

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Commerce)

FINAL FINDINGS

New Delhi, the 3rd September, 2004

Subject: Anti-dumping investigation concerning imports of Melamine from People's Republic of China - Final Findings.

No. 14/16/2003-DGAD:- Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Custom Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

A. Procedure followed after issue of preliminary findings are as follows:

1. Provisional duties were recommended on 27th February, 2004 and Customs Notification No. 53/2004 was issued on 02/04/04. No specific response was received on the preliminary findings from the interested parties.
2. Public hearing was held on 1st April, 2004. It was attended by M/s GSFC (domestic industry), M/s Kaiwei (exporter) and M/s Milton laminates (Importer).
3. Exporter's verification was carried out between 3rd – 5th May, 2004. Issues raised during the verification and the observations were informed to the exporter based on which additional response was furnished by the exporter.
4. Abbreviations/terms/values used:
 - a. Authority Designated Authority
 - b. Subject Country China PR
 - c. Subject Goods/ Product under consideration Melamine
 - d. USD/\$ 1 USD = Rs 48.4
 - e. RMB 1 USD = RMB 8.26
 - f. Domestic Industry/petitioner GSFC (Gujarat State Fertilizers & Chemicals Ltd)
 - g. POI Period of Investigation
 - h. Exporter M/s Tianjin Kaiwei Chemical Co ltd
 - i. Customs Duty 2002-03 ---- 30% 2003-04 ---- 25%
5. Vide Rule 16 of the Custom Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury)

Rules, 1995. Statement disclosing the essential facts under consideration before the Designated Authority was issued on 19th August, 2004. Interested parties were granted time upto 26th August, 2004 for a written response to the disclosure statement.

On request of the domestic industry and the cooperating exporter hearing was granted to them. Domestic industry was given extension to make submissions upto 30th August, 2004. The methodology of working out the normal value, export price, landed value and non-injurious price was explained during the hearing in addition to the clarifications given on specific issues raised by the domestic industry and the cooperating exporter.

6. MOFCOM Government of China was also given reminders to respond to the request of market economy treatment by the cooperating exporter with specific regards to control of prices of Urea by the State.
7. Only domestic industry and the cooperating exporter responded to the disclosure statement.

B. PRODUCT UNDER CONSIDERATION

Product under consideration in the present investigation is Melamine, a tasteless, odorless, and non-toxic substance. Melamine is used for making melamine formaldehyde, which in turn is used in producing down stream products. Melamine formaldehyde resin used for laminates offer good hardness, resistance to scratch, stain, water and heat.

Melamine has a dedicated Custom Sub Heading 29336100 of Chapter 29 of the Customs Tariff Act. The product falls under OGL category and is freely importable.

No issues have been raised on product under consideration by any interested party.

Designated Authority confirms the preliminary findings with regards to product under consideration.

C. LIKE ARTICLE

Melamine produced by the applicant and that imported from China PR are comparable in terms of characteristics such as physical and chemical properties, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Even though there are different manufacturing process/technologies involved for production of Melamine, the end product has comparable specifications. The imported and the domestically sold products are technically and commercially

substitutable. The consumers are using the two interchangeably. Melamine produced by the petitioner company is a like article to the goods imported from China in accordance with the Anti-Dumping Rule 2(d) which provides as under:

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

No issues have been raised on like article by any interested party.

Designated Authority confirms the preliminary findings with regards to like article.

D. DOMESTIC INDUSTRY

The application was filed by M/s. Gujarat State Fertilizers & Chemicals Ltd., Vadodara. Gujarat State Fertilizers & Chemicals Ltd. is the sole producer of the product in the Country and, therefore, accounts for total Indian Production. The petitioner satisfies the standing within the meaning of the Anti Dumping Rule 2 (b).

No issues have been raised by any interested party.

Designated Authority confirms the preliminary findings with regards to domestic industry.

E. Dumping Margin

8. Issues raised by the Exporter after issue of disclosure statement

- a. "Vide para 15(I) of the Protocol on the Accession of the People's Republic of China. "If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like products with regard to the manufacture of, production and the sale of that product, the importing WTO member shall use Chinese prices or costs for the industry under investigation in determining price comparability."
- b. "Annexure 4 Part 2 titled "PRODUCTS SUBJECT TO GOVERNMENT GUIDANCE PRICING" item no. 4 – FERTILIZER HS No. 31021000 "Urea, whether or not in aqueous solution". The product reported therein is Fertilizer with HS No. 31021000 as against this, the Anti Dumping Investigation initiated in the present case vide notification dated 27th February, 2004 is in respect of Melamine with Custom Code 29336100. This clearly signified that the reference of the Product under Government Guidance Price is altogether

different from the product in respect of which Anti Dumping Duty Investigation is initiated.

- c. "The Protocol relied upon by the Applicant GSFC had provided copy of year 2001. The very same Protocol makes it mandatory for China to issue notification periodically say every six months reporting gradual compliance and dilution of control. No further notifications are furnished and therefore the documents may please not be treated as conclusive evidence.
- d. M/s Tianjin Kaiwei operates in market economy conditions and M/s Tianjin Kaiwei should be granted market economy status.

9. Issues raised by the Domestic Industry after issue of disclosure statement

- a. "**Constructed normal value:** - The normal value has been constructed by considering price of urea in the international market. However, it appears that the adjustment for by product (ammonia) has been granted on the basis of ammonia cost of production of GSFC. "
- b. b. "It would thus be seen that different methodology has been followed for raw material and by product generated out of production process. Petitioner requests that a uniform methodology may kindly be considered for both the raw material prices and by product generated. Either both may kindly be taken at cost of production or both may kindly be taken at market/international price (even though the domestic industry considers that for the purpose of non injurious price, the cost of production of urea and cost of production of ammonia are required to be considered)."
- c. c. "It appears that the price adjustments given to the responding exporter from China are significantly different from what was given in the preliminary findings. It is for this reason that the petitioner had earlier requested detailed disclosure of basis and methodology adopted for price adjustments granted in export price calculations. While petitioner fully appreciates that actual amounts on this account could be confidential, petitioner considers that disclosure of the basis and methodology adopted would not in any manner adversely affect interests of other interested parties."
- d. d. "Petitioner understands that entire shipments to India are by a trading company. However, no questionnaire response appears to have been filed by the concerned trading company. Under the circumstances, petitioner is unclear about the basis which allowed the producer to claim export price. It is unclear whether the starting export price to India is the price at which the goods have been invoiced to Indian customer or the starting export price is the price at which the Producer has invoiced the goods onto the Trader. Petitioner requests suitable clarification in this regard."

10. Views of Authority

Exporter has quoted excerpts from the protocol of accession. If these excerpts are read with the entire text then the intent of the protocol as well as the conclusions of Authority could be best understood in light of para 7 and para 8 of Anti Dumping Rules. The requirement in the quoted excerpt is also on the producers under investigation to clearly show that market economy conditions prevail in the industry producing the like products with regard to the manufacture of that product. In this case Urea is the main raw material comprising around 40% of the total cost of the product and its prices are guided by the state as indicated in annexure III & IV of the protocol of accession. To that extent the market economy conditions do not seem to prevail in pricing of the raw material. Although Urea is mentioned under the category of fertilizer but there is no clear or even indirect reference to different uses of Urea and end use wise differentiation for purpose of price guidance or quotas issued by the State.

The exports to India were made by the exporter directly. Price adjustments on export price was given to the responding exporter from China as per the actual adjustments claimed by the exporter and confirmed during the verification visit.

Normal value of the exporter was constructed on the basis of cost of production for the Chinese exporter which was worked out by adopting the international prices of Urea. (Urea comprises 97% of the cost of raw material and approximately 40% of the cost of production of Melamine). Cost of raw material was added to the normated cost of utilities and selling, general and administrative expenses of the domestic industry. Reasonable profit was added to arrive at a constructed normal value. Credit adjustment for ammonia has been given on the basis of claims made by domestic industry which is in consonance with para 7 of Annexure I of Anti Dumping Rules. "In case of imports from non-market economy countries, normal value shall be determined on..... any (other) reasonable basis (including the prices actually paid or payable in India for the like product) duly adjusted, if necessary, to include a reasonable profit margin".

11. Market Economy Treatment

For purposes of market economy treatment Para 8 in Annexure I to the Anti Dumping Rules states as under: -

1. The term "non market economy country" means any country which the Designated Authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)

2. There shall be a presumption that any country that has been determined to be, or has been treated as a non-market economy country for the purpose of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three-year period preceding the investigation is a non-market economy country.

Provided, however, that a non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the Designated Authority that establishes that such country is not a non market economy country on the basis of criteria specified in sub-paragraph

3. The Designated Authority shall consider in each case the following criteria as to whether:
 - a. the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
 - b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
 - d. the exchange rate conversions are carried out at the market rate;

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the Designated Authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in this paragraph.

4. Notwithstanding anything contained in sub-paragraph (2). The Designated Authority may treat such country as market economy country which, on the bases of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub-paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti-dumping investigations, by a country which is a Member of the World Trade Organisation.

12. This matter was initiated on 10th September, 2003 and the first detailed submissions were to be received by 7th November, 2003. POI was from April, 2002

to June, 2003. China PR till the date of initiation was not treated as a market economy country by another country which is a member of the World Trade Organisation.

13. China has been treated as non-market economy by European Commission and United States in the past three years. European Union and United States are members of World Trade Organization. In India also, the Designated Authority has treated China as non-market economy. Individual market economy treatment was granted to Chinese producers/exporters in the past on the basis of rebuttal of such presumptions by providing information and evidence to the Authority as explained in quoted para (3)(a) – (d) above.

14. M/s Tianjin Kaiwei Chemical Co. Ltd had submitted questionnaire response. Exporters had also submitted information claiming Market Economy treatment/ individual treatment. Clarifications have been sought by Authority with regards to technology, cost of production, ex-factory sales price in the domestic market and ex-factory sales price of exports to India.

15. Urea is one of the major raw material for production of Melamine. As per the Protocol signed by China PR before WTO, urea, whether or not in aqueous solution is listed as a product under the following:-

- a. Products Subject to Import Licence, Import Quota and Import Tendering;
- b. Products Subject to Government Guidance Pricing.

No evidence was provided by the exporter or Government of China to confirm the claims of exporter for market economy treatment. Only arguments based on differential VAT application (depending on end use) and newspaper clippings were quoted. These arguments were not tenable as they were not based on either appropriate evidence on rationale.

In view of the above, Authority concludes that the decision of Chinese firms with regards to prices of raw material are not fully made in response to market signals reflecting supply and demand and are not without significant State interference in this regard.

16. Normal value in China

Normal value for the purpose has been constructed on the basis of price actually payable in India vide para 7 Annexure – 1 of the Anti Dumping Rules.

During exporters verification, it was verified that Urea was procured at \$****/MT during the POI from local parties from two companies one of which was private and

the other was a State owned company in China. The normal value in the China PR was thus determined on the basis of cost of production in India as ascertained by Authority. The cost of production of the like article in India has been duly adjusted for cost of raw material (Urea) on the basis of international prices.

Normal value has been thus determined on the basis of cost of production as mentioned above after adding reasonable profits.

Normal value for the purposes of calculation of dumping margin comes to \$****/MT.

17. EXPORT PRICES:

Export price claimed by exporter was verified with importer data and transaction-wise imports data of Directorate General of Commercial Intelligence & Statistics (DGCIS) for the POI. During exporters verification the invoices of exports to India during POI were examined and after analyzing the adjustments made before FOB and after FOB stage (Ocean freight: marine insurance; Port expenses in China; Inland freight in China; Interest; Commission) ex-factory export price was taken as \$ ****/MT for cooperating producer/ exporter and \$ ****/MT for non-cooperative exporters/producers. Minimum export price of the cooperating exporter has been taken as the export price of the non-cooperating exporters to disadvantage non-cooperation.

18. DUMPING MARGIN:

Considering the normal value and export price, as detailed above, dumping margins have been determined. Dumping Margins are 6.5% in case of M/s Tianjin Kaiwei Chemical Co. Ltd the cooperating exporter and 31.6% in case of non-cooperating exporters from China PR.

Injury Analysis & Causal Link

19. Issues raised by exporter after issue of disclosure statement

- a. The Sales Quantity is not at all affected,
- b. Sales Prices are not adversely affected,
- c. Margin is better than the average of previous three years,
- d. The Production is only artificially curtailed by reducing the Closing Inventory and if this negative effect on account of Inventory adjustment is neutralized the impact in production is less than 1 % per annum,
- e. The Cost of Production of Melamine is infested with diseconomies like:

- i. Excessive Overheads on account of hefty Losses in the last two years,
 - ii. There are switching off of production and restarting production in light of lower capacity utilization leading to idle time cost necessitating disallowance of idle time cost from the Cost of Production of Melamine,
- f. GSFC had dumped the same product in the international market at a price lower than their Cost of Production, There is no justification for imposition Anti Dumping Duty on import of Melamine from Kaiwei.

20. Issues raised by Domestic Industry after issue of disclosure statement

- a. "Non injurious price: - The optimum cost of production has been assessed by considering "selling price of urea by GSFC for industrial use". However, the adjustment for by product (ammonia) has been granted on the basis of ammonia cost of production of GSFC."
- b. "It would thus be seen that different methodology has been followed for raw material and by product generated out of production process. Petitioner requests that a uniform methodology may kindly be considered for both the raw material prices and by product generated. Either both may kindly be taken at cost of production or both may kindly be taken at market/international price (even though the domestic industry considers that for the purpose of non injurious price, the cost of production of urea and cost of production of ammonia are required to be considered)."

21. Views of Authority

- a. The petitioner maintained product specific detailed cost records which have been verified by the Directorate and have provided cost of production information from such costing information. No costs of other product have been loaded onto Melamine.
- b. The petitioner faced high level of inventories, as it could not sell the material in market due to availability of dumped material in the market. The reasons for decline in production was high level of inventories. High level of inventories were clearly due to presence of dumped imports in the market preventing the domestic industry from selling the product.
- c. Capacity utilization of the domestic industry declined significantly. The selling price of domestic industry was unremunerative and the domestic industry was facing price undercutting which directly resulted in significant increase in import volumes. Sales volumes of the domestic industry did not grow at the rate at which the market demand grew. Thus, the sales volumes of the domestic industry were sub-optimal. Moreover, the domestic industry could sell the product only after offering the material at unremunerative prices.

- d. From the month wise details of production over the entire injury period. It would be seen the petitioner would have produced approximately 13000 MT.
- e. Petitioner has provided alongwith its written submissions a statement showing its selling prices on month to month basis. There have been too wide and too frequent fluctuations in the prices of the product. These are due to the fact that the petitioner had to respond to the low priced imports whenever the imports were present in the market in significant volumes. It shows that whenever the company reduced its prices, it was able to sell good volumes. However, the company suffered severe financial losses. Whenever the company attempted to increase the price, its sales volumes fell.
- f. Methodology adopted for calculating non-injurious price is indicated in para (40).

22. Indexed table of the parameters to analyze injury to the Domestic Industry and corresponding causal link because of Dumped imports is as follows. The injury period is from April 1999 to June 2003.

SN	Particulars	Unit	1999-00	2000-01	2001-02	(April 2002 – June 2003) POI Annualized
1	Sales	<i>Indexed</i>	100.00	287.02	264.76	267.27
2	Cost of Production & sale	<i>Indexed</i>	100.00	118.58	113.70	135.61
	Sales Realization	<i>Indexed</i>	100.00	105.47	118.85	130.37
	Profit/Loss (Rs/MT)	<i>Indexed</i>	-100.00	-187.82	-86.50	-163.30
	Profit/Loss (Rs)	<i>Indexed</i>	-100.00	-539.08	-229.01	-436.44
3	Market Share					
	Imports from China	MT	894	80	295	1850.4
	Other Countries	MT	4813	168	500	1115.2
	Total Imports	MT	5707	248	795	2965.6
	Market Share					
	China	%	15.66	32.26	37.11	62.39
	Other Countries	%	84.34	67.74	62.89	37.61
	Demand	<i>Indexed</i>	100.00	115.29	112.38	136.47
4	Market Share in Demand					
	China	<i>Indexed</i>	100.00	7.76	29.5	151.3
	Domestic industry	<i>Indexed</i>	100.00	248.96	235.57	195.85
5	Imports % from China in relation to production	<i>Indexed</i>	100.00	9.18	30.92	269.57
6	Productivity	<i>Indexed</i>	100.00	63.81	75.78	58.89
7	Return on Capital Employed	<i>Indexed</i>	100.00	-217	65.46	-53.28
8	Capacity Utilization	<i>Indexed</i>	100.00	97.50	106.71	76.77
9	Magnitude of Margin of Dumping		Dumping Margin is in the range of 6.5% to 31.6%			
10	Cash Flow/Cash profit	<i>Indexed</i>	100.00	-872.37	-160.05	-589.93
11	Inventories	<i>Indexed</i>	100.00	33.12	47.18	15.44
12	Employment	<i>Indexed</i>	100.00	152.80	140.80	130.40

13	Wages	Indexed	100.00	100.68	110.26	131.84
14	Ability to raise capital		The company has negative return on its capital employed. At the same time, capacity created is sufficient to meet demand of the country			
			Therefore, there is no immediate scope for any expansion			
15	Growth		Negative			

23. Volume effect:

Imports from China have increased significantly in absolute terms as also relative to production and consumption in India. As per DGCI&S data and from the sales of the domestic industry import volumes and market share, it is found that:-

Share of imports from China has increased in relation to imports of the product in India both in terms of value and volume;

Share of imports from China increased significantly in relation to demand/ consumption in India;

Imports from China increased significantly in relation to production in India.

As a direct consequence of increase in imports from the subject country, the share of the domestic industry has declined. At the same time, the demand for the subject goods has shown an increase and the sales of the domestic industry is less than the production and capacity created by the domestic industry. It has also resulted in inventory build up.

24. Price effect:

There is price undercutting in the range of 10-20% and price underselling in the range of 10-30%.

Net sales realisation has slightly increased but is not commensurate to the increase in cost of production and sale. This has resulted in reduction of cash profit for the subject product.

25. Natural and potential decline in sales

Sales volumes of domestic industry have not picked up. The retarded growth and minor decline in the sales volumes in spite of increase in demand of the product in the country; higher production by the domestic industry with significantly unutilized

capacities; suppressed prices offered by the domestic industry indicates both the volume and price effect of the dumped goods on the sale of subject goods in India. Net sales realization ranged between Rs. 40000/MT to Rs. 60000/MT.

Profits of the domestic industry have significantly declined even though it has been able to maintain some volume of sales. Further, profitability, after showing some improvement in 2001-02, had fallen again.

Domestic industry had adverse profitability in 2000-2001. The domestic industry made efforts to reduce inventories by adjusting sales price, sales volume and production. The domestic industry had almost one year's material in stock in the year 2000-2001. Therefore, the Company was forced to reduce the prices. This reduction in prices resulted in reduction in inventories to a very large extent. However, after improving the profitability in 2001-2002, the domestic industry was forced to suffer poor profitability again in the investigation period.

26. Output

Production of Melamine by the domestic industry has significantly declined. Petitioner is faced with unutilized capacities in spite of significant increase in demand of the product in the Country.

27. Productivity

It being a continuous process plant decline in production has directly resulted in decline in productivity.

The level of wages have gone up though employment has marginally come down from 2000-01.

28. Return on capital employed: -

Return on capital employed has reduced considerably. Further, on the lines of trends in profitability, the domestic industry had improved its return on capital employed in 2001-2002, which declined again in POI.

29. Utilization of capacity: -

Since there is no change in the capacities created, utilization of capacity follows the same trend as that of production. The capacity utilization of the domestic industry declined as a result of decline in production. Domestic Industry had unutilized

capacities in spite of significant positive & increasing demand of the product in the Country.

30. The magnitude of the margin of dumping: -

Dumping margins in respect of imports from China has been in the range of 6.5% to 31.6%. The impact of dumping of subject goods was significant and has manifested both in terms of price and volume effect.

31. Actual and potential negative effects on cash flow: -

The adverse profitability of the domestic industry had adversely impacted the cash flow of the domestic industry in terms of depressed cash profits.

Inventories: -

The domestic industry was earlier holding very high level of inventories. The level of inventories was unprecedented. Effects of lowering the prices by the domestic industry brought down the inventory levels. However, this had adversely impacted the profitability and had prevented the domestic industry from optimizing production and capacity utilization levels.

Growth: -

The domestic industry had recorded small change in growth in sales in POI in spite of demand recording a positive growth with reduction in production and inventories.

32. Ability to raise capital investments: -

Petitioner is a multi product Company and, therefore, while the other products may be able to support any short-term capital requirements of this product, long term adverse performance of the domestic industry was impacting overall ability of the Company as a whole to raise capital.

33. Volume and value of imports from other countries

Although the product was being imported from several countries, import prices from other countries were higher and were not undercutting or the volume of imports was de-minimus. There was a significant increase in imports from China *vis-à-vis* other countries.

34. Price undercutting

Price undercutting determined by comparing the weighted average net sales realization of the domestic industry with the landed price of imports shows that the landed price of imports is below the selling price of the domestic industry, thus resulting in price undercutting, between 10 - 20%.

35. **The net sales realization** was determined exclusive of rebates/discounts, commission, taxes and duties. Net sales realisation ranged between Rs. 40000/MT to Rs. 60000/MT.

36. **Price underselling**

Price underselling is derived by comparing weighted average non-injurious price of the domestic industry with the landed price of imports of subject goods into India. Price underselling of dumped goods deprived domestic industry of prices it ought to get from sale of the subject goods in the domestic market. Price underselling was to the extent of 10-30%.

37. **Price suppression**

Although there has been an increase in the sales realization due to increase in cost of production of the subject goods landed value of the dumped imports was below the cost of production of the domestic industry.

38. **Conclusion on injury analysis and causal links**

From the analysis of the injury table as mentioned above, it is evident that imports from subject countries have gone up and market share of the subject countries have also gone up whereas market share of the domestic industry has come down to the same extent. This has resulted in lower capacity utilization and productivity. Although, inventories compared to 1999-2000 have been liquidated still the closing stock maintained is at a comparatively high level by the company.

There is a positive price undercutting and price underselling by the dumped imports. Although there has been a gradual rise in the net sales realization this rise has not been commensurate to the rise in cost of production of the like articles. Cash profit and return on capital employed has deteriorated in the injury period.

Issues pertaining to Government policies having bearing on the finances of the company and export performance have been segregated to analyze the injury to the domestic industry on the dumped imports. Dumped imports are above de-minimis level and there has been growth in the demand of the like articles with no change in pattern of consumption amongst end users. The end users used both the domestic

product as well as their product interchangeably. Technologies used are similar, however, the minor differences in technologies if at all do not impact the end product meant to be used by the user industry. No information regarding trade restrictive practices adopted by domestic industry have been brought to the notice of the Authority.

39. Landed Value

The landed value of imports for the purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Custom Tariff Act, 1975.

The landed value of imports has been determined as the CIF import price (sources from DGCIS) plus 1% landing charges and applicable basic customs duties for the POI.

40. Methodology for arriving at Non-Injurious Price (NIP)

The Authority determined a Non-injurious price for the subject goods after a detailed analysis and scrutiny and verification of information provided by the applicant companies.

The cost information on all relevant factors concerning the production and the production process were called for in the prescribed Proforma for the period of investigation and for the preceding years. The actual cost of production of the subject goods for the domestic industry has been used to determine optimum cost of production on the basis of Generally Accepted Accounting Principles (GAAP). In the determination of Non-injurious price for the domestic industry, the Authority has examined and analysed in detail all the relevant factors including cost of raw material used in the production of subject goods, the consumption thereof, the cost of utilities such as power, water etc., cost of labour, depreciation cost, selling and administrative expenses and interest cost. The factors such as investments made in the plants and the capacity utilisation have also been examined in the cost analysis. 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 to the cost of production of a reasonable profit margin on the capital employed by the applicants.

41. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

Domestic industry has adequate capacity and Melamine thus produced is used interchangeably with the imported product by the users. Similar trade channels are used for sale of Melamine within the country.

M/s GFSC is further subjected by Government to strict consumption norms efficiency parameters of international standards and normative level of capacity utilization without allowance for vintage technology for use of urea as fertilizer.

The Authority holds that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

The Authority recognizes that though the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products, however, fair competition in the Indian market will not be reduced by these anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by the dumping practices and would prevent the decline of the domestic industry and help maintain availability of wider choice of the subject goods to the consumers. Imposition of anti-dumping measures would also not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

H. Conclusion

41. It is seen, after considering the foregoing, that:

- a. The subject goods in all forms originating in or exported from the subject country have been exported to India below its normal value.
- b. The domestic industry has also suffered material injury by way of financial losses due to suppressed Net Sales Realisation (NSR) on account of price undercutting / underselling caused by low landed prices of the dumped subject goods.
- c. The injury has been caused to the domestic industry by dumping of the subject goods originating in or exported from the subject countries.
- d. The Authority recommends anti-dumping duty on imports of subject goods falling under Chapter 29 originating in or exported from the subject country
- e. The Authority considered to recommend the amount of anti-dumping duty equal to the margin of dumping or lower so as to remove the injury to the domestic industry accrued on account of dumping. Accordingly, anti dumping

duties equal to the difference between the amount of Column 9 of the Table below and landed value of subject goods in \$/MT be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from subject country.

Sl. No	Sub-heading	Description of goods	Specification	Country of origin	Country of export	Producer	Exporter	Reference Price (USD/MT)
1.	29336100	Melamine	Melamine	China PR	China PR	Tianjin kaiwei chemical Co.ltd	Tianjin kaiwei chemical Co.ltd	1284.38
2.	29336100	Melamine	Melamine	China PR	China PR	Tianjin kaiwei eiei chemical Co.ltd	Any exporter other than Tianjin kaiwei chemical Co.ltd	1456.78
3.	29336100	Melamine	Melamine	China PR	China PR	Any producer other than Tianjin Kaiwei	Any exporter other than Tianjin kaiwei chemical Co.ltd	1456.78
4.	29336100	Melamine	Melamine	China PR	Any country other than China PR	Tianjin kaiwei eiei chemical Co.ltd	Any exporter	1456.78
5.	29336100	Melamine	Melamine	China PR	Any country other than China PR	Any producer other than Tianjin Kaiwei	Any exporter	1456.78
6.	29336100	Melamine	Melamine	Any country other than China PR	China PR	Any producer	Any exporter	1456.78

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

43. An application for review under Section 9(A) (5) of the Customs Tariff Act, 1975 may be filed six months before expiry of the definitive duties.

Abhijit Sengupta,
Designated Authority