to represent them in the anti-dumping investigations being conducted by the Designated Authority.
2. Due to backward integrated system, natural gas is available in plenty in Russia which is then converted into methanol and ammonia and methanol is converted into formaldehyde to make Hexamine. Whereas, in India, methanol is imported and not made under captive consumption which is why the cost of Hexamine in India is higher as compared to the product imported from Russia.
3. Even the physical properties of the Russian Origin Hexamine being exported by M/S Trigon Gulf FZCO are different from the one being produced in India. The Russian material is non stabilized (means no silica gel is mixed) so it is hygroscopic. In other words, material attracts moisture and when produced has lumps. Whereas the Indian material is stabilized and free flowing.

(c) Submissions by HPL Industries Pvt. Ltd.:-

1. This company is a manufacturer of rubber blowing agent (known as DNPT) in the manufacture of which Hexamine is used as a basic raw material. They have placed an order for import of 60 MT of Hexamine from Russian exporter M/s Roschim Commerce Ltd., 3, Chrysanthon Mylona STR, Limassol, Cyprus.
2. With respect to the list of exporters whose details were made available by the petitioner it is submitted the address of the Saudi exporter namely Saudi Formaldehyde Chemical Co. Ltd. has been wrongly furnished. Further to the best of the company's knowledge, Zolt Company Ltd. and Trigon Gulf Fzoo are not in existence are merely bogus names. Therefore, it is for this reason that there was no response from the exporters of Saudi Arabia and Russia.
3. The list of importers furnished by the petitioner is wholly false.
4. The price of Hexamine depends on various factors primary among them being the price of methanol and ammonia. The prices of methanol have fallen from February, 2001 onwards.
5. The second petitioner, M/S Rockhard Petro Chemical Industries Ltd. is closed for the past 18 months and is not producing Hexamine. The total demand of Hexamine per month is 700 MT whereas the total production of all manufacturing units is not more than 400 MT to 500 MT per month.

7. Public Hearing Held by the Authority on 24th September, 2001

I Views expressed by Domestic Industry:-

(A) The petitioner vide their written submissions given subsequent to the oral hearing held on 24th September, 2001 has inter alia raised the following issues:-

1. The Designated Authority has followed an elaborate procedure in the present investigations. Notices were sent to the known exporters and producers in the subject countries and a number of importers and users of Hexamine in India. Only one exporter from Saudia Arabia M/S SFCCL filed a response to the questionnaire after the Preliminary Findings which was five months after the initiations of investigations by the Designated Authority.
2. The petition has been jointly filed by Simalin Chemical Industries Limited, Vadodara and Rockhard Petro Chemical Industries Limited Indore. The petitioners account for major production of total Indian production. The petitioners, thus satisfy the standing to file the present petition and constitute domestic industry within the meaning of the Indian Anti Dumping Rules.

It has been argued by the Saudi Arabian exporter that the production of the petitioners does not constitute more than 50% of the Indian production. However, the exporter has not been able to bring out the relevant provision which states that the production of the petitioners must be more than 50% . A major proportion cannot be construed to imply more than 50%.

3. The response filed by the exporter appears to be incomplete as is observed from the scant disclosure made in the non confidential version. The exporter seems to have claimed that the selling, general and administrative expenses have been allocated to various products produced by the company on the basis of capacities of various products. The overhead expenses of the company have been divided based on installed capacity even when market value of these products significantly vary. Needless to say the normal method in such circumstances is apportionment of the expenses on the basis of turn over.
4. Imports from each of the subject countries are more than deminimis. In this regard even though Hexamine has dedicated customs classifications there are imports of other products (which are not Hexamine) but imports of which have been cleared under Customs Classifications meant for Hexamine.
5. With regard to the argument of the Embassy of Russia and the exporter from Saudia Arabia that there were no imports from Russia, we submit that not only the DGCI&S but also the secondary source clearly established that there were imports of Hexamine in India in the investigation period from the subject countries.

(B) Rejoinder by Domestic Industry

1. The Representative of Russian Trade Federation had attended the oral hearing on 24th September, 2001. However, no written submission have been filed by them so far.
2. While the exporter has taken undue pains in pointing out unfounded procedural lapses in the present investigations, the exporter had made one line submission with regard to existence of dumping i.e. the information file in the questionnaire proves there was no dumping at any point of time. The exporter has not bothered to explain how there was no dumping.
3. The petitioners had attached a copy of the project work report of Department of Chemical and Engineering, MSRIT, Bangalore with the confidential version of the petition. The information enclosed by the petitioners does not form part of statutory requirement laid down by the Designated Authority. More over, one of the petitioners had provided this information in confidence. Such being the case, a copy of this could not have been attached with the petition in its non confidential version. However, we had already provided a copy of this report with the written submission.
4. It need be appreciated that the import data compiled by the secondary sources is provided by such agencies with a clear understanding the such data cannot be reproduced and used as evidence in a legal proceeding. Such being the case, the request of the exporters is unfounded.
5. It is our understanding that form 'F' of the prescribed proforma does not form Part 1 – Part V of the petition, wherein the petition is required to be made. Form 'F' forms part of Part VI of the application proforma which is required to be submitted after initiation. This becomes evident from use of words Format A, B, C, D & E with the formats forming part of Part VI to the application proforma.
6. We had already conveyed our willingness to exchange the balance sheet on the principles of equity and fairness. It cannot certainly be a case of an exporter that its balance sheets are confidential and balance sheets of other interested parties are non confidential. Rule 7 of Indian Rules and Article 6.5 of the WTO Agreement dealing with the issue of confidentiality does not deal with the situation of "information publicly available". Article 6.5 in fact specifically provides the circumstances in which information can be claimed confidential.
7. It is indeed surprising that the exporter has demanded production, sales and profitability figures of petitioners/supporters as the exporters itself has not provided this information in its non confidential version.
8. The argument that the public file is incomplete is unfounded. Information claimed confidential cannot be disclosed to opposing interested parties. The argument that the Designated Authority is required to make a "final" determination regarding standing at the time of initiation is not only unfounded but also unsupported by law.

9. While the exporter has advanced detailed argument on what should be the period of investigation. It has not been argued by the exporter that how the fixation of present investigation period has affected any party – be it exporter (adversely) or petitioners (favourably). The domestic industry or the petitioner is not required to expressly claim an investigation period in the petition. This is the discussion of the Authority.
10. It is the grievance of the petitioner that the exporter has claimed almost everything as confidential in its submissions to the questionnaire. Even information on index basis has not been provided.
11. The Designated Authority has very clearly recorded a finding on causal link in the preliminary findings.
12. Cumulation: The argument of exporter on the issue of cumulation also deserves to be rejected on account of the following:-
 - i. The legal provisions relating to the cumulation are well met in this case, as the dumping margins from both the countries are more than de-minimus and the volume of dumped imports are more than the de-minimus limits prescribed. The imports from both the countries were competing with the prices of the domestic industry in the market. Cumulative assessment was, therefore, appropriate in the light of the conditions of competition between the imported products and the domestic like products.
 - ii. Contrary to the argument of the exporter, the performance of the domestic industry deteriorated not only in the period April-September, 2000 but also in the period 1999-2000 but also in the period 1999-2000, as may be seen from the information filed alongwith the petition and costing information. Mere increase in the production and sales volumes does not imply "no injury". The increase in the production and consequently sales volumes must be seen alongwith the impact of the selling prices on profitability.
 - iii. There were increased imports from Saudi Arabia in the period April-Sept., 2000. Assuming though not admitting, therefore, that even if the domestic industry has not suffered injury in the period 1999-2000, the domestic industry undisputedly suffered material injury in the period April-September, 2000 (which is not only a part of the investigation period but also a sufficient period).
 - iv. The volume of imports from Saudi Arabia was many times higher than the volume of imports from Russia. It may rather be appropriate to say that bigger injury was caused by the Saudi exporter, even though the imports from Russia were also at dumped prices and caused material injury to the domestic industry.

II Views expressed by Trade Representation of the Russian New-Delhi

1. According to the information received from the Ministry of Economic Development and Trade of the Russian Federation, the company 'Zolt Company Limited' is not located by the address given in the petition. There is some other company there which has nothing to do Hexamine or Urotropine. As to Zolt Company Limited, they do not produce such substances as Hexamine or Urotropine.
2. Besides there is one more discrepancy in the non confidential version of the petition (page 2, para 5). It is mentioned that the product has been supplied directly from Russia whereas according to Russian statistics, there have been no direct supplies of Hexamine from Russia to India.
3. But even if there is some Russian company dealing with Hexamine or Urotropine the Russian companies should be excluded from the case, since there was no direct shipment of the product from Russia to India.
4. In accordance with official statistics received from the Ministry of Economic Development and Trade of the Russian Federation within the period of investigation export of Hexamine from Russia was NIL. According to the Monthly Statistics of the Foreign Trade of India (Annual 1999-2000), import from Russia was also NIL.
5. As to the company M/s Roschim Commerce Ltd., 3, Chrysanthon Mylona, STR, Limassol, it is NOT a Russian company.
6. With due regard to the above, the Authority is requested to kindly exclude Russia from the investigation.

III. Views expressed by exporter M/s SFCCL, Saudi Arabia in written submissions and rejoinder:-

1. Request for certain documents/information from the domestic industry has not been acceded to viz., project work of Dept of Chemical & Engineering, MSRIT, Bangalore; Original information of import data as received from secondary sources; copies of verification certificates in Format 'F'; balance sheets of petitioners as well as supporting companies for the last three years, production, sales and profitability figures of supporting manufacturers.
2. The 'standing' of the domestic industry to file the petition is not under question but the injury aspect has to be analysed for at least 50% of the domestic industry.
3. The first paragraph of the written submission by the petitioners refers to 'large scale dumping' which is factually incorrect. SFCCL exports its Formaldehyde/derivative (Hexamine is a formaldehyde derivative) products to around 40 countries worldwide and has never had a dumping complaint in its 11 years of corporate existence. SFCCL is world scale producer of these

products at its 'state-of-the-art' petrochemical complex located in AL Jubail industrial city employing modern up-to-date process technology.

4. Since SFCCL does not have any domestic sales, the Normal Value determination has to be based on the cost of production in the country of origin. SFCCL's normal value is higher than the export price to India and hence there is no case of dumping whatsoever against SFCCL.
5. It has been pointed out by the domestic industry that they are greatly concerned over the acceptance of the response by the Designated Authority. It may be pointed out that in order to pass the test of 'accuracy and adequacy' it is the duty of the domestic industry to ensure that at least the material facts are presented correctly in the petition. As has been pointed out in our letter dated 19/6/2001 the domestic industry gave a wrong address of SFCCL's corporate offices/petrochemical complex (even the name of the city was not mentioned) and as such SFCCL never received the notification of the Authority within the 40 days notice period. On being advised of such proceedings by the Saudi Government channels, SFCCL lodged a request with the Designated Authority requesting an extension of time period which was turned down. Presuming that the 'error' on the part of the domestic industry was unintentional the domestic industry in all fairness should not raise this issue and question the judgement of the Authority. Notwithstanding the above, the subsequent decision of the Designated Authority to accept SFCCL's response and participation in the proceedings is deeply appreciated.
6. Allegation of incomplete response by the exporter:
 - a. The major objection by the domestic industry seems to be that indexed information has not been provided to them with regard to exports to India and total sales of the company. This is factually incorrect as Appendix 3 clearly gives indexed information for the sales made to India and also to other countries. It has further been alleged that indexed information has also not been provided with regard to the list of owners/shareholders which is completely baseless as the non confidential version gives the names of the individual shareholders.
 - b. Another so called deficiency reads as "no sales in domestic market". SFCCL has failed to appreciate as to how the fact that they do not sell Hexamine in the domestic market can be considered as a deficiency.
 - c. It has also been mentioned that the basis of pricing of the major raw material needs to be disclosed to the Authority and also the methods of allocation of overheads. The domestic industry has also pointed out that the costing information of the exporter has also not been indexed. There is no requirement to index that information which is confidential and not available to

summarisation/indexation. The domestic industry has not even provided the non confidential version of any part of Part VI of the application proforma.

7. SG&A expenses apportioned on the basis of capacity :- The domestic industry had not raised this issue during the course of the public hearing for reasons best known to them. Para 1 to Annexure 1 of the anti-dumping rules reads as under:

"1. The elements of costs referred to in the context of determination of normal value shall normally be determined on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country, and such records reasonably reflect the cost associated with production and sale of the article under consideration."

Thus, it is clear from the above that the Designated Authority would be fully justified in accepting the legitimate practices of the exporter. In their written submissions, the domestic industry has simply mentioned that the overhead expenses of the company have been divided based on the installed capacity even when market value of these products significantly vary. It further states that the normal method in such circumstances is to apportion the expenses on the basis of the turnover. It may be seen that no reasons have been mentioned as to why such a practice is 'normal' under all circumstances. We would like to submit to the Hon'ble Designated Authority that there are neither any international accounting standards that prescribe the denominator-level to be used for allocating SG&A expenses nor are there any 'normal' methods for allocating SG&A expenses. Each company adopts and consistently applies the denominator-level based on certain business practices. We have been using the installed capacities as the denominator-level from the very beginning and we have consistently applied it over the years.

The SG&A expenses (the selling expenses do not include any direct selling costs that can be directly identified to a product) are entirely fixed in nature in our case. They do not vary with changes in production or sales volumes or changes in selling prices of the products. Thus, the contention of the domestic industry that these expenses should be allocated based on the sales values of the products sold does not have any practical basis. We believe that the level of SG&A expenditure is related to the capacities that the business builds up. Further, in the medium to short term, these expenses cannot be managed based on the volume of business. We, therefore expect each product to recoup its share of the fixed overheads of the company. Any loss incurred by the product on account of lower volume of sales is reported as volume variance. We do not agree with the fact that we should charge more fixed overheads to the products that have a high sales volume in a particular period and less fixed overheads to the product that are sold less in that period. In this case, we would be penalizing the product that is doing well and not reporting the proper loss for the product that is not

selling well. In reality, the sales department would be expending more energy to sell a slow moving product than for selling a high volume fast moving product. Therefore, we fail to see the relation between SG&A expenses and the sales values of the products.

8. Injury to Domestic Industry: - Attention is drawn to the list of importers/users of Hexamine. The said list comprises of the entire clientele of the petitioners industry, whose requirements are catered to by M/S Simalin, M/S Rockhard etc. None of these importers/users has ever imported Hexamine from SFCCL with exception of M/s IVP. The meagre 40 mt of Hexamine supplied by SFCCL to M/S IVP during the investigation period of 18 months represents an insignificant and miniscule proportion of the total production/sale of Hexamine by the petitioner to the list of clients. SFCCL's exports of Hexamine to India have in no way caused any injury whatsoever to the petitioners.

9. There is no reason to cumulate the injury parameters as it is obvious that during the material part of the investigation period there was no injury to the domestic industry and there were no imports from Russia during that time. Therefore, the question of competition between imports from Saudia Arabia and Russia does not arise.

10. SFCCL does enjoy a raw material price advantage by virtue of its location in the kingdom of Saudi Arabia as compared to Indian producers. It is common knowledge that petitioners are not able to effectively compete with international manufacturers partly due to high raw material pricing and partly on account of process inefficiencies in their plants. Further, by their own admission the petitioners have accepted that the cost of production of the domestic industry has increased significantly.

8. Examination by the Authority on Other Issues:-

The Designated Authority has considered all submissions made by interested parties on merits and in accordance with the Rules. The Authority notes that the petitioners and their supporter together account for 87.98% of the domestic production and therefore constitute the domestic industry and have the required standing to file the petition under the anti-dumping Rules. The project report of Dept of Chemical & Engineering, MSRIT, Bangalore, the import data from secondary sources as provided by the petitioner and the Annual Reports (Balance Sheets) of M/s Rockhard Petro Chemical Industries Ltd., Indore, (which is a public limited company) for the last three years were made available in the public file and the exporters counsel was also kept informed regarding the availability of the balance sheets of the said company in the public file and was asked to peruse the same. To state that no intimation was received from the Designated Authority regarding the availability of the balance sheets is incorrect. Regarding the allegation of one of the interested parties that the

second petitioner, M/S Rockhard Petro Chemical Industries Ltd. is closed for the past 18 months and is not producing Hexamine, the Authority notes from the production details of Hexamine that M/s Rockhard Petrochemicals has produced the subject goods throughout the entire period of investigations with the exception of the period July to September 2000.

F. DUMPING:-

Exporters and Producers of the Subject Goods in the Countries of Origin:-

None of the exporters/producers of Hexamine in the Russia responded to the Authority's request for relevant information. M/s SFCCL, Saudi Arabia co-operated and responded to the questionnaire sent by the Authority.

(a) Normal Value:-

M/s SFCCL, Saudi Arabia

The exporter has requested that Normal Value may be determined in accordance with the cost of production of the product as they do not sell any Hexamine in the domestic market. The Authority has examined Normal Value in relation to the subject goods in accordance with Section 9A (1) (c) (ii) (b). As given in Appendix 8 (factory cost and profit of exports to India), of the questionnaire response the Authority notes that SFCCL had exported a quantity of *** MT of Hexamine to India during the period of investigations. The Authority has considered an amount of USD *** /MT as the cost of formaldehyde and USD ***/MT as the cost of ammonia. The total cost of raw material is, therefore, considered to be USD***/MT. The Authority has considered the cost of utilities as USD ***/MT; direct labour cost has been taken to be USD ***/MT; manufacturing overheads have been considered as USD ***/MT; financing cost as USD ***/MT; interest cost nil; average packing cost has been considered as USD ***/MT. The total S&G expenses is therefore USD ***/MT. Depreciation cost is taken as USD ***/MT. The ex-factory cost of production works out to USD ***/MT. The Authority notes that SFCCL had exported *** MT to third countries which constitutes 95.26% of total sales and the average profit of USD ***/MT earned by SFCCL on these third country sales has been adopted by the Authority as the normal profit. The normal value in Saudi Arabia based on the cost of production and normal profit as indicated above therefore works out to USD ***/MT.

In response to the disclosure statement issued by the Authority, the exporter has made the following observations:-

- a. They have stated that the Authority has in a large number of cases consistently applied ***% as a reasonable profit margin on the cost of production to arrive at the constructed normal value. A figure of ***% is stated to be reasonable in the case of SFCCL also as their operations are primarily geared toward the export markets. They have stated that the addition of the notional profit based on the margins on export to third countries is not supported by the legal provisions.
- b. They have stated that out of the total exports of ***MT of Hexamine to India only ***MT of stabilized hexamine was sold. Thus there is no ground for adding the stabilization cost to the actual cost of production of Hexamine.
- c. While working out the constructed normal value, the average packing costs have been considered. The exports of Hexamine to India are in loose bags without pallets whereas exports to other countries are with pallets thereby increasing the cost of packing.

Examination By the Authority:-

1. Regarding the normal profit, the Authority notes that Rule 4 of Annexure I of the Anti-Dumping Rules states that, "The amounts for administrative, selling and general costs and for profits ...shall be based on actual data pertaining to production and sales in the ordinary course of trade of the like article by the exporter or producer under investigation." In the present investigations, the Authority notes that SFCCL had exported *** MT to third countries which constitutes 95.26% of total sales and the average profit of USD ***/MT earned by SFCCL on these third country sales has been adopted by the Authority as the normal profit. The normal value in Saudi Arabia has been based on the cost of production and normal profit as indicated by the exporter in their response to the questionnaire.
2. The Authority notes that SFCCL in response to the Authority's query dated 21/11/2001 had stated vide their letter dated 5/12/2001 that SFCCL's Indian customers require the Unstabilized grade and product is supplied to them in accordance with their specifications. It is only in response to the Disclosure Statement that SFCCL has subsequently admitted that stabilized material has also been sold..The Authority notes that since Hexamine in basically unstabilized form has been exported to India and stabilized Hexamine is relatively of small quantity, the Authority has not added the stabilization cost to the actual cost of production of Hexamine.
3. From sample copies of the export invoices which have been submitted by SFCCL, the Authority notes that exports of the subject goods have been made to a buyer in Mumbai in woven bags duly palletized. Hence the Authority has

considered an average packing cost incurred by the exporter for all their exports of Hexamine.

Other Producers/Exporters from Saudi Arabia:-

The Authority observes that other producers/exporters from Saudi Arabia have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers such producers/exporters to be non-cooperative and has proceeded on best available information. In the circumstances the Authority was constrained to determine the constructed cost determined as USD ***/MT (Rs ***/MT) at an average exchange rate during POI of 1USD=Rs 43.70.

Russia

The Authority observes that the exporters from Russia have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers the exporters to be non-cooperative and has proceeded on best available information.

The petitioners have requested that the normal value in Russia be accepted on the basis of constructed cost of production of Hexamine. In the circumstances the Authority has been constrained to determine the constructed cost.

The normal value in Russia is therefore considered to be USD USD ***/MT (Rs ***/MT) at an average exchange rate during POI of 1USD=Rs 43.70.

(b) Export Price:-

M/s SFCCL, Saudi Arabia

The exporter had furnished information pertaining to sales of the subject goods viz. exports to India, domestic market sales (nil) and exports to other countries as per Appendix 2 and 3. The factory costs and profit has been furnished in Appendix 8,9 and 10. In Appendix 7 information on licensed and installed capacity , production and sales has been given. In Appendix 4 (sales price structure for exports to India) adjustments have been claimed on account of charges before and after fob.

Examination by Authority

1. The exporter has provided a non-confidential version of the confidential response to the exporters questionnaire filed by them.

2. In Appendix 3 it is seen that a quantity of ***MT of Hexamine was exported to India at a cif value of USD ***.
3. Adjustments have been claimed in Appendix 4 (sales price structure for exports to India) where the selling price shown is USD ***/MT (average). After considering discounts/commission (USD***/MT), inland freight (USD ***), overseas freight (USD ***), and overseas insurance (USD ***) the total costs before and after fob comes to USD ***/MT. After considering adjustments as given above, the export price at ex-factory level is USD ***/MT.

Russia

The cif price as per the information available with the Authority is determined at Rs ***/MT for Russia. The ex-factory export price has been determined after taking USD ***/MT as ocean freight (based on petitioner's information), ***% as marine insurance charges, commission @***% for the agent in the exporting countries, ***% for inland transportation and ***% for port handling and port charges as per the Indian experience. However, commission @***% for the Indian indenting agent as claimed by the petitioner is not allowed by the Authority for want of documentary evidence. After adjustments on these accounts the ex- factory fob export price is estimated to be Rs ***/MT or USD ***/MTfor Russia at an average exchange rate of Rs 43.70=1USD.

Other Producers/Exporters from Saudi Arabia:-

The Authority observes that the other producers/exporters from the subject country have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers such exporters to be non-cooperative and has proceeded on best available information. The Authority has referenced the export price for non-cooperative exporters from available information which is Rs ***/MT (cif) . After adjustments (based on the claims of the co-operating exporter) the ex-factory export price comes to Rs ***/MT or USD ***/MT.

(c) Dumping Margin:-

Examination by the Authority:-

The Authority has followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the anti-dumping rules. Based on the normal values and export prices as indicated above, the Authority assessed the dumping margins in case of all exporters from Saudi Arabia and Russia as given in the table below:-

| Country | Exporter/Producer | Normal Value (USD/kg) | Export Price (USD/kg) | Dumping Margin % |
|--------------|-------------------------------|-----------------------|-----------------------|------------------|
| Saudi Arabia | M/s SFCCL | *** | *** | 17.44% |
| | All other producers/exporters | *** | *** | 43.52% |
| Russia | All producers/exporters | *** | *** | 27.22% |

G. INJURY:-

The Authority has taken into account all indices regarding injury while doing the final determination. This involves all relevant principles for determination of injury as specified under Annexure II of the anti-dumping rules viz., the volume of dumped imports, their effect on price in the domestic market and its effect on the production, capacity utilisation, sales, profits, market share etc. of domestic industry. While determining the non-injurious price for the like article for the domestic industry, the Authority has examined and analysed in detail all the relevant factors such as usage of raw material, usage of utilities such as power, water, etc., interest cost, cost of labour, depreciation cost and selling and administrative expenses including factors such as investments made in the plant and capacity utilisation. All these factors have been determined with reference to the basic books of accounts and production and financial statements. The Non-injurious price for the domestic industry has been determined by addition of a reasonable profit margin on the capital employed by the petitioner to the cost of production. For calculation of injury margin, the ex-factory non-injurious price of the domestic industry has been compared with the landed value of the imported goods.

The quantum of imports, production, capacity and capacity utilisation, sales and market share, closing stocks, landed values of the subject goods from the subject countries and selling prices of the petitioner were as given below:-

Quantum of Imports:-

Quantity (kg.) As per DGCIS

| Countries | 1997-98 (as per DGCIS) | 1998-99 (as per DGCIS) | 1999-2000 (as per DGCIS) | Apr-Sep'00 (as per DGCIS) | Apr'99-Sep'2000 (18 months) |
|-------------------------|------------------------|------------------------|-------------------------------------|---|--|
| Total imports | 53,120 | 211,830 | 8,57,531 (DGCIS 812,106 +45,425) | 5,25,240 (DGCIS 418,740 +1,06,500 SFCCL) | 13,82,771 (DGCIS 12,30,846 +1,51,925 SFCCL) |
| Saudi Arabia | --- | --- | 88,000 | 78,000 (annl. 156,000) | 166,000 |
| As per SFCCL's Response | | | 133,425 | 184,500 | 317,925 |
| Russia | --- | --- | --- | 45,000 | 45,000 |

The increase in the total imports of Hexamine was 298% in 1998-99 over that of 1997-98. Imports increased by 304.8% in 1999-2000 over 1998-99 and by 22.50% in Apr-Sep'00 (annualised) over 1999-2000.

The share of Saudi Arabia in total imports was 15.55%, 35.13% and 22.99% in 99-2000, Apr-Sep 2000 and the POI respectively. The share of Russia was 8.56% and 3.25% in Apr-Sep'2000 (6 months) and April'99 to Sep'2000 (POI) respectively.

There were no imports of the subject goods from Russia during 1997-98, 1998-99 and 1999-2000. During Apr-Sep 2000 (6 months) imports from Russia were 8.56% of the total imports. The petitioners are of the opinion that Hexamine is being exported to India only from two countries- Saudi Arabia and Russia. Even though the customs classification is dedicated for Hexamine, the import information compiled by the DGCIS shows large-scale imports from other countries. These imports are at prices which are many times higher than the prices at which Hexamine is imported. Thus imports from other countries shown in DGCIS data cannot be Hexamine but other products which have either been misclassified as Hexamine or which do not have their own dedicated product codes. The Authority notes that the imports of the subject goods from all other sources (other than Saudi Arabia and Russia) as per DGCIS data were at cif prices ranging from Rs 55/kg to Rs 620/kg for the period April-Sep 2000. The Authority notes that during 1999-2000 there were no imports of Hexamine from Russia as per DGCIS data. After considering the quantity shown as exported from Russia in DGCIS transaction-wise data during April 2000-Sept 2000 (6 months), the Authority notes that the total quantity exported by Russia to India during the period of investigations (April 1999-September 2000) accounts for 3.25% of the total imports of the subject goods.

(b) Production and Capacity Utilisation:-

The production capacity, actual production and capacity utilisation of the petitioners was as follows: -

| Petitioners | 1997-98 | 1998-99 | 1999-2000 | 2000-01 (6months) | POI |
|-------------------------|---------|---------|-----------|-------------------|-------|
| Installed Capacity (MT) | 2500 | 2500 | 4500 | 2250 | 6750 |
| Rockhard | 1500 | 1500 | 1500 | 750 | 2250 |
| Simalin | 1000 | 1000 | 3000 | 1500 | 4500 |
| Production (MT) | 2109 | 2635 | 3746 | 1454 | 5200 |
| Rockhard | 362 | 864 | 1053 | 137 | 1190 |
| Simalin | 1747 | 1771 | 2693 | 1317 | 4010 |
| Capacity Utilisation% | 84.36 | 105.4 | 83.24 | 64.62 | 77.03 |

(c) Sales and Market Share:-

| | 1997-98 | 1998-99 | 1999-2000 | 2000-01 (6 months) | POI |
|---------------------------|---------|---------|-----------|--------------------|------------------------|
| Sales (MT) of petitioners | 2086 | 2635 | 3707 | 1489 | 5196 (annl.3464) |
| Rockhard | 345 | 865 | 1013 | 193 | 1206 |
| Simalin | 1741 | 1770 | 2694 | 1296 | 3990 |
| Kanoria | | | 3698 | 1534 | 5232 |
| Hitech | | | 800 | 650 | 1450 |
| Sales (other producers) | | 3871 | 4498 | 2184 | 6682 |
| Demand | | 6506 | 9062.5 | 4198.24 | 13260.7 (annl. 8840.5) |
| Share of dumped imports % | Nil | Nil | 1.47 | 5.46 | 2.74 |
| Share of petitioner % | | 40.5 | 40.9 | 35.46 | 39.18 |

From the information and annual reports of the petitioners, the Authority observes that the quantum of sales made by the petitioners have increased. However, while the level of demand has increased the petitioners share of demand has decreased. The exporter in their response to the disclosure statement has stated that for a proper comparison only the sales figures need to be taken into account. The Authority has analysed the level of demand taking into consideration only the sales figures of other producers as given in the table above.

(d) Price undercutting and price depression

Rs/kg

| Year | Sales Realisation | Landed Price of Imports Saudi Arabia Russia Others | | |
|-----------|-------------------|--|-----|--------|
| 1997-98 | *** | --- | --- | 165.11 |
| 1998-99 | *** | --- | --- | 92.4 |
| 1999-2000 | *** | *** | --- | 118.37 |
| POI | *** | *** | *** | 124.15 |

It is evident from the above table that the exporters from Saudi Arabia and Russia have reduced their prices significantly in the POI. The domestic industry has been forced to reduce its selling prices to respond to the low import prices in the market.

Profitability:-

The domestic industry has been forced to reduce its selling prices below its cost of production, resulting in substantial financial losses. The profitability of the domestic industry has declined significantly as evident from the per unit profit/loss made by the industry from sales in the domestic markets.

| Petitioners | 1997-98 | 1998-99 | 1999-2000 | (POI) |
|----------------|---------|---------|-----------|-------|
| Simalin | | | | |
| COP | *** | *** | *** | *** |

| | | | | |
|-----------------|--------|--------|--------|--------|
| Selling Price | *** | *** | *** | *** |
| P/L | 0.84 | 3.3 | (4.8) | (6.54) |
| Rockhard | | | | |
| COP | *** | *** | *** | *** |
| Selling Price | *** | *** | *** | *** |
| P/L | (0.36) | (5.93) | (5.12) | (6.66) |

(d) Closing Stocks (MT)

| | 1997-98 | 1998-99 | 1999-2000 |
|----------|---------|---------|-----------|
| Simalin | 12 | 13 | 12 |
| Rockhard | 17.15 | 16.50 | 56.20 |
| Total | 29.15 | 29.5 | 68.2 |

The petitioners closing stocks have increased.

H. CONCLUSION ON INJURY

9. In view of the foregoing the Authority confirms the conclusions on injury at Para H.11 of the Provisional Findings and reiterates that:-

- a. the quantum of imports from the subject countries have increased in absolute terms;
- b. the petitioners have been forced to sell at prices below their non-injurious price resulting in losses;
- c. the domestic industry is left with substantial closing stocks.

I. CAUSAL LINK

10.. The Authority notes that while demand has increased the domestic industry's share of demand has decreased. Dumped imports account for 2.74% of demand. In examining the price effect, that is, whether the dumped imports have significantly undercut the price of the like product in India, the Authority notes that the reduction in the export price from the subject countries resulted in low landed price followed by reduction in sales realisation of the petitioners. The domestic industry in its attempts to match the dumped import prices was forced to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The Authority therefore holds that the material injury to the domestic industry was caused by the dumped imports from the subject countries.

11. **Anti-Dumping duty imposed:-**

The Authority has carefully evaluated the injury caused to the domestic industry on account of dumping of Hexamine and has recommended the amount of anti-dumping duty equivalent to the dumping margin or less, which if levied, would remove injury to the domestic industry.

12. FINAL FINDINGS:-

The Authority after considering the foregoing, concludes that:

- a. Hexamine originating in or exported from Saudi Arabia and Russia has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury suffered by the domestic industry and the dumped imports from the subject countries.

13. The Authority recommends imposition of definitive Anti-dumping duty on all imports of Hexamine originating in or exported from Saudi Arabia and Russia falling under customs sub-heading no. 2921.29 of the Customs Tariff Act and ITC No. 2921.2901. The anti-dumping duty shall be the amount mentioned in Col.3.

| Country | Producer/exporter | Amount of Duty (USD/MT) |
|--------------|----------------------------|-------------------------|
| Saudi Arabia | 1. M/s SFCCL | 78.6 |
| | 2. All Others | 130.98 |
| Russia | 3. All producers/exporters | 3.77 |

14. Subject to the above, the Authority confirms the preliminary findings dated 15th May 2001.

15. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

L.V.SAPTHARISHI
DESIGNATED AUTHORITY