

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

NOTIFICATION

NEW DELHI, the 4th January 2008

Final Findings

Subject: Antidumping investigations involving imports of Acetone originating in or exported from European Union, Chinese Taipei, Singapore, South Africa & USA.

NO. 14/4/2006-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s Hindustan Organic Chemicals Ltd., Mumbai and M/s Schenectady Herdillia Ltd., Mumbai (now renamed as SI Group-India Ltd.) (hereinafter referred to as the Applicant) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred as Rules), alleging dumping of Acetone (herein after referred to as subject goods), originating in or exported from European Union, Chinese Taipei, Singapore, South Africa and USA (hereinafter referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods. The Authority notified the Delegation of European Union, High Commissions of Singapore, S. Africa, Cultural Centre of Taiwan and Embassy of USA about the receipt of dumping allegation in accordance with sub rule 5(5) of Rules.

3. And Whereas, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 7th September 2006 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend

the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

4. And whereas the Designated Authority notified preliminary findings vide notification No. 14/4/2006-DGAD dated 25.4.2007 and recommended imposition of anti-dumping duty concerning imports of Acetone originating in or exported from European Union, Chinese Taipei, Singapore, South Africa & USA.

A. Procedure After Preliminary Findings

5. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the Preliminary Findings of the above investigations by the Authority:

(i) The Authority forwarded a copy of the preliminary findings to known interested parties who were interested to furnish their views, if any, on the preliminary findings within 40 days from the issue of the letter.

(ii) The Authority also forwarded copy of the preliminary findings to Embassy of the subject countries in New Delhi with a request to furnish their views on the preliminary findings.

(iii) The data/information of the following exporters from the subject countries have been taken into account for the purpose of final findings:-

➤ M/s Formosa Chemicals & Fibre Corporation, Taiwan

➤ M/s Sasol Solvents, South Africa

➤ M/s Taiwan Prosperity Chemicals Corporation, Taiwan

➤ M/s Mitsui & Co. Ltd., Singapore

➤ M/s Sumitomo Corporation, Singapore and M/s Petrochem Middle East, UAE.

(iv) M/s Dow Chemicals, USA has stated that it has not made any export of subject goods to India during period of investigation, however, it may be treated cooperating interested party.

(v) The data/information of the following importers have been used to cross-check the information provided by the exporters and have been taken into account for the purpose of final findings:-

1. M/s National Organic Chemical Industries Ltd., Mumbai
2. M/s Ranbaxy Laboratories Ltd., Gurgaon
3. M/s Lanxess India Pvt. Ltd., Thane, Maharashtra
4. M/s Crescent Chemsol Pvt. Ltd., Vadodara

(vi) Other exporters and importers who have not submitted information are being treated as non-cooperating exporters and importers.

(vii) The Authority held a Public Hearing on 19.6.2007 to hear the interested parties. The parties attending the Public Hearing were requested to file written submissions of the views expressed orally. The Designated Authority considered the submissions as received from the interested parties in the findings.

(viii) The Authority has considered all views expressed in submissions made by various interested parties subsequent to the preliminary findings.

(ix) The Authority verified the information provided by the domestic industry to the extent considered necessary.

(x) The Authority also verified the information provided by the cooperating producers and exporters to the extent considered necessary.

(xi) The transaction-wise imports data provided by Directorate General of Commercial Intelligence and Statistics (DGCI&S) have been taken into account for the purpose of this investigation.

(xii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file (duly indexed) kept open for inspection by the interested parties. The acknowledgements of interested parties inspecting files and taking copies of the record have been kept in the public file.

(xiii) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

(xiv) In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received thereon have also been duly considered in these findings.

(xv) In compliance of decision of Supreme Court in Civil Appeal No.1294 of 2001, the normal values for subject countries have been determined.

(xvi) *** in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules;

(xvii) Investigation was carried out for the period of investigation (POI) starting from 1.7.2005 to 31.6.2006. The examination of trends in the context of injury analysis covered the period from April 2003 to March 2006 and the POI.

B. Product under Consideration

6. The product under consideration is 'Acetone'. Acetone is organic chemical also known as Dimethyl Ketone and used in the manufacture of bulk pharmaceuticals, agro chemicals, dye stuffs, certain explosives and downstream chemicals. Acetone is classified under Chapter 29 of Custom Tariff Act under the sub-heading 29141100.

7. It is a basic organic chemical produced in single grade. It is a colourless liquid with an agreeable ether-like odour. It is used in numerous organic synthesis either as solvent or as an intermediate. It is used in manufacture of bulk pharmaceuticals, agro-chemicals, dyestuffs, certain explosives and downstream chemicals. Acetone is specifically used in manufacture of Isophorone, Diacetone, Alcohol, Methyl Methacrylate and Bishphenol A. Besides this, it is used in manufacture of certain rubber chemicals or Oxy Acethylene Cellulose Acetate.

B.1 Like Article

8. The domestic industry manufactures 'Acetone' is identical to the product under consideration, therefore is being treated as like article for the purpose of this Investigation.

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

9. The application was filed by M/s Hindustan Organic Chemicals Ltd., Mumbai and M/s Schenectady Herdillia Ltd., (now renamed as SI Group-India Ltd.) Mumbai, which are the producers of the subject goods in India. The applicants account for 100% production of subject goods in India, therefore, constitute domestic industry within the meaning of the Indian Anti-dumping Rules. It has been informed by the

Domestic Industry that there was no production of Acetone during POI by producers of Acetone using sugar/alcohol route.

C.1 Imports made by M/s SI Group-India Ltd.

10. During the period of investigation, M/s SI Group-India Ltd. had imported *** MT of Acetone. The company stated that the imports were basically made under Duty Exemption Scheme for exports of goods manufactured out of imported Acetone. During verification process it was verified that the company had imported *** MT under duty exemption scheme and was under export obligation to export product produced from the Acetone. The Authority notes that imports under duty exemption scheme was approximately 83% of the total imports and were meant to manufacture other product for export purpose and were not intended for consumption in the country. Therefore, the Authority holds that imports made by M/s SI Group India Ltd. do not disqualify it from being part of domestic industry.

11. After preliminary findings, it has been stated by interested parties that imports made by SI Group-India Ltd. should disqualify it from being part of domestic industry. Secondly, imports made under duty exemption scheme should disqualify it from being part of domestic industry as under Rule 2(b) no distinction has been made for duty free or duty paid imports. The Authority notes that under Rule 2 (b), the Authority is to decide whether imports made by any producer disqualify it from being part of domestic industry, however, it is not mandatory under Rule 2(b) to disqualify all producers who have made imports of subject goods. The Authority is to take a view after examining the facts and purpose whether imports of subject goods made by producer disqualify it or not. The Authority notes that imports made by SI Group-India Ltd. was not made available in the market. The Authority further notes that the primary purpose of imports was not to trade in Acetone that has been clearly indicated from the evidence that imports were cleared under duty exemption scheme meant for export purpose only. Therefore, the Authority holds that the imports made by SI Group under duty exemption scheme did not disqualify it from being part of the domestic industry. It has also been argued that when a domestic producer imports the product concerned from subject country without using his capacities to manufacture the same, a part of the injury is self-inflicted. In this regard, the Authority notes that even if capacity of the concerned producer is treated as fully utilized the capacity of other manufacturers remain under-utilised despite healthy growth in demand. The Authority also holds that the purpose of injury analysis is to examine and capture the effect of dumped imports on the domestic industry. By mechanically excluding one manufacturer and major player, this purpose cannot be served, therefore, the Authority decides to continue to treat SI Group as part of the domestic industry for the purpose of this investigation.

D. Other Issues

D.1 Submissions made by M/s Mitsui & Co. Ltd.

12. HOCL, the only eligible producer to file the application is a company referred to the BIFR even prior to the period of investigation. As the Authority may be aware that the reason for referring the matter to the BIFR is the fact that there has been a complete erosion of funds i.e., the accumulated losses exceeded the shareholders funds. We understand that HOCL was registered as a sick industrial company by the BIFR as per provisions of SICA, vide Case No.501/2005. The Authority may please call for all the documents/submissions relating to the BIFR case including the order passed by the Board. In this connection, kind attention is invited to the Annual Report of 2004-05 of HOCL, the relevant excerpts of which are as follows:

“Your company had been incurring losses from the financial year 1997-98 to 2003-04 and was referred to BIFR as a sick unit after erosion of Net Worth at the end of the financial year 2003-04.”

13. The fact that the company has been referred to BIFR makes it clear that the poor performance of the company is on account of their inherent difficulties which have been acknowledged in several reports of the government. It is also important to note that even the BIFR application was made prior to the application for anti-dumping on acetone. Under the circumstances, it is apparent that the problems cannot be attributed to the alleged dumping from the subject countries.

14. The Authority has examined the issue of HOCL under the BIFR and noted that the reason cited by the applicant before the BIFR was that “the sales at Kochi unit of the company which in fact is profit making unit suffered in 2001-02 due to dumping of products by overseas manufacturers causing severe squeeze in the margins resulting in losses. The Authority further notes that Kochi unit of the company which basically manufactures phenol and acetone was making profits during 2002-06, however, the profit was considerably reduced during 2005-06. The Authority also notes that Rasayani unit of the company was making losses during 2000-06.

15. After the preliminary findings, it was pointed out that case of BIFR was registered on 11.2.2005 which was decided in November 2005 declaring HOCL as a sick company. It has also been pointed out that real reasons for their sickness have been given in the Annexure. Certain reasons for the sickness of the company were pointed out in the submission as well.

16. On perusal of relevant annexure the Authority notes that reasons have been given for sickness of the company as a whole and not necessarily relating to Kochi plant of

the company. The Authority further notes that one of the reasons mentioned on the annexure is 'severe international competition resulting in dumping of products'. The Authority, therefore, holds that mere sickness of company under SICA would not make it ineligible to seek relief under Anti-dumping Investigations, particularly, when the relevant unit of the company was not suffering losses earlier.

Confidentiality

17. M/s Mitsui & Co. Ltd. has stated that the domestic industry has claimed excessive confidentiality in respect of the application. It has been stated that 'there are no reasons provided as to why the information on which confidentiality has been claimed and apparently allowed is not susceptible to summarization. It has been contended that every information is not required to be treated as confidential merely because it is provided to the Designated Authority on confidential basis by the party in the course of investigations. The company has asked for the documents/correspondence filed by the domestic industry claiming confidentiality and decision of the Authority allowing confidential along with reasons so that they may be in position to offer appropriate comments.

18. The Authority in this case has considered the data relating to customers, price and costing as confidential as the disclosure of the same may give the competitive advantage to the other interested parties. The data relating to volumes of domestic industry (all producers taken together) has not been treated as confidential.

Adequacy and Accuracy of the information in the application

19. M/s Mitsui & Co. Ltd. has raised the issue that the domestic industry had submitted the information for 9 months whereas period of investigation chosen by the Designated Authority is 12 months, therefore, the data/information on which the Designated Authority had initiated the investigation were inadequate. It has also been stated that S. Korea was named as one of the countries against which investigation was sought whereas the investigation has not been initiated against S. Korea. It has been contended that by changing the period of investigation and countries, the injury and dumping analysis would change, therefore, the information provided were inadequate for initiation of the investigation under Rule 5 (3) of the Anti-Dumping Rules.

20. After the preliminary findings it was again pointed out that there is violation of obligation under Article 6.1.3 of the Anti-dumping Agreement. It has been submitted that the initial application filed by the domestic industry contained the data only for 9 months' period of investigation i.e. June 2005 to March 2006 and the information in the petition was inclusive of the information on Korea. The non-confidential version

of the petition (which was also incomplete) was provided to them after the time limit for submitting the response to the exporter's questionnaire was over whereas the Designated Authority is required to supply the full text of the petition to all the known exporters as soon as the investigations are initiated. The undue delay for not providing the complete petition to the known exporters has resulted in violation of India's obligation under Article 6.1.3.

21. The Authority notes that the application was filed with the information for period of nine months and proposed period of investigation was 9 months. The Authority after examining the evidence of injury and dumping decided to initiate the investigation. The Authority, however, chosen the period of investigation as 12 months to capture effect of cyclical changes, if any. The Authority holds that the investigation was properly initiated after examining the adequacy and accuracy of the information provided. The updated information was called from domestic industry after initiation and placed in Public File for inspection of all interested parties. In respect of the allegation of dumping against S. Korea, the Authority observed that the 9 months data did not show the imports which could be considered as sufficient to initiate the investigation against the country, therefore, investigation was not initiated against Korea ROK. It has also been noted that subsequently the investigation has also been initiated against Korea ROK on receipt of data for period of 12 months which indicated that the imports were more than de minimis.

22. Regarding violation of Article 6.1.3 of Anti-dumping Agreement, the Authority notes that the obligation is to provide the application on the basis of which investigation has been initiated. The application was duly forwarded to known exporters and Government of subject countries. Further information and documents were made available by placing the same in the public file. In this regard, the intimation was made in the initiation notification stating that further information would be placed in the Public File and the interested parties have right to inspect the same. In view of the above, the Authority holds that there is no violation of Article 6.1.3 has taken place and obligation has been duly discharged.

E. Methodology for calculation of dumping margin

E.1 Submissions made by M/s Mitsui & Co. Ltd.

23. It has been stated that Acetone prices are not determined in any part of the world on the basis of its cost. Both Phenol and Acetone are co-products or joint products. The production facility is essentially for Phenol production and Acetone is produced due to technological reasons. Thus, all over the world, the Phenol-Acetone is manufactured are required to recover their cost for the sale of Phenol. The pricing of Acetone is not cost based as has been made out by the domestic industry. It is a

common knowledge that prices of Acetone is not determined solely on prices of raw material e.g. Benzene (BZ) + Propylene (C3) but also on the supply/demand of Acetone as well as the final selling price of Phenol. In other words, the prices of Acetone are not governed by the price of Acetone. The inescapable fact is that the price of Acetone is determined by the normal forces of demand and supply irrespective of costs even in the long term. It has been submitted that the domestic industry has not given the true picture as to how prices of Acetone are determined in India or for that matter anywhere else in the world. The Authority in this regard notes that the investigation has been conducted for dumped imports in to India as per the Customs Tariff Act, 1975 and Rules made thereunder which is in conformity with the Anti-dumping Agreement.

E.2 Response of M/s Sasol Solvents, South Africa to the Exporters Questionnaire

24. The exporter has stated that product sold to India are identical to those sold in the domestic market.

E.3 Response by M/s Dow Chemicals Company, USA

25. The company has reported that no exports of the subject goods have been affected during the period of investigation, however, they have indicated their desire to participate in the investigation. The company has requested that it may be treated as an interested party.

E.4 USA

Normal Value for USA

26. No exporter has responded to the initiation notification and submitted any information. In absence of any data, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. For this purpose, average price reported in ICIS LOR (US Gulf) for the period of investigation has been taken as normal value. To arrive at the ex factory prices appropriate adjustments on account of inland freight and insurance have been made. By adopting the above method, the average normal value for bulk material has been calculated as US\$ *** PMT.

Export price for Non-cooperating Exporters

27. The data reported by the DGCI&S for exports from USA has been relied upon to calculate the ex-factory export price. Adjustment on account of ocean freight @ US\$*** PMT, marine insurance @ ***, commission @ ***, inland freight @

***%, port expenses @ ***, bank charges @ ***% and credit cost @ ***% p.a. for 90 days credit have been made to arrive at the ex-factory export price. By adopting the above method, the net export price has been calculated as US\$ ***PMT for bulk material.

E.5 European Union

Normal Value for European Union

28. No exporter from the European Union has responded to the Initiation Notification. In absence of any response, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. For this purpose, average price reported in ICIS LOR Europe for the period of investigation has been taken as the normal value. To arrive at the ex factory prices appropriate adjustment on account of inland freight and insurance have been made. By adopting the above method, the average normal value has been calculated as US\$ *** PMT for bulk material. For packed material, packing cost has been added and normal value has been calculated as US\$ *** PMT.

Export price for Non-cooperating Exporters

29. The data reported by the DGCI&S for exports from European Union has been relied upon to calculate the ex-factory export price. Adjustment on account of ocean freight @ US\$*** PMT, marine insurance @ ***, commission @ ***, inland freight @ ***, port expenses @ ***, bank charges @ ***% and credit cost @ ***% p.a. for 90 days credit have been made to arrive at the ex-factory export price. By adopting the above method, the net export price for bulk export has been calculated as US\$ *** PMT. For packed material, the net export price calculated as US\$ *** PMT.

E.6 Singapore

30. M/s Mitsui & Co. Ltd., an exporter from Singapore has responded to the Initiation Notification and provided data. It has been informed that M/s Mitsui & Co. Ltd. is not a producer. The Acetone exported to India during the period of investigation has been produced by M/s Mitsui Phenol Singapore Pte. Ltd. In the investigation, related producer has not provided any information.

31. The Authority notes that to determine the normal value of the exporter, the cost of production of the producer is to be examined to check whether the sales have been made in the ordinary course of trade as per para 2 of the Annexure-1 of Anti-Dumping Rules. This examination is not possible in absence of information from the producer.

The Authority, therefore, has not relied upon the information provided in respect of the domestic sales and determined the normal value on the basis of facts available as per Rule 6(8) of the Anti-dumping Rules.

M/s Sumitomo Corporation, Singapore and M/s Petrochem Middle East, UAE

32. It has been submitted that M/s Sumitomo Corporation is not producing the goods, however, it exports the subject goods to India. It has further been stated that goods are shipped directly from Singapore to India, however, M/s Sumitomo Corporation raises the invoice on M/s Petrochem Middle East, UAE which in turn raises the invoice on the Indian customers. As cost of production of the producer is not available, therefore, the Authority has determined the normal value on the basis of facts available as per Rule 6(8) of the Anti-dumping Rules.

Normal Value for Singapore

33. The prices of Acetone reported in ICIS LOR is for Asia which cannot be taken for a particular country, therefore, the normal value has been constructed on the basis of facts available. For constructing normal value, the price of Benzene has been taken from the data of DGCIS and for Propylene it has been taken from ICIS LOR Asia. The consumption norms of the efficient producer of the domestic industry and SION have been relied upon. For utilities, consumption norm and prices of the efficient producer of the domestic industry have been taken except for power for which the rate has been taken as per the available information of power rate in the exporting country. Conversion cost has been taken as per conversion cost of the efficient producer of the domestic industry. SGA including interest has been taken from the Annual Report of the major producer of the exporting country. The profit @ 5% has been taken on the cost of production. By adopting this methodology, the constructed normal value for bulk material have been calculated as US\$ *** PMT. For packed material, the cost of packing material of the efficient producer of the domestic industry has been added to calculate the normal value. By this method the normal value for packed material has been calculated as US\$*** PMT.

Export Price

M/s Mitsui & Co. Ltd.

34. Transaction-wise information about exports provided by the company and verified from their records has been relied upon to calculate the export price. The claim of the company, that some transactions which were not reported as it was not considered to be their exports, has been accepted. The verified information has been relied upon regarding selling price, overseas freight, overseas insurance, credit cost, bank charges.

Adjustment for overseas freight @ *** \$ PMT, overseas insurance US\$ *** PMT and credit cost @ US\$ *** PMT has been adjusted to arrive at ex factory price as US\$ *** PMT for bulk material.

M/s Sumitomo Corporation, Singapore

35. Transaction-wise information about exports provided by the company has been relied upon to calculate the export price. The sale has been made only for bulk material. The information provided by M/s Sumitomo Corp. has been relied upon regarding selling price, overseas freight, credit cost. Adjustment for overseas freight @ *** \$ PMT and credit cost @ US\$ *** PMT has been adjusted to arrive at ex factory price as US\$ *** PMT for bulk material.

Export price for non-cooperating exporters

36. The data reported by the DGCI&S for exports from Singapore has been relied upon to calculate the export price. Transaction-wise details from DGCI&S data export price for the bulk material have been taken as US\$ *** PMT. For the packed material export price has been taken as US\$ *** PMT. Adjustments on account of ocean freight, insurance and other charges as reported by cooperating exporter have been made to arrive at ex-factory export price. By adopting the above method, the net export price has been calculated as US\$ *** PMT for bulk material and US\$ *** PMT for packed material.

E.7 South Africa

M/s Sasol Solvents

37. The exporter has responded to the Initiation Notification and provided the information on exports and domestic sales.

Normal Value for South Africa

38. Transaction-wise details on domestic sales provided by the exporter have been relied upon to determine normal values. The expenses under the head 'Other items to be adjusted' have not been permitted as there is no explanation provided for this adjustment. The transactions showing negative prices have also not been taken into account for determining normal value. After preliminary findings, no evidence has been submitted concerning excluded transactions and expenses. All other expenses claimed by exporters have been adjusted to determine weighted average normal value. The transactions relating to bulk and packed sales were segregated to determine normal value for bulk and packed products. By adopting this methodology, the normal

value for bulk product has been calculated as US\$*** PMT and US\$*** PMT for packed product.

Export Price for M/s Sasol Solvents

39. The transaction wise details for bulk and packed product was segregated to determine the export price. Expenses claimed by the exporter have been adjusted to arrive at ex-factory export price. By adopting this method, the weighted average export price for bulk has been calculated as US\$ *** PMT and US\$ *** PMT for packed material.

Export price for non-cooperating exporters

40. The data reported by the DGCIS for exports from South Africa has been relied upon to calculate the export price. From the transaction-wise DGCIS data, export price for the bulk material has been taken as US\$ *** PMT. For the packed material export price has been taken as US\$ *** PMT. Adjustments on account of ocean freight, insurance and other charges @ US \$ *** PMT as reported by cooperating exporter have been made to arrive at ex-factory export price for bulk product. By adopting the above method, the ex-factory export price has been calculated as US\$ *** PMT for bulk material. The ex-factory export price for packed material has been calculated as US\$*** PMT

E.8 Chinese Taipei

Normal Value for Chinese Taipei

41. The normal value for Chinese Taipei has been determined by taking into account transaction-wise details provided by both the exporters i.e. M/s Formosa Chemicals & Fibre Corporation (FCFC) and M/s Taiwan Prosperity Chemical Corporation (TPCC). The verification of the data of exporters was made. In respect of TPCC, the corrected and verified data and sales made in the ordinary course of trade have been relied upon for calculation of the normal value. FCFC, during the verification stated that sales to affiliated parties has been made on terms and conditions as compared to sales made to non-affiliated parties. The sales to affiliated parties constitute major proportion of the total sales. It was also stated that difference in prices between affiliated and non-affiliated sales was due to difference in quantity of sales. In this regard attention has been invited to a sale transaction made to non-affiliated parties in which the sales price was lower than comparable average prices to other non-affiliated parties and even lower than sales to the affiliated parties. Further, attention has been invited to the financial statement and independent auditor's report of the company wherein under the head 'significant transaction with related parties' it has been stated that "the

purchase price and payment terms with the related parties are not different from those with non-related parties.”

42. The normal value for Chinese Taipei has been determined by taking into account transaction-wise details provided by both the exporters. The domestic sales to the affiliated parties by M/s Formosa Chemicals have not been taken into account as there was a considerable difference in prices between affiliated and non-affiliated parties sales. During the verification it was stated that the difference in prices to affiliated and non-affiliated parties is not because of the affiliation but is attributable to their pricing policy. The Authority notes that in the original response submitted on the exporter’s questionnaire, no such mention of the pricing policy was made. (In the comments on disclosure statement also, all submissions concerning pricing policy were made as ‘confidential’). In this regard, comparison was made between the prices of affiliated and non-affiliated parties. The Authority examined the comparison and notes that the sales made to affiliated parties were at the same prices. Month-wise prices to affiliated parties were same. Whereas the selling price to non-affiliated party was at a different price. . Regarding statement in the annual reports concerning purchase price, the Authority notes that the same is not correct as there was difference in prices to affiliated and non-affiliated parties. The Authority, therefore, decides to disregard the sale made to affiliated party as not having been made in the ordinary course of trade and has considered the sale made to non-affiliated party for the purpose of normal value. The expenses as claimed by the exporters have been adjusted to arrive at the weighted average normal value. The domestic sales of bulk and packed product have been taken into account to determine the normal value for bulk and packed product respectively. For bulk product the normal value has been calculated as US\$ *** PMT. For packed product the normal value is determined as US\$ *** PMT.

Export price

M/s Formosa Chemicals & Fibre Corporation

43. The exporter has made only bulk sales to India, therefore, the export price for bulk has been determined. To determine the export price, the verified data of the exporter has been relied upon. All adjustments claimed by the exporter have been permitted. The ex-factory export price has been calculated as US\$ *** PMT for bulk material.

M/s Taiwan Prosperity Chemicals Corporation

44. The exporter has made sales of both bulk and packed product to India. To determine the export price, the verified data of the exporter has been relied upon. The transactions of exports were segregated to determine the export prices for bulk and packed material. All adjustments claimed by the exporter have been permitted. The

Non-cooperating Exporters	***	***	***	***	***	***	35.68%
Chinese Taipei							

M/s Formosa Chemicals	***		***		***		14.43%

M/s Taiwan Prosperity	***	***	***	***	***	***	13.84%

Non-cooperating exporters	***	***	***	***	***	***	38.78%
USA							

Non-cooperating exporters	***		***		***		80.57
European Union							

Non-cooperating exporters	***	***	***	***	***	***	86.83%

47. The dumping margins so determined are significant and above de minimis

F. METHODOLOGY FOR injury determination AND EXAMINATION OF CAUSAL LINKS

F.1 Views of the domestic industry

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

a) The sales of the domestic industry declined significantly after showing a significant increase up to 2004-05. It would be seen that the import volumes in absolute term increased vis-à-vis sales of domestic industry declined. There is direct relationship between the import volumes, import price, sales volumes and market share of the domestic industry. Import volumes increased because of availability of the material at dumped prices, due to which sales of domestic industry declined.

b) Profits:- Profitability of the domestic industry has significantly eroded. Even when the domestic industry attempted to maintain its market, the impact of the same was very adverse in terms of profits, which declined significantly from a situation of profits to financial losses. Decline in profitability of the domestic industry continued throughout the investigation period. Should the performance of the domestic industry be examined on quarter by quarter basis, the same materially deteriorated in each quarter.

c) It would be worthy to mention that significant decline in profits is in spite of significant reduction in interest costs. In other words, whereas the profits should have improved on account of reduction in interest costs, the same has rather declined. Employment level with the domestic industry has declined.

d) Productivity:- Productivity of the domestic industry declined. Petitioners submit that so severe is the adverse impact of dumping that even productivity of the domestic industry has suffered in spite of the peculiar nature of the production process. Any producer of the product would like to increase production. Production restrictions/suspension are quite unusual in this kind of industry. However, so severe has been the impact of dumping that the domestic industry has been forced to cut production.

e) Return on capital employed:- For the purpose of calculation of return on investments, petitioners have considered sum of fixed assets and working capital and profit before interest and taxes. The information shows significant deterioration in the performance of the domestic industry, from a situation of positive return to negative return. The decline in ROI is a direct consequence of decline in profits.

f) Output and Capacity Utilization:- Domestic industry maintained its capacity for production of subject goods. However, severe pressure on domestic industry from dumped imports resulted in production cuts being resorted to by the domestic industry, resulting in decline in capacity utilization.

g) Output and capacity utilization of the domestic industry declined in spite of the fact that the domestic industry decided to offer sub-optimal prices.

h) Inventories:- Inventory level of the domestic industry increased. Increase in inventories is in spite of lower prices offered by domestic industry. Whereas domestic industry had inventories equal to about 3 days sales, the same increased to more than 17 days in proposed period of investigation.

i) Salary & wages:- Salary and wages with the domestic industry increased.

j) Cash Profit:- Deterioration in profits of the domestic industry adversely affected cash profits of the domestic industry, which directly affected cash flow. Petitioners have determined cash profits from the product under consideration and cash flow of the company as a whole.

k) Demand and market share:- Whereas the market shares of the imports have increased, that of the domestic industry has declined.

l) Growth:- Growth of the domestic industry in a number of parameters shows negative trend.

49. It is thus evident that the domestic industry has suffered material injury. Thus, it can be concluded that the domestic industry is trapped in a vicious cycle of volume effect and price effect. First with the increase of the imports of the subject good from the subject countries into the Indian market as a result of excess capacity with the Foreign Producers, the domestic industry suffered from loss of sale and loss of market share. This resulted in adverse volume effect. This loss of sale forced the domestic industry to reduce their domestic selling price in order to sell the subject good in the domestic market. This resulted in adverse price effect. The exporters further reduced the selling price. As a result, the domestic industry reduced the selling price further and the process continued. Resultantly, domestic Industry faced adverse volume effect and adverse price effect as a result of distortive and unfair trade practices of the exporting countries.

Threat of Material Injury

50. In addition to the material injury already being suffered by the domestic industry, imports from subject countries are posing threat of material injury to the domestic industry.

51. There is significant increase in the import volumes in absolute term as is evident from the enclosed *pro forma*, and as would be seen from the increase in import volumes. This increase in imports is in spite of best efforts of the domestic industry to sell their material even at sub-optimal prices. The increase in imports would have been more, had the domestic industry not made efforts to curtail the same by offering lower prices;

52. The price undercutting is significant as is evident from the enclosed *pro forma*. At any point of time and in spite of offering matching prices, there is a positive price difference between the domestic product and imported product. Given nature of the product involved, any price difference between the domestic product and imported product is not acceptable to the consumers and the domestic industry is under constant pressure for price reductions. It may be noted that it is not such a product that the domestic industry can afford to sell at prices significantly higher than the imported prices. The only option with the domestic industry is to sell at matching prices. Therefore, it should be noted that small price difference is in fact huge in this kind of product;

53. Capacities created by the producers in the subject countries are far more than their respective domestic demand. These producers are in fact saddled with excess capacity. Capacities in Taiwan, Korea and USA are 300000 MT, 100000 MT and 3175000 MT respectively, which is significantly higher than consumption in their respective markets. Due to excess capacity in China, producers have been forced to reduce their prices.

54. While inventories of the article with the domestic industry are showing increase in spite of significant reduction in the selling prices by the domestic industry, petitioners understand that the producers in subject countries are saddled with higher inventories. However, no published information is available in this regard and the Authority is requested to call for relevant information;

55. Petitioners conducted extensive analysis of exports from subject countries to world over. The analysis was shocking in terms of its likely impact on the domestic industry. World exports of subject countries are showing increasing trends, clearly implying surplus unutilized capacities with the Foreign Producers.

F.2 Issue raised by co-operating exporters and importers

Imports made under the Duty Exemption Scheme

56. It has been stated that imports made under duty exemption scheme should be excluded for the purpose of injury analysis. The Authority notes that the imports made under duty exemption scheme create competition and change the price line as the importers would procure the goods from exporters or producers whosoever gives him the competitive price, therefore, the imports made under duty exemption scheme cannot be considered to have not affected the price in the market. The Authority, therefore, has not found it reasonable to exclude all duty free imports for the purpose of injury analysis.

Issue of Hindustan Organic Chemicals Ltd. (HOCL) as sick company

57. It has been stated that HOCL has been declared as a sick company and real reasons for the sickness were given in an annexure provided by the company on an annexure while filing application for declaration of sickness under SICA 1985. The Authority has already examined the issue and noted that the reasons cited on the concerned annexures were for the company as a whole. The Authority has already noted that unit concerned with the production of Phenol and Acetone were making profits during 2002 to 2006, however, the profit was considerably reduced during 2005-06. Moreover, one of the reasons cited on the annexure is 'severe international competition resulting in dumping of the product', therefore, the Authority holds that declaration of the company as a sick company under SICA would not make it ineligible to seek relief under anti-dumping investigations.

Examination by the Authority

F.3 Cumulative assessment of injury

58. As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%.

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

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

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

61. The Authority has taken note of various arguments raised by various parties in their submissions.

62. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

63. For the purpose of injury analysis the Authority has examined cumulative effect of dumped imports of the subject goods on the domestic industry and its effect on production, capacity utilization, sales, prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

64. Since positive dumping margins have been established for the exports from the subject countries, therefore, entire exports from the subject countries have been treated as dumped imports for the purpose of injury analysis and causal links examination.

(A) VOLUME EFFECT: Volume Effect of dumped imports and Impact on domestic Industry

65. The Authority has procured transaction wise details of imports of subject goods from DGCI&S. As per the data, imports from EU, South Africa, Singapore, Chinese Taipei, USA constitutes 26.93%, 15.36%, 18.36%, 16.99% and 10.03% respectively. The imports from subject countries are more than de minimis individually. The Authority notes that the share of subject countries in imports was 89.55% in 2003-04 increased to 94.06% in 2004-05 before declining to 91.05% in 2005-06 and 87.68% in POI. The Authority observed that the share of imports

from other countries was 10.45% in 2003-04 declined to 5.94% in 2004-05 and increased to 8.95% in 2005-06, 12.32% in POI. The trend indicates that imports from the subject countries were facing competition from imports of other countries. The Authority also observes that the anti-dumping investigation, on the request of domestic industry, have already been initiated on imports from Russia and Korea ROK.

i) Import Volumes and share of subject country

Imports

	Units	2003-04	2004-05	2005-06	July 05- June06
		Volume	Volume	Volume	Volume
		MT	MT	MT	MT
EU	MT	9125	12884	19591	17068
South Africa	MT	9487	7639	9779	9737
Singapore	MT	500	4227	10264	11638
Taiwan	MT	81	2733	12718	10766
USA	MT	2564	437	4257	6353
Other countries	MT	2539	1762	5567	7809
Subject Countries	MT	21757	27920	56609	55562
Trend	Indexed	100	128.3265	260	255
Total Imports	MT	24295	29682	62175	63371
Trend	Indexed	100	122	256	261
Market Share in Imports					
EU	%	37.56	43.41	31.51	26.93
South Africa	%	39.05	25.74	15.73	15.36
Singapore	%	2.06	14.24	16.51	18.36
Taiwan	%	0.33	9.21	20.45	16.99
USA	%	10.55	1.47	6.85	10.03
Other countries	%	10.45	5.94	8.95	12.32
Subject Countries	%	89.55	94.06	91.05	87.68

100.00 100.00 100.00 100.00

ii) Demand, Output and Market shares

a) Growth In Demand

Growth in Demand including Captive Consumption

Demand	Unit	2003-04	2004-05	2005-06	July05-june06
Domestic Industry	MT	46636	51567	37751	38314
Total Imports	MT/Lacs	24295	29682	62175	63371
Total Demand	MT/Lacs	70931	81250	99926	101685
Trend	Indexed	100	115	141	143

Growth in Demand excluding Captive Consumption

Demand	Unit	2003-04	2004-05	2005-06	July05-june06
Domestic Industry	MT	41405	50122	36134	37256
Total Imports	MT/Lacs	24295	29682	62175	63371
Total Demand	MT/Lacs	65701	79804	98310	100627
Trend	Indexed	100	121	150	153

66. Demand of subject goods has been determined by addition of domestic sales (including captive consumption) of domestic industry and all imports from all countries. From the data, trend indicates that demand for the subject goods had been growing from base year to POI. It grew by 43% during POI as compared to base year i.e. 2003-04.

67. The growth in demand of subject goods excluding captive sales also shows similar trends. However, as compared to base year it grew by 53%.

b) Production of the Domestic Industry

Capacity	Unit	2003-04	2004-05	2005-06	July05-june06	Adjusted
DI	MT	45500	45500	45500	45500	45500
Trend	Indexed	100	100	100	100	100

Capacity Utilisation

DI	%	102	114	80	85	91
Trend	Indexed	100	112	79	83	90

Production

DI	MT	46422	52036	36477	38736	46569
Trend	Indexed	100	112	79	83	90

68. Data of domestic industry on capacity, production and capacity utilisation reveals that the capacity of the domestic industry was 45500 MT during 2003-04 and had not changed during POI. The production of subject goods was 46422 MT during 2003-04 after rising in 2004-05 declined to 36477 MT during 2005-06 and was 38736 MT during POI. The trend indicates the production rose by 12% in 2004-05 and declined to 83% of the base year during POI. The capacity utilisation of domestic industry was 102% during 2003-04 declined to 85% during POI as compared to the base year.

69. The plant of M/s SI Group India Ltd. was out of operation for 49 days during POI due to floods in that area. The data on production and capacity utilisation has also been analysed by adjusting the actual data to capture the effect of 49 days. The adjusted data reveals similar trends, however, production and capacity utilisation declined to 90% during POI as compared to base year. It has been pointed out that by exporters that 'when a domestic producer imports the product concerned from the subject countries without using his capacities to manufacture the same, a part of the injury is self-inflicted.' The Authority in this regard notes that if the capacity of the concerned manufacturer is treated as fully utilised even then the capacity of the other producers shows under-utilisation.

c) Sales of Domestic Industry

Domestic Sales	Unit	2003-04	2004-05	2005-06	July05-June06
Domestic Industry	MT	41405	50122	36134	37256
Trend	Indexed	100	121	87	90
Domestic sales including Captive sales					
Domestic Industry	MT	46636	51567	37751	38314
Trend	Indexed	100	111	81	82

70. The data on sales indicates that the domestic industry sold 46636 MT of subject goods during 2003-04 and it declined to 38314 MT during POI. The sale of domestic industry fell to 82% during POI as compared to base year. The data on sales excluding captive sales indicates that the domestic industry sold 41405 MT of subject goods during 2003-04 and it declined to 37256 MT during POI. The sale of domestic industry fell to 90% during POI as compared to base year. The average inventory of the domestic industry indicates that the average stock was 867MT in 2003-04 and it risen to 1878 MT during POI. The average stock rose by 117%. In term of number of days of sales it was equivalent to 8 days of sales in 2003-04 and rose to 14 days of sales during POI as compared to base year. The decline in production, sales, capacity utilization and growth of average stock during POI indicate difficulty in selling the subject goods

Demand and Market Share including captive consumption

Demand	Unit	2003-04	2004-05	2005-06	July05-june06
Domestic Sales					
Domestic Industry	MT	46636	51567	37751	38314
Total Imports	MT	24295	29682	62175	63371
Total Demand	MT	70931	81250	99926	101685
Trend	Indexed	100	115	141	143
Market Share in Demand					
EU	%	12.86	15.86	19.61	16.78
SothAfrica	%	13.37	9.40	9.79	9.58
Singapore	%	0.70	5.20	10.27	11.45
Taiwan	%	0.11	3.36	12.73	10.59
USA	%	3.61	0.54	4.26	6.25
Domestic Industry	%	65.75	63.47	37.78	37.68
Trend	Indexed	100	97	57	57
Subject Countries	%	30.67	34.36	56.65	54.64
Trend	Indexed	100	112	185	178
Imports from Other countries	%	3.58	2.17	5.57	7.68
Trend	Indexed	100	61	156	215

d) Demand and Market Share excluding captive consumption

Demand	Unit	2003-04	2004-05	2005-06	July05-June06
Domestic Sales					
Domestic Industry	MT	41405	50122	36134	37256
Total Imports	MT	24296	29682	62176	63371
Total Demand	MT	65701	79804	98310	100627
Trend	Indexed	100	121	150	153
Market Share in Demand					

EU	%	13.9	16.1	24.5	16.96
SothAfrica	%	14.4	9.6	9.9	9.68
Singapore	%	0.8	5.3	10.4	11.57
Taiwan	%	0.1	3.4	12.9	10.70
USA	%	3.9	0.5	4.3	6.31
Domestic Industry	%	63.02	62.81	36.76	37.02
Trend	Indexed	100	99.90	58	59
Subject Countries	%	33.11	34.99	57.58	55.22
Trend	Indexed	100	106	174	167
Imports from Other countries	%	3.86	2.21	5.66	7.76
Trend	Indexed	100	57	147	201

71. The demand (including captive consumption) of subject goods has shown rising trend. It grew by 43% during POI as compared to the base year. The trend indicates that the share of domestic industry which was at 65.75% in 2003-04 declined to 37.78% during POI. During the same period the share of subject countries which was 30.67% in 2003-04 rose to 56.65% in 2004-05 and 54.64% during POI. The share of imports from other countries has also risen from 3.58% in the base year to 7.68% during POI. The imports from other countries include imports from Russia and Korea ROK. The anti-dumping investigations against these countries have also been initiated.

72. The demand (excluding captive consumption) of subject goods shows similar trend. It grew by 53% during POI as compared to the base year. The trend indicates that the share of domestic industry which was at 63.02% in 2003-04 declined to 37.02% during POI. During the same period the share of subject countries which was 33.10% in 2003-04 rose to 62.20% in 2004-05 and 55.22% during POI.

(B) Price Effect of the Dumped imports on the Domestic Industry

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

(i) Evaluation of Export Price over period under consideration

Export Price	Unit	2003-04	2004-05	2005-06	July05- June06
USA	Rs/MT	26,126	40,477	33,403	32,852
Trend	Base year 2003-	100	155	83	98

		04=100				
E U	Rs/MT	26,543	39,145	38,076	33,036	
Trend	Indexed	100	147	143	124	
South Africa	Rs/MT	26,329	39,456	34,397	32,145	
Trend	Indexed	100	150	131	122	
Singapore	Rs/MT	25,420	41,453	33,089	31,956	
Trend	Indexed	100	163	130	126	
Chinese Taipei	Rs/MT	34,798	39,792	38,150	33,373	
Trend	Indexed	100	114	110	96	
Subject Countries	Rs/MT	26,405	39,664	36,202	32,698	
Trend	Indexed	100	150	137	124	
Sales(NSR)	Unit	2003-04	2004-05	2005-06	July05-June06	Adjusted
Trend	Indexed	100	131	119	113	113
COP						
Trend	Indexed	100	121	141	135	135

74. The data on prices reveals that prices from USA increased by 55% in 2004-05 however decline to 98 % as compared to base year. Data on European Union shows the prices increased to 47% in 2004-05 and declined to 24% during POI as compared to the base year. Prices from South Africa as compared to base year increased by 50% before declining to 22% during POI. Prices from Chinese Taipei as compared to base year increased by 14% in 2004-05 before declining to 96% during POI. Prices from Singapore reveal it increased by 63% in 2004-05 and declined to 26% during POI as compared to base year. Prices from subject countries show that it increased by 50% in 2004-05 before declining to 24% as compare to base year.

(ii) **Price undercutting and underselling effects**

	Unit	2003-04	2004-05	2005-06	July'05 to June'06
Selling price-DI	Rs/ MT	***	***	***	***
Trend	Indexed	100	131	119	113
Customs Duty	%	25	20	14.79	14.17

Landed value

USA	Rs/ MT	32723	48653	38394	37553
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting	%	***	***	***	1-10%
NIP					***
Price underselling					***
Price underselling %					5-15
Europe	Rs/ MT	33244	47052	43764	37763
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting	%	***	***	***	1-10
NIP					***
Price underselling					***
Price underselling %					5-15
South Africa	Rs/ MT	32977	47426	39536	36745
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting	%	***	***	***	2-12
NIP					***
Price underselling					***
Price underselling %					5-20
Singapore	Rs/ MT	31838	49826	38033	36529
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting	%	***	***	***	5-15
NIP					***
Price underselling					***

Price underselling %						5-20
Chinese Taipei	Rs/ MT	43584	47830	43850	38148	
Price Undercutting	Rs./MT	***	***	***	***	
Price Undercutting	%	***	***	***		2-12
NIP						***
Price underselling						***
Price underselling %						5-15

75. In determining the weighted net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

76. The trend of selling price indicates that it has risen by 31% in 2003-04, 19% in 2005-06 as compared to base year, however, it rose by 13% during POI as compared to base year. During the same period, the cost of production had risen by 23% in 2003-04, 38% in 2004-05 and 34% during POI as compared to base year.

77. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the value reported in the DGCIS data of import prices from the subject countries. The price undercutting from subject countries was in the range of 2-10% during POI.

78. For the purpose of price underselling determination the weighted average landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. It shows that underselling was in the range of 5-20%.

(iii) Price suppression and depression effects of the dumped imports:

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

80. The trend of cost of production shows that weighted average cost of production rose by 35% during POI as compared to base year whereas the selling price had increased only by 13% during POI indicating that the domestic industry could not realize the selling price commensurate with the increase in cost of production.

F.4 Examination of other Injury Parameters

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

ii) Profits and actual and potential effects on the cash flow

Sales(NSR)	Unit	2003-04	2004-05	2005-06	July05- June06	Adjusted
Domestic Industry	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	131	119	113	113
COP						
Domestic Industry	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	121	141	135	135
Profitability						
HERDILLIA	Rs/MT	***	***	***	***	***
HOCL	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	196	-38	-40	-44
Profits - PBIT						
Domestic Industry	Rs/Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	216	-19	-21	-27

82. The data indicate that weighted average cost of production of the domestic industry rose by 21% in 2003-04, 41% in 2005-06 and 35 % during POI as compared to base year whereas the weighted average net selling price increased by 31 % in 2004-05, 19% in 2005-06 and 13% during the same period. The profit per unit which was 100 (indexed) in the base year increased by 96% during 2004-05 and turned into loss of 40 during POI. The profit of domestic industry on the domestic sales(PBIT) which was 100 (indexed) in 2003-04 increased by 116% in 2004-05 and turned to loss of 21% during POI..

iii) Return on investment and ability to raise capital

Assets(NFA)	Unit	2003-04	2004-05	2005-06	July05-June06	Adjusted
Domestic Industry	Rs/Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	96	105	100	100
Working Capital	Unit					
HERDILLIA	Lacs	***	***	***	***	***
HOCL	Rs/Lacs	***	***	***	***	***
Capital Employed (NFA)						
Domestic Industry	Rs/Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	120	115	109	109
PBIT						
Domestic Industry	Rs/Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	216	-19	-21	-27

ROCE(NFA)

Domestic Industry	%	***	***	***	***	***
Trend	Indexed	-100	180	-17	-19	-25

83. The data on capital employed shows that it increased by 20% in 2004-05, 15% in 2005-06 and 9% during POI as compared to base year. The increase of capital employed was mainly because of increase of the working capital. The return on capital employed with base as 100 (indexed) in 2003-04 increased by 80% in 2004-05 and turned to -19% during POI.

i) Productivity

84. The data on production per employee shows that the productivity increased by 14% in 2004-05 before declining to 86% during POI as compared to base year.

Employment and wages

Employees	Unit	2003-04	2004-05	2005-06	July05-june06
DI	No	***	***	***	***
Trend	Indexed	100	98	98	97
Salary & wages					
DI	Rs/Lacs	***	***	***	***
Trend	Indexed	100	112	121	135

85. Acetone and Phenol are manufactured together in a same process. Therefore, the number of employees and their wages have been taken for the plant as a whole. The employment level does not show significant change. In indexed form it declined to 97% during POI as compared to base year. The wages increased by 35% during POI as compared to base year.

viii) **Inventories**

Average Inventory	Unit	2003-04	2004-05	2005-06	July05-June06
DI	MT	***	***	***	***
Trend	Indexed	100	110	113	217

86. The data indicates the average inventory almost doubled during POI from the 100 of the base year. The stock was equivalent to 8 days of sales in 2003-04 and increased to equivalent of 14 days during POI

Growth

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

v) Investment

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

vi) Magnitude of Dumping

89. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject countries named, for the POI, are significant.

vii) Factors affecting prices

90. Change in cost structure if any, competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors might be affecting the prices in the domestic market. The weighted average cost of production has increased by 35% during POI. The weighted average net selling prices increased by 13% during the same period. The Authority notes that Landed values of imported material from subject countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. The undercutting during POI was in the range of 2-10% and underselling was in the range of 5-20% during POI.

F.5 Conclusion on injury parameters

91. The examination of above injury parameters indicates that growth in demand was 43% (including captive sales) during POI as compared to base year. The production of the domestic industry declined to 83% during POI as compared to the base year. The sales including captive sales of the domestic industry declined to 81% during POI as compared to the base year. During the same period, the imports of subject goods increased significantly from 21757 MT in 2003-04 to 55562 MT during POI i.e. it increased by 155%. The share of the imports from subject countries increased from 30.67% in 2003-04 to 54.64% during POI whereas the share in demand of the domestic industry declined from 65.7% to 37.68% during the same period. The capacity of the domestic industry despite growth in demand declined and remained unutilized during POI. The profitability during POI turned to -44 during POI from base of 100 in 2003-04. Similarly, profits (PBIT) turned to -27 during POI as compared to base of 100. The return on net capital employed turned to -25 during POI as compared to 100 of base year.

F.6 Other Known factors and Causal Link

92. The foregoing analysis indicates that the volume of dumped imports from the subject countries have increased substantially both in absolute terms as well as in relation to the share in demand. Despite strong growth in demand the growth of imports from subject countries have significantly displaced the market share of the domestic industry. The landed value of dumped imports from the subject countries also show a significant price undercutting and underselling on the prices of the domestic industry compelling the domestic industry to benchmark its prices to imports thereby incurring losses. This establishes causal link between dumping of the subject goods and injury to the domestic industry.

93. The Authority has also examined the issue of causal link and other non-attribution factors as laid down in the Rules to segregate injury if any caused by other factors. In this regard the following indicative factors as laid down in the Rules have been examined.

i) Volume and prices of imports from other sources

94. The authority notes that the volume of imports from other countries are 12.32%. The Authority notes that the imports from other countries may also have been contributing to the injury of the domestic industry. It has been further observed that the imports from other countries include imports from Russia and Korea ROK for which the anti-dumping investigations have already been initiated and are in progress.

ii) Contraction in demand and / or change in pattern of consumption

95. The subject goods have shown robust growth during the injury period. The total demand of subject goods have shown growth of 43% (including captive sales) during Period of Investigation as compared to the base year. There is also no significant change in consumption pattern of the product in the domestic market which could be attributed to the injury to the domestic industry.

iii) Trade restrictive practices of and competition between the foreign and domestic producers

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

iv) Development of technology

97. The Authority notes that technology for production of the product has not undergone any change. Development of any other technology, therefore, cannot be attributed to the injury to the domestic industry.

v) Export performance

98. The Authority notes that the export volume of the domestic industry is insignificant during the entire injury period. Therefore, this factor is not attributable to the injury to the domestic industry.

vi) Productivity of the Domestic Industry

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

100. The other factors which could have possibly caused injury to the domestic industry and brought to the knowledge of the Authority have already been analysed.

101. On the basis of the above examination it is concluded that the subject goods exported from the subject countries are at prices below their normal values, Non Injurious Price of the domestic industry and the average sales realization of the subject goods of the applicants, and have caused injury to the domestic industry indicating causal links between dumping of subject goods and injury to the domestic industry.

G. Magnitude of Injury Margin

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

Injury margin Calculations

	USD./MT		
Name of company	Injury Margin	Injury Margin	Injury Margin

	(Bulk)	(Packed)	(Avg/Weighted)
M/s Formosa Chemicals & Fibre Corporation, Chinese Taipei	***		***
M/s Taiwan Prosperity Chemical Limited, Chinese Taipei	***	***	***
Others from Chinese Taipei	***	***	***
M/s Mitsui & Co. Ltd., Singapore	***		***
Others from Singapore	***	***	***
M/s Sasol Solvents, South Africa	***	***	***
Others from South Africa	***	***	***
Exporters from USA	***		***
Exporters from European Union	***	***	***

H. Conclusions

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

- A. The subject goods have been exported to India from the subject countries below its normal value;
- B. The domestic industry has suffered material injury;
- C. The injury has been caused by the dumped imports from subject countries.

I. Indian industry's interest & other issues

104. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

J. Recommendations

105. In view of the above, the Authority considers it necessary and recommends definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

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

Duty Table

Sl. No	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	29141100	Acetone	Chinese Taipei	Chinese Taipei	Formosa Chemicals & Fibre Corp.	Formosa Chemicals &	89.42	MT	USD

2.	Do	Do	Chinese Taipei	Chinese Taipei	M/s Formosa Chemicals & Fibre Corp.	Fibre Corp. Other than above	201.27	MT	USD
3.	Do	Do	Chinese Taipei	Chinese Taipei	M/s Taiwan Prosperity Chemicals Ltd.	M/s Taiwan Prosperity Chemicals Ltd.	87.14	MT	USD
4.	Do	Do	Chinese Taipei	Chinese Taipei	M/s Taiwan Prosperity Chemicals Ltd.	Other than above	201.27	MT	USD
5.	Do	Do	Chinese Taipei	Chinese Taipei	Any other than above	Any other than above	201.27	MT	USD
6.	Do	Do	Chinese Taipei	Any country other than Chinese Taipei	Any	Any	201.27	MT	USD
7.	Do	Do	Any country other than Chinese Taipei	Chinese Taipei	Any	Any	201.27	MT	USD
8.	Do	Do	Singapore	Singapore	Any	M/s Mitsui & Co. Ltd.	196.71	MT	USD
9.	Do	Do	Singapore	Singapore	Any	M/s Sumitomo Corporation & M/s Petrochem Middle East	147.15	MT	USD
9.	Do	Do	Singapore	Singapore	Any	Any other than above	240.06	MT	USD
10.	Do	Do	Singapore	Any country other than Singapore	Any	Any	240.06	MT	USD
11.	Do	Do	Any country other than Singapore	Singapore	Any	Any	240.06	MT	USD
12.	Do	Do	South Africa	South Africa	M/s Sasol Solvents	M/s Sasol Solvents	141.95	MT	USD
13.	Do	Do	South Africa	South Africa	M/s Sasol Solvents	Any other than above	179.65	MT	USD
14.	Do	Do	South Africa	Any country other than S. Africa	Any	Any	179.65	MT	USD
15.	Do	Do	Any country other than S. Africa	South Africa	Any	Any	179.65	MT	USD
16.	Do	Do	USA	USA	Any	Any	213.76	MT	USD
17.	Do	Do	USA	Any country other than USA	Any	Any	213.76	MT	USD
18.	Do	Do	Any country other than USA	USA	Any	Any	213.76	MT	USD
19.	Do	Do	European Union	European Union	Any	Any	277.85	MT	USD
20.	Do	Do	European Union	Any country other than EU	Any	Any	277.85	MT	USD
21.	Do	Do	Any country other than EU	European Union	Any	Any	277.85	MT	USD

107. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

108. Subject to the above, the Authority confirms the preliminary findings dated 25th April 2007, however duty recommended in para 106 above would be applicable from the date of imposition of provisional anti dumping duty as per Section 9A(2) of the Custom Tariff Act 1975.

109. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

R. Gopalan
The Designated Authority

