

F.No.14/16/2012-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street,
New Delhi 110001

Dated the 22nd January, 2015

NOTIFICATION

(Final Findings)

Subject: Anti-dumping investigation concerning imports of Acetone originating in or exported from Chinese Taipei and Saudi Arabia.

No.14/16/2012-DGAD:Having regard to the Customs Tariff Act, 1975 as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof:

A. BACKGROUND

1. WHEREAS, M/s Hindustan Organic Chemicals Ltd (hereinafter referred to as the applicant or petitioner or HOCL) filed a duly substantiated application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules or Rules), alleging dumping of Acetone (hereinafter referred to as the subject goods), originating in or exported from Chinese Taipei and Saudi Arabia (hereinafter referred to as the subject countries), and, thus, for initiation of anti-dumping investigation and levy of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country.
2. AND WHEREAS, the Authority found sufficient prima facie evidence of dumping of the subject goods originating in or exported from the subject

countries and injury to the domestic industry and causal link between dumping and injury and initiated the anti dumping investigation vide Notification No 14/16/2012-DGAD dated 23rd July, 2013 to investigate into the alleged dumping, and consequent injury to the domestic industry, in terms of the Rules, and to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty which, if levied, would be adequate to remove the injury to the domestic industry

B. PROCEDURE

3. The procedure described below has been followed in this investigation:
 - i) The Authority notified the embassies of the subject countries in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject countries before proceeding to initiate the investigation in accordance with the Rules.
 - ii) The Authority issued a public notice no 14/16/2012-DGAD dated 23rd July, 2013, published in the Gazette of India, Extraordinary, initiating the anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
 - iii) The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the Rules.
 - iv) The Authority provided a copy of the non-confidential version of the application to the known exporters of the subject countries in accordance with the Rules. A copy of the application was also made available to other interested parties, upon request.
 - v) Copies of the letter and the exporter's questionnaire sent to the exporters/producers in the subject countries were also sent to the Embassies of the subject countries in India along with a list of known exporters / producers with a request to advise the known exporters / producers from the subject countries as also other exporters / producers from the subject countries to respond to the questionnaire within the prescribed time limits.
 - vi) The Authority sent exporter's questionnaire to elicit relevant information to the following known exporters in the subject countries in accordance with the Rules:

- a) Saudi Kayan Petrochemical Company, Saudi Kayan Petrochemical Co. P.O. Box 10302, Jubail Industrial City 31961, Saudi Arabia.
- b) Formosa Chemicals, 201, Tung Hwa North Road, Taipei Taiwan, R.O.C.
- c) Taiwan Prosperity Chemical Corporation, Floor: 9, No.113, Chung Shan N. Road, Sec.2, Taipei, 104, Taiwan.
- d) Chang Chun Plastic Co. Ltd. 7th Floor, No. 301, Song Kiang Road, Taipei-104, Taiwan.

vii) Response to exporter's questionnaire was received from the following producers/exporters:

- a. M/s Chang Chun Plastics Co., Ltd (CCP), Taiwan (Producer and Exporter)
- b. M/s Formosa Chemicals & Fibre Corporation (FCFC), Taiwan (Producer & Exporter)
- c. M/s Kolmar Group AG., Switzerland (Exporter)
- d. M/s Taiwan Prosperity Chemical Corporation (TPCC), Taiwan (Producer & Exporter)
- e. M/s Saudi Basic Industries Corporation (SABIC) and M/s Saudi Kayan Petrochemical Company, Kingdom of Saudi Arabia.

viii) The following submitted legal submissions:

- a) M/s Saudi Basic Industries Corporations (SABIC) and M/s Saudi Kayan Petrochemical Company, Kingdom of Saudi Arabia.
- b) Jupiter Dyechem Private Limited.
- c) M/s Formosa Chemicals and Fibre Corporation (FCFC), Taiwan
- d) M/s Taiwan Prosperity Chemical Corporation (TPCC), Taiwan
- e) M/s Chang Chun Plastics Co., Ltd (CCP), Taiwan
- f) M/s Kolmar Group AG., (Kolmar), Switzerland

ix) The Authority forwarded a copy of the public notice to the following known importers/users/user associations (whose names and addresses were made available to the Authority) of the subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4):

- a. M/s C.J. Shah and Company, Mumbai.

- b. M/s Haresh Kumar & Co., Mumbai.
 - c. M/s PCL Industries, New Delhi.
 - d. M/s KantilalManilal& Co. Pvt. Ltd., Mumbai.
 - e. M/s Sonkamal Enterprises, Mumbai.
 - f. M/s Khetan Brothers, Mumbai
 - g. M/s Shubham Dyes & Chemicals Ltd., New Delhi
 - h. M/s Acron Enterprises, Gujarat.
 - i. M/s Naiknavare Chemicals Limited, Mumbai.
 - j. M/s Paras Dyes & Chemicals, New Delhi.
 - k. M/s Torrent Pharmaceuticals Limited, Gujarat
 - l. M/s United Phosphorous Ltd, Mumbai.
 - m. M/s Resins & Plastic Ltd, Mumbai.
 - n. M/s Kailash Polymers, New Delhi.
 - o. M/s Centrum Metalics Pvt. Ltd., Navi Mumbai.
 - p. M/s Wonder Laminates Pvt. Ltd., Kolkata.
 - q. M/s Meghdev Enterprises, Ahmedabad.
 - r. M/s Satguru International, New Delhi.
 - s. M/s High Polymer Labs Ltd.
 - t. M/s Rainbow colours& Chemicals, Gujarat.
 - u. M/s Bleach Marketing Pvt. Ltd., Ahmedabad.
 - v. M/s Karmen International (P) Ltd., Chennai
 - w. M/s Krishna Antioxidants Pvt. Ltd., Mumbai
 - x. M/s NGP Industries Ltd., New Delhi.
 - y. M/s Farmson Pharmaceutical Gujarat Ltd., Baroda.
 - z. M/s India Glycols Ltd, New Delhi.
 - aa. M/s Singh Plasticisers and Resins (I) Pvt., New Delhi.
 - bb. M/s National Plywood Industries Ltd., Kolkata.
 - cc. Kundan Rice Mills Ltd, Delhi.
- x) Only the following importer/user filed responses to the questionnaire:
- a. Jupiter Dyechem Private Limited, Mumbai
- xi) The Period of Investigation (POI) for the purpose of the present investigation was the financial year April, 2012 to March, 2013 (12 months). For the purpose of analyzing injury, the data of previous three years, i.e., Apr09-Mar10, Apr2010-Mar11, Apr11-Mar12 and the period of investigation has been considered.
- xii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods

into India for the past three years, including the period of investigation, and the said information was obtained from the DGCI&S and has been adopted in this investigation.

- xiii) Exporters, producers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xiv) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).
- xv) The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi) In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to interested parties to present their views orally in a public hearing and gave opportunity to the interested parties to submit the view presented orally in writing.
- xvii) In accordance with the Rules, the Authority also provided opportunity to all the interested parties to present their views orally in an Oral Hearing held on 27.08.2014. Parties which participated in the Oral Hearing were requested to file written submissions of the views expressed orally.
- xviii) A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 15.01.2015. The post Disclosure Statement submissions received from the domestic industry and the opposing interested parties have been considered, to the extent found relevant, in this Final Findings Notification.
- xix) The submissions made by the domestic industry and other interested parties during the course of the investigation and considered relevant by the Authority have been examined and addressed in this investigation.
- xx) Verification of the information and data submitted by the interested parties was carried out to the extent deemed necessary.

- xxi) Information provided by the interested parties on confidential basis was examined by the Authority with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed. Wherever possible, the interested parties were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xxii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded these essential facts on the basis of the 'facts available' and treated such parties as non-cooperative.
- xxiii) At the request of the Authority, the Central Government extended the time period to complete the investigations up to 22nd January, 2015.
- xxiv) ***in this Final Findings Notification represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the Rules.
- xxv) The exchange rate adopted for the POI is 1 US \$ =Rs 54.65.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions by the Domestic Industry

4. The following submissions have been made by the domestic industry:
 - i. The product under consideration in the present investigation is Acetone. Acetone is a basic organic chemical which is also known as Dimethyl Ketone with a Chemical formula CH_3COCH_3 and is used in the manufacture of bulk pharmaceuticals, agro chemicals, dye stuffs, certain explosives and downstream chemicals. Acetone is normally classified under Chapter 29 of the Customs Tariff Act under the sub-heading 29141100. It is a basic organic chemical produced in single grade. It is a colourless liquid with an agreeable ether-like odour.
 - ii. Acetone is used in numerous organic synthesis either as a solvent or as an intermediate. It is used in the manufacture of bulk pharmaceuticals, agrochemicals, dyestuffs, certain explosives and downstream chemicals. It is also used in the manufacture of Isophorone, Diacetone, Alcohol,

Methyl Methacrylate and Bisphenol-A. Besides this, Acetone is used in manufacture of certain Rubber Chemicals, Oxy Acetylene, Cellulose Acetate and also a solvent in the manufacture of Paints/Coating.

- iii. There is no significant difference in Acetone produced by the domestic industry and exported from the subject countries. Acetone produced by the domestic industry and imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology (followed by most of the producers from the subject countries), functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
- iv. Therefore, Acetone produced by the domestic industry and Acetone imported from the subject countries fulfills the requirements laid down by Rule 2(d) of the Anti-dumping Rules and the two products are eligible to be treated as like article under Rule 2(d) of the Anti-dumping Rules.

Submissions made by the producers/exporters/other interested parties

5. No relevant submission has been made by the producers/ exporters/ importers/ other interested parties with regard to the scope of the product under consideration and the like article.

Examination by the Authority

6. The Authority has considered the submissions in this regard and concludes as under:
7. The product under consideration (PUC) in the present investigation is Acetone. It is a basic organic chemical which is also known as Dimethyl Ketone with a chemical formula CH_3COCH_3 and used in the manufacture of bulk pharmaceuticals, agro chemicals, dye stuffs, certain explosives and downstream chemicals. It is a basic organic chemical produced in single grade. It is a colourless liquid with an agreeable ether-like odour. Acetone is classified under Chapter 29 of the Customs Tariff Act under the sub-heading 29141100. The customs classification is indicative only and in no way binding on the scope of the present investigation.
8. The subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under

consideration manufactured by the applicant. The two are technically and commercially substitutable. Therefore, for the purpose of the present investigation, the subject goods produced by the applicant in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

Views of the Domestic Industry

9. The Domestic Industry has made the following submissions with respect to the scope of domestic industry and standing:
 - i. The petitioner is Hindustan Organic Chemicals Limited (HOCL) having its corporate office at Mumbai. It was supported by SI group at the stage of initiation.
 - ii. After the initiation, SI Group has filed complete injury information in the prescribed form and manner as required by the Authority. The petitioners now constitute total Indian production. The petitioners satisfy the requirement of standing to file the present petition. Further, the petitioners constitute 'Domestic Industry' within the meaning of the AD Rules.
 - iii. The requirement under the Rules is whether it is supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition, as the case may be, to the application. In the instant case, there is no dispute that the production of the petitioner satisfied this requirement and the petition was supported by SI Group.
 - iv. The argument of the interested parties is contradictory in as much as it has been contended that SI Group is trading in the goods, which implies that SI Group is ineligible domestic industry and that at the same time the exporter has contended that HOCL does not have locus to file the petition.
 - v. There is no basis for the allegation that HOCL and SI group selectively participate in various ADD cases to get favourable result and exploit the mechanism. In fact the fact that both the companies have been participating in all the ongoing cases itself establishes that no selective participation has been done by the domestic industry. In any case, scope of the domestic industry is determined in accordance with the Rules in all the cases.

Views of exporters/importers/users and other opposing interested parties

10. The following are the submissions by the producers/exporters/other interested parties with regard to scope of the domestic industry and standing:

- i. The applicant does not have a standing to file the present application as it accounts for only 42% of the total domestic production. The applicant has claimed that it together with another company ó SI Group India Ltd. (SI Group), who is supporting the application, accounts for a major proportion of the total domestic production. The said supporter has not provided any data relating to injury. With the result, the supporter is only lending its name to the cause of HOCL without actually participating in the investigation by providing details of cost of production, selling prices, investments and other pertinent factors. There is no concept of merely filing a support letter for the purposes of meeting standing requirements while refraining from providing other information required for establishing material injury and causal link. Further, DGAD cannot take production of two producers while examining standing and consider only the information of one producer while examining material injury.
- ii. The domestic producers selectively participate and provide information to the Designated Authority. The domestic producers are abusing the discretion vested with the Designated Authority for affixing of the Domestic Industry by following such arbitrary method of participation and formation of the Domestic Industry for the different investigations on same or co-products without providing any reasons or justification.
- iii. Due to the inconsistency in defining the scope of domestic industry, the domestic producers are able to exploit the anti dumping mechanism.
- iv. A complete revision of injury information nine months after the initiation on behalf of SI Group via letter dated 24th March, 2014 has been included in the investigation. This is unacceptable. This is contrary to the letter and spirit of the Anti Dumping Rules.
- v. No new exporter is allowed to cooperate in the investigation at a comparable stage of the investigation. An equitable standard should be followed in this behalf, whereby the expansion of the domestic industry's scope cannot be allowed at such a belated stage in the investigation.
- vi. Furthermore, it may be noted that SI Group imported acetone during the POI, which may be inferred from its Annual Reports for the year 2011-12 and 2012-13. The requirement and spirit of Rule 2(b) of Indian Anti-Dumping Rules is to exclude those producers from the scope of the

domestic industry, who are importers of acetone themselves and by doing so, are causing injury to the domestic industry.

Examination by the Authority

11. The Authority has examined the issue as under:

- i. The Authority notes that Rule 2(b) of the Anti-dumping Rules provides as follows:

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”

12. With regard to SI Group's participation in the present investigation, the Authority notes that SI Group had provided complete support during the petition stage and, therefore, the Authority has chosen to accept the information given by the SI Group.

13. The application was filed by M/s Hindustan Organic Chemicals Limited (HOCL) as the domestic industry of the subject goods in India. The only other domestic producer, M/s SI Group India Ltd, supported the application at the time of initiation and was, therefore, considered as a supporter of the application. However, M/s SI group has subsequently given complete information relevant to the investigation. It is noted that both the domestic producers together account for total Indian production of the subject goods in the country.

14. It is noted that M/s SI Group India Ltd has imported 1225 MT of the subject goods from the subject countries. It is noted that all the imports made by the subject countries were under duty exemption scheme and were further under export obligation to export product produced from Acetone. It is noted that total imports by the company constitute 6% of its total production and 1% of total imports into the country. The Authority notes that imports under duty exemption scheme were meant to manufacture the product for export purpose and were not intended for consumption in the country and, therefore, imports made by SI Group India Ltd were not made available in the market. Thus, the Authority holds that the imports made by SI Group do not disqualify it from being part of the domestic industry.

15. Both the companies are not related to any importer or exporter of the product under consideration. It is thus determined that the application has been made by or on behalf of the domestic producers, i.e., M/s HOCL and M/s SI group and the application satisfies the requirements of 'standing' under Rule 5 of the AD Rules. Further, the M/s Hindustan Organic Chemicals Limited and SI Group India Ltd together constitute 'Domestic Industry' in terms of Rule 2(b) of the AD Rules.
16. It has been contended that HOCL does not have locus standi to file the application. The Authority, however, notes that HOCL had filed the petition and SI Group had supported the petition and both HOCL and SI Group taken together constitute major proportion in the total Indian production and thus the applicants satisfy the requirement of standing to file the anti dumping petition. As regards the submission that HOCL and SI Group selectively participate in various anti dumping cases, the Authority notes the relevant fact for the instant case is that both the producers have cooperated and submitted all relevant information for the purpose of present investigation and both the producers are suffering injury caused by dumped imports from the subject countries.
17. The Authority, therefore, notes that domestic producers' collective production constitutes more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition, as the case may be, to the application. The Authority further notes that as regards the contention that the applicants have no locus standi, it is convinced that in the instant case there is no dispute that the production of the applicant has satisfied all the requirements and was supported by the SI Group.
18. As regards the submission that that SI Group's injury information was provided at a belated stage vide a letter dated 24th March 2014, the Authority stands by its stance taken in the public hearing where the Authority clearly pointed out that the information of SI Group relating to injury was very much available in the public file.
19. As regards the submission of accepting data submitted by SI group, the Authority notes that the application was filed by M/s Hindustan Organic Chemicals Limited (HOCL) as the domestic industry of the subject goods in India and the only other domestic producer, M/s SI Group India Ltd, supported the application at the time of initiation and was, therefore, considered as a supporter of the application. Therefore, on submission of

complete data by M/s SI Group, the Authority chose to accept the information given by the SI Group. It is further noted that both the domestic producers together account for total Indian production of subject goods in the country.

20. As regards the contention that HOCL and SI Group selectively participate in various anti dumping cases, the Authority notes that the applicants have satisfied the scope of domestic industry in each and every earlier case.

E. CONFIDENTIALITY

Submissions by the Domestic Industry

21. Following submissions have been made by the domestic industry with regard to confidentiality:

- i. The Authority is empowered to reject the information only if it is not satisfied that an interested party is unwilling to make the information public. In the instant case, to show unwillingness on the part of the domestic industry to provide non confidential version of the information filed, it first needs to be shown that such information has been denied by the domestic industry.
- ii. No excessive confidentiality has been claimed. Petitioners have sought confidentiality only on such information which is business sensitive or disclosure of which shall adversely impact the business of the domestic industry.
- iii. The claims of the domestic industry are consistent with the rules and the practice followed by DGAD. It is clearly seen from the importer's questionnaire that none of the information has been indexed and all the information has been marked confidential. This clearly shows dual standard of the parties with regard to how they are giving information to the authority and what they are expecting from the domestic industry.

Submissions by the producers/exporters/importers/other interested parties

22. Following submissions have been made by producers/ exporters/ importers/ other interested parties:

- i. Petitioners have abused confidentiality on various counts. The costing information to be provided by under Part VI of the Petition has been marked confidential. It should have been at least indexed. Methodology and breakup of the indexed costing data used for constructing the Normal

Values has not been provided including the rates as per subscribed reports for Raw materials and utilities.

- ii. The methodology and evidence relating to ocean freight and other expenses for arriving at export price has been kept confidential.
- iii. The quantity and value of the exports by the petitioners in the injury period has not been provided.

Examination by the Authority

23. With regard to confidentiality of information Rule 7 of Anti Dumping Rules provides as follows:-

(1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

24. The Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claim of confidentiality. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).

F. MISCELLANEOUS SUBMISSIONS

Miscellaneous submissions made by the domestic industry

25. Following miscellaneous submissions have been made by the domestic industry:

- i. There has been an intimation of extension notification. The domestic industry had seen the extension notification placed on the website.
- ii. On account of the argument that information in the petition is different from information in the recent MTR investigation, it is submitted that SI group was not participating in the previous case and therefore their production and sales had not been assessed. The now included information on account of support from SI Group is reflected in the marginal differences between the petitioner (about their production and sales) and actual information that they have provided.
- iii. It is clarified that information pertaining to depreciation cost etc, is with regard to Acetone only excluding the expenses involved in any other product. The joint costs have been apportioned between Phenol and Acetone in the respective ratio consistent with the followed practice. The changes in costs are due to relative difference in the turnover ratio/trend in Phenol and Acetone. Since the two are co-products, it is natural that the costs move with the changes in the turnover of the two products.
- iv. The repeated dumping by the exporters is unreasonable. The domestic industry has merely sought redressal against dumping of the product under consideration.
- v. It is a wild allegation that constant buffer of trade remedial measures have softened domestic industry's inefficiency. The exporters are not answering why they are repeatedly resorting to dumping. In the present case the exporters have misled the authority to believe that there would be no likelihood of dumping and injury if the duties get withdrawn. Further, barring the period of safeguard duty even when anti dumping duty has been imposed on some imports, there has always been some window open for consumers to import with no or low quantum of anti dumping duty.
- vi. HOCL was declared sick company in January, 2005 and thereafter the Designated Authority declared that HOCL did not suffer any injury, made decent profits and recommended withdrawal of ADD. The performance of HOCL has suffered thereafter. Thus, sickness of HOCL is entirely immaterial. It is also relevant to point out that the issue has been raised

repeatedly in several investigations and therefore has been adequately examined and addressed by the Designated Authority in the past.

Miscellaneous submissions made by the producers/ exporters/ importers and other interested parties

26. Following miscellaneous submissions have been made by the producers/ exporters/ importers and other interested parties:

- i. There was non intimation of extension notification and existence of special circumstances for the extension of time for completion of investigation.
- ii. Two-fold clarification must be provided by the domestic industry, firstly about whether the cost including depreciation cost has been shown only for Acetone or both Acetone and Phenol and secondly, can the production of acetone be changed in response to change in demand of phenol.
- iii. The repeated requests by the domestic industry for anti dumping duty are unreasonable.
- iv. There is a constant buffer of trade remedial measures with respect to the two products of Phenol and Acetone which have softened the efficiency of the domestic industry.
- v. HOCL has been classified as a sick company by the BIFR (Board for Industrial & Financial Reconstruction) under the SICA (Sick Industrial Companies Act) and has remained so.
- vi. The application filed by HOCL contains information, which is significantly different from the information contained in the final finding dated 10th April, 2012 issued in case of mid-term review investigation against Taiwan. If the information as per the said final finding is used in the present case, the entire injury analysis undergoes a significant change.
- vii. There is no authorization letter on record authorizing the consultant firm representing HOCL to represent SI Group as well. Therefore, submissions made by the consultant firm on behalf of SI Group needs to be rejected.
- viii. In the present investigation, applicant domestic industry has considered an exchange rate of INR 54.52 for USD and has made an analysis based on such exchange rate. Since the filing of the application, Indian Rupee

has depreciated from 54.52 to 62.7 at present. Such being the case, any examination of injury based on exchange rate prevalent during POI will not lead to a correct determination since any anti-dumping duty that may be imposed would be prospective in nature, applicable to future imports.

- ix. Contrary to the requirements set forth in Article 5.2 and 5.3 of WTO: ADA as well as Rule 5(2) and 5(3) of Indian AD Rules, neither the applicant provided the required evidence in support of existence of dumping from Saudi Arabia nor did DGAD examine the same while satisfying itself as to the adequacy and accuracy of the evidence presented. This faulty examination has vitiated the entire initiation of the investigation.
- x. HOCL has been frequently misusing the WTO mechanism to its interest. It has sought protection from the Government of India by filing petitions for imposition of Safeguards and Anti-dumping duties since the Government of India removed quantitative restrictions. The Government of India should examine in details the performance of HOCL when there were quantitative restrictions and imports of Acetone were banned.

Examination by Authority

27. As regards the submission that there was no extension of notification, the Authority notes that the notification had been placed on the website and was visible.
28. As regards the submission that the information in the petition is different from the information during MTR investigations and insufficient evidence to that extent, the Authority notes that SI Group was not a participating company in the previous case. In this case due to the support provided by SI Group, much information such as relating to production & sales etc were provided. These show marginal differences between assessment by the petitioner and the actual information provided by them.
29. As regards the query of the interested parties that the domestic industry should give a clarification about the cost including depreciation cost is shown for Acetone or both Acetone and Phenol and whether the production of Acetone be changed in the response to change in demand in Phenol, the Authority notes that the domestic industry has provided a satisfactory clarification. The Authority notes that the information is given with regard to Acetone only and does not include expenses involved in any other product.

The Authority finds the joint costs apportioned between Phenol and Acetone in the respective ratio to be consistent with the practice followed in this regard. The changes in the costs are due to relative difference in the turnover ratio/trend in Phenol and Acetone. Since the two are co-products, it is natural that the costs move with the changes in the turnover of the two products.

30. With regard to the argument that the petitioner is resorting to trade remedial measure to counter inefficiency, the Authority notes that the recommendation of anti dumping measures is guided by the parameters laid down in law and only when such parameters are met, the anti dumping duties are levied or maintained. Mere filing of applications does not result into the levy of anti dumping duties.
31. As regards the submission that the applicant did not provide required evidence in support of existence of dumping from Saudi Arabia, nor did DGAD examine the same, the Authority notes that the Authority initiated the investigation on prima facie evidence provided showing dumping causing injury to the domestic industry. Furthermore, the Authority has determined dumping on the basis of the response filed by the exporters from the subject countries.
32. As regards the submission that there is no authorization letter on record, it is noted that this letter was placed in the public file.
33. As regards the submission that exchange rate has fluctuated since the POI, the Authority notes that the fact of dumping causing injury is determined for the period of investigation and, therefore, information prevalent in the period of investigation alone is relevant.
34. As regards the submission that HOCL has been classified as a sick company by the BIFR, the Authority notes that HOCL has been classified as a sick company since 2005 and the anti dumping duties earlier levied on Taiwan were withdrawn in the year 2012 on the grounds that HOCL is making profits. Thus, clearly the injury is on account imports and not for the reason that HOCL is a sick company. Moreover, SI Group is also suffering injury on standalone basis.

G. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Normal Value, Export Price and Dumping Margin

Views of the domestic industry

35. Following are the submissions made by the domestic industry:

- i. Efforts were made to get information/evidence of price of subject goods in the domestic market of the subject countries. Efforts were also made to get price lists or quotation of producers of subject goods in subject countries. However, the domestic industry has not been able to get any information/evidence of price of subject goods in the domestic market of these countries.
- ii. The Domestic Industry has determined the normal value considering constructed value approach. The domestic industry has determined normal value in the subject countries on the basis of cost of production in India, duly adjusted. Major raw material (Benzene) cost is as per Platts Report and other raw material costs are taken on domestic industry's cost.
- iii. The increase in raw material costs such as that of Benzene is global and not restrictive or limited to Indian market situation.
- iv. Export price has been determined as weighted average import price of the product under consideration calculated at the CIF level. Export price has been adjusted for (a) Ocean Freight, (b) Marine Insurance, (c) Commission, (d) Port Expenses, (e) Inland Freight and (f) Bank Charges.
- v. Considering the Normal value and Export price, the dumping margin has been calculated. The comparison must be considered a fair comparison. Both normal value and export price have been determined at ex-factory level and pertain to the same period. There are no known differences in the conditions and terms of sale. Both the prices are free of taxes. Thus, the comparison made is a fair comparison.
- vi. The decline in inventories is as a result of cautious decision of one of the companies to regulate and reduce its production because of dumping of the product in the country.
- vii. The questionnaire response filed by the exporters SABIC and Saudi Kayan is in violation of Rule 7 of the Rules and jurisprudence on the subject. The exporter has resorted to excessive confidentiality and the domestic industry has been prevented fair opportunity to defend its interests in view of excessive confidentiality resorted by the exporter.

- viii. The rules permit confidentiality on such information, disclosure of which would be of significant competitive advantage to a competitor.
- ix. Therefore, the dumping margin cannot be determined on the basis of SABIC and Saudi Kayan's data. Further, the law clearly provides for cumulative assessment. Cumulative assessment of the effects of imports is appropriate since the exports from subject countries directly compete with the like goods offered by the domestic industry in the Indian market.

Views of the exporters/importers/users and other opposing interested parties

36. Following are the submissions made by the producers/exporters/importers and other interested parties in this regard:

- i. Since SABIC and Saudi Kayan have fully cooperated with the Authority and filed the questionnaire response, the Authority is requested to determine dumping margin for them based on their own data.
- ii. It is admitted fact in the petition filed by the petitioner that it has been unable to get the information of price of subject goods in the domestic market of the subject countries and hence, there is no evidence of dumping in the petition.
- iii. The alternative normal value construction made by the petitioner based on ICIS pricing is incorrect and unreliable. ICIS pricing made available on confidential basis by the petitioner is in respect of South East Asia. Such a pricing cannot be considered as evidence of domestic prices in Saudi Arabia.
- iv. Except Benzene prices, all other costs are based on petitioner's own prices. There is no evidence for any of the costs adopted.
- v. Normal Value based on a market economy third country or India can be constructed only in cases of NME. Further, Art. 2.2 of ADA permits considering cost of production in the country of origin (not in India) only when either there are no sales of the like article in the domestic market of the exporting country or particular market situation/low volume of sales and such sales do not permit a proper comparison.
- vi. Article 5.2 states that information on export price to third countries or Constructed Normal Value shall be given only where appropriate.
- vii. The initiation is void ab-initio.

- viii. Considering that all FCFC's Indian sales were made to either Indian or international traders, FCFC submits that its Indian export sales should only be compared to its sales to domestic traders.
- ix. Monthly average-to-average method should not be used to calculate dumping margin in the present case. DGAD should adopt POI-wide weighted-average method as the longer averaging period will neutralize the distortion caused by time difference of export order and shipment. If DGAD insists on monthly comparison, it should use the export sales' order date as date of the sale to ensure that the export price and normal value are compared on the same time basis.

Examination by Authority

Determination of Normal Value

37. Under section 9A (1) (c), normal value in relation to an article means:

- (i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or
- (ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either
- (a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

38. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, barring below mentioned producers and exporters, none of the producer/exporter from subject countries has co-operated in this investigation by filing their questionnaires' responses. The questionnaire response has been filed by the following companies:

- M/s Taiwan Prosperity Chemical Corporation, (TPCC) (Producer & Exporter)

- M/s Formosa Chemicals & Fibre Corporation ("FCFC") (Producer & Exporter)
- M/s Chang Chung Plastics Co. Ltd. (CCP) (Producer & Exporters)
- M/s Kolmar Group AG., Switzerland, (Exporter)
- M/s Saudi Kayan Petrochemical Co. (SKPC) (Producer)
- M/s Saudi Basic Industries Corporation (SABIC), Saudi Arabia (Exporter)

39. Since the above mentioned companies have filed questionnaire response, dumping margin has been determined in respect of these companies on the basis of their questionnaire response. With regard to level of trade adjustment, it is noted that the exporter has not established a consistent pattern of price difference between price to traders and end consumers. Further, the exporter has not demonstrated that it maintains a declared price list and a consistent difference in its prices to the traders and end consumers. In fact, the exporter has admitted that there is no price list and the prices are fixed with mutual negotiations with the buyers. It is also noted that the exporter has not demonstrated difference in the functions performance by the two levels of trade.

40. As regards the contention on the adjustment on account of date of sale, it is noted that the exporter has not been able to establish that date of order reflects the date on which the material terms of the contract, including price, quantity and all other terms of sales were fixed.

41. As regards the issue raised by importers that dumping margin should be determined on the basis of loose and bulk, it is noted that sales volume of the packed material by the exporters from Taiwan in their domestic market are negligible. It is also noted that transaction wise imports received from DGCI&S do not mention loose or bulk in a majority of the transactions. Therefore, in view of the same, instead of doing separate comparison of loose and packed material, packing cost has been removed from packed sales and, thereafter, comparison has been done on the basis of weighted average price.

42. Onsite verification was conducted with respect to cooperating producers/exporters in Taiwan and a verification report was issued to them for comments. The data verified with respect to these cooperating producers and exporters has been taken into account for the purpose of determination of individual dumping margin for them. In the case of other responding producers/exporters, data was analysed on the basis of table study.

M/s Chang Chun Plastics Co., Ltd. ("CCP") (Producer & Exporter)

43. CCP has reported ***transactions showing exports of *** MT (US\$***) of Acetone to India during the period of investigation, which is ***% of its total turnover and ***% of its exports of the subject goods. All 4 transactions are direct sales to India. The Authority notes that the exports made by CCP to India are too insignificant as compared to its capacity and export orientation. Therefore, the Authority does not consider exports made by CCP for granting them individual dumping margin.
44. The Authority has determined normal value, export price and dumping margin in respect of producers/ exporters of the subject countries as follows.

General methodology followed for the responding exporters for determination of Normal Value

45. It has been contended by the Domestic Industry that there had been volatility of the prices of the subject goods during the Period of Investigation. The Authority has, therefore, done a month-wise analysis of the entire data for the determination of dumping margin and injury margin. Necessary data from the cooperating producers/exporters was called for undertaking the analysis on a month-wise basis which was submitted and Dumping Margin and injury margin have been assessed on monthly basis.
46. The Authority has assessed the Normal Value based on the information submitted by the producers and exporters and in accordance with the Rules. It was first seen as to whether the domestic sales of the subject goods by the responding exporters/producers in their home markets were representative and viable for permitting determination of Normal Values on the basis of their domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents. In their responses, the respondents have provided transaction-wise details of sales made in their home markets. Further, all domestic sales transactions were examined with reference to the costs of production of the subject goods to determine whether the domestic sales were in the ordinary course of trade. It was also seen whether the loss-making transactions account for over 20% of the sales or not. Wherever the profitable domestic sales transactions were found to be accounting for more than 80% of the total sales, the weighted average price of the domestic sales have been taken into consideration. However, wherever the profitable sales volume were found to be less than 80%, the

weighted average price of the profitable domestic sales has been taken into consideration.

M/s Taiwan Prosperity Chemical Corporation, (TPCC) (Producer & Exporter)

Normal value

47. M/s Taiwan Prosperity Chemical Corporation (TPCC) is a company limited by shares established in accordance with the Company Law of Taiwan, The Republic of China. M/s TPCC is a producer and exporter of the subject goods from Taiwan, who has made domestic sales as well as exports to India during the POI. It is noted that M/s TPCC has only one factory which is located in Lin-Yuan District, Kaohsiung, which is involved in production of the product concerned. TPCC produces Acetone with Cumene as the primary raw material. The primary raw material used in the manufacturing of the product concerned is Cumene, which is produced with Benzene and Propylene. It is also noted that most of the Cumene consumed for production of the product concerned are produced by TPCC.
48. It is noted that M/s TPCC has sold *** Mt and Value *** (TWD) of the subject goods in the domestic market. The response filed by the company was examined and it is noted from the questionnaires response that the company has given month-wise costing. It is also noted that the SGA expenses have been claimed and apportioned on the basis of turnover. It is noted from the examination of the response that the domestic sales do not meet the sufficiency test and that all sales in the domestic market are below the cost of production. Therefore, the Authority has determined the Normal Value in relation to the subject goods in accordance with Section 9A (1) (c) (ii) (b) of Customs Tariff Act, 1975. The cost of production of the subject goods as indicated in Appendix-8B of the response has been accepted after verification conducted by the Authority. Adjustments thereof, i.e., packing cost, loading charges, inland freight, credit cost have been allowed as verified by the Authority. Based on such a determination, the Normal Value has been worked out on a monthly basis.

Export Price

49. It is noted that the subject goods sold to India during the POI by TPCC are sold through two channels, i.e., one is direct exports from TPCC to Indian end-user and second is from M/s TPCC to India through Mitsui & Co., Taiwan. But as Mitsui & Co., Taiwan has not filed responses, the channel which has been exported to India through Mitsui & Co., has not been considered for grant of separate dumping margin. It is also noted that direct

exports to India comprise more than ***% of the exports of subject goods to India. TPCC has furnished information in Appendix 2 relating to exports to India. It is noted that TPCC has sold *** (MT) with amount (USD ***) of subject goods to India during the period of investigation. Adjustments on account of various expenses, i.e., commission, ocean freight, ocean insurance, packing costs, storage and handling, loading charges, credit expenses for arriving at the ex factory export price have been allowed after verifying the responses filed by the producer and exporter. The month wise export price to India has been determined for TPCC for direct exports to India. The dumping margin has been calculated by taking into account the quantity which has been exported to India by FCFC directly.

M/s Formosa Chemicals & Fibre Corporation, Taiwan ("FCFC")
(Producer & Exporter)

Normal value

50. Formosa Chemicals Fabrics Corporation ("FCFC") is a company limited by shares established in accordance with the Company Law of Taiwan, the Republic of China. It has been submitted that there has been no change in their structure in the last three years. M/s Formosa Chemicals Fabrics Corporation ("FCFC"), Taiwan, is a producer/ exporter of subject goods from Taiwan who has done domestic sales as well as exports to India during the POI. The subject goods which have been sold to India during the POI by FCFC are sold through two channels, one is directly by FCFC to Indian customer and another is FCFC to India through M/s Kolmar, Switzerland.
51. M/s FCFC produces Acetone with Benzene and Propylene as the primary raw materials. Benzene is partly captively produced at FCFC's Aroma plant and partly imported, while Propylene is supplied by the oil refining plant of FPCC. FCFC uses imported Benzene. There are two channels of distribution in the domestic market. It has been claimed that in the domestic market, FCFC sells directly to end-users who purchase the product concerned for producing downstream products. FCFC also sells the product concerned to traders who locate, serve and maintain the customer base for their own businesses. It was noted that the company has sold *** (MT) (NTD ***) of the subject goods in home market for the POI. In domestic market, ***% of the subject goods have been sold to non-affiliated parties and ***% of subject goods have been sold to affiliated parties. However, the unit prices for both affiliated as well as non affiliated parties are broadly similar.
52. The response filed by the company was examined and it is noted from the questionnaire response that the company has given month-wise costing. It is

also noted that the SGA expenses have been claimed and apportioned on the basis of turnover. It is noted from the examination of the response that the domestic sales does not meet the sufficiency test in all months and ***% sales in the domestic market are below cost of production. Therefore, the Authority has determined the Normal Value in relation to the subject goods on best available information basis. The cost of production of the subject goods as indicated in Appendix-8B of the response has been accepted after verification conducted by the Authority. Adjustments thereof, i.e., Inland Freight, Transportation Fees, Ware Housing Expenses, Tech Service, Credit Cost have been allowed as verified by the Authority. Based on such a determination, the Normal Value has been worked out on a monthly basis.

Export Price

53. It is noted that the subject goods which have been sold to India during the POI by FCFC are sold through three channels, i.e., one is direct exports of M/s FCFC to India; exports through M/s Sumitomo, Singapore (unrelated exporter) and exports through M/s Kolmar, Switzerland. The exporter has furnished information in Appendix 2 relating to exports to India. It was noted that the company has sold *** (MT) (US\$ ***) of the subject goods to India during the POI, which constitute ***% of its turnover and ***% of its export sales volume of the PUC. The subject goods which have been sold to India during the POI by FCFC are sold through three channels, one is directly from FCFC to Kundan Rice Mills (***%) and another is FCFC to Kolmar (***%), Switzerland, and balance (***%) through M/s Sumitomo, Singapore, who has not filled the response. It was also noted that the export sales were made both to the trader and end user. It is also noted that all export sales are on FOB basis. Adjustments on account of various expenses, i.e., customs clearance fee, bank charges, harbour facility charge, harbour management fees, trade promotion service fee, harbour handling, shore tank fee, loading survey fee, warehousing fee for arriving at the ex factory export price have been allowed as noted from the submissions made by the producer and exporter. The dumping margins has been worked out taking into account separate chain of exporters which are complete and in respect of exports made through exporters who have exported the subject goods to India and those who have submitted the details relating to the export price to India. The month wise export price to India has been determined for FCFC through both the channels of exports to India. The weighted average dumping margin has been calculated by taking into account the quantity which has been exported to India by FCFC directly to India and also through M/s Kolmar, Switzerland.

M/s Kolmar Group AG Switzerland (Kolmar)

54. It is noted that M/s Kolmar Group AG, Switzerland, is an Exporter/Trader, who has exported the subject goods to India during the POI, which have been sourced from FCFC who is cooperating producers and exporters in this investigations. Kolmar did not make the domestic sales of the product concerned and was only engaged in the exports of the product concerned. Kolmar sourced subject goods from FCFC (producer/ exporter) of Taiwan. It is noted that the exporter has reported exports of ***MT of Acetone to India during the period of investigation. Goods sourced from FCFC to Kolmar were on FOB basis but were sold to India from Kolmar on CFR and CIF basis. Adjustments on account of expenses, i.e., ocean freight and insurance have been allowed as claimed in the response to the exporter's questionnaire after table study verification conducted by the Authority.

Determination of Normal value and Export Price in respect of Non-Co-operative Exporters/Producers from Chinese Taipei

55. For working out the dumping margin in respect of the subject goods for the residual producers and exporters, the normal value determined on facts available basis has been compared with the net export price determined on the lower representative price level of the cooperating producers and exporters. The dumping margin and dumping margin %age so arrived at for the residual producers and exporters have been mentioned in the dumping margin table.

Normal value for Saudi Arabia

56. M/s Saudi Basic Industries Corporation (SABIC), Saudi Arabia and M/s Saudi Kayan Petrochemical Company (SKPC), Saudi Arabia

57. The Authority sent questionnaires to the known exporters/producers from Saudi Arabia, advising them to provide information in the form and manner prescribed. The Authority has received response to the questionnaire from M/s Saudi Basic Industries Corporation (SABIC) and M/s Saudi Kayan Petrochemical Company (SKPC). SKPC is the producer of the subject goods in Saudi Arabia and SABIC is the exporter of the subject goods from Saudi Arabia. The Authority has not received exporters questionnaire response from any other company nor has there been any submissions by any other producer/ exporter from Saudi Arabia.

58. SKPC and SABIC submitted the information about the exports to India & third countries along with cost of production details and all other information as per the questionnaire format prescribed by the Authority. SKPC sells the entire quantity of the subject goods manufactured by it to SABIC, who thereafter exports the subject goods to India & to third countries. The Authority has noted that SABIC has not sold the subject goods in the domestic market during the POI. The producer/exporter has also requested that Normal Value may be determined in accordance with the cost of production of the subject goods as there are no domestic sales. Therefore, the Authority has determined the Normal Value in relation to the subject goods in accordance with Section 9A (1) (c) (ii) (b) of Customs Tariff Act, 1975.
59. The Authority has examined the cost of production of the cooperating producer SKPC from the documents submitted to the Authority. From the information provided by SKPC, the Authority notes that Phenol and Acetone are two products emerging out of common production process. Up to ***, SKPC has considered Phenol and Acetone as joint products and cost of production of both the products was determined based on the yield of the respective product, w.e.f. ***, SKPC has started treating Acetone as a by-product of Phenol and the net realizable value of Acetone is considered as cost of Acetone and is deducted from the total cost of production to arrive at the cost of production of Phenol.
60. For the purpose of determining the dumping margin, the Authority has considered the month wise cost of production. The weighted average cost of production including SGA expenses works out to US\$ ***/MT. The Authority has adopted 5% as the normal profit for determination of normal value in this investigation. The normal value in Saudi Arabia based on the cost of production (including SGA expenses) and normal profit as indicated above has been worked out on a monthly basis.

Export Price for Saudi Arabia

61. M/s Saudi Basic Industries Corporation (öSABICö), Saudi Arabia and M/s Saudi Kayan Petrochemical Company (öSKPCö), Saudi Arabia
62. The Authority notes that SKPC had exported *** MT of the subject goods to India through SABIC. SKPC has entered into a marketing agreement with SABIC. As per the marketing agreement between SABIC and SKPC, SABIC will pay SKPC, the third party sales price obtained by them less the actual

direct and indirect costs related to the physical distribution of the products (freight, transportation, inspection, packaging and insurance costs), taxes, tariffs, duties and other charges levied by any governmental authority and a marketing fee for SABIC.

63. As per Appendix-2, SKPC has received net back amount of US\$ *** from SABIC for *** MT of the subject goods exported to India during the POI. Accordingly, the export price at ex-factory level has been worked out on a monthly basis.

Non Cooperative exporters from Saudi Arabia

64. For working out dumping margin in respect of the subject goods for the residual producers and exporters, the normal value determined on facts available basis has been compared with the net export price determined on the lower representative price level of the cooperating producers and exporters. The dumping margin and dumping margin %age so arrived at for the residual producers and exporters have been mentioned in the dumping margin table.

Dumping Margin

65. The dumping margin has been worked out after comparing the net export price with the normal value which was determined for every month for the POI. The dumping margin for the chain of producer and exporter has been arriving at by determining weighted average dumping margin for that channel of the producer and exporter.

Determination of Dumping Margin

66. After the analysis of the data, the dumping margin is worked out as mentioned in the table below.

Particulars	Qty (MT)	Normal Value (USD/ MT)	Net Export Price (USD/ MT)	Dumping Margin (USD/ MT)	Dumping Margin (%)	Dumping Margin Range (%)
Formosa Chemicals and Fibre Corporation (Producer/ Exporter)	***	***	***	***	***	5-15
Formosa Chemicals and Fibre Corporation (Producer)/ Kolmar Group AG (Exporter)	***	***	***	***	***	5-15
Wt. Average	***	***	***	***	***	5-15
Taiwan Prosperity Chemical Corporation (Producer/ Exporter)	***	***	***	***	***	20-30
Taiwan (Non Cooperative Producer/Exporter)	***	***	***	***	***	35-45
Saudi Kayan Petrochemical Co. (Producer)- Saudi Basic Industries Corporation (SABIC) (Exporter)	***	***	***	***	***	10-20
Saudi Arabia - Non Cooperative Producer/ Exporter	***	***	***	***	***	15-25

H. ASSESSMENT OF INJURY AND EXAMINATION OF CAUSAL LINK

Injury

Views of the Domestic Industry

67. The Domestic Industry has made the following submissions with regard to the injury and causal link:

- i. The post POI data has direct relevance in demonstrating the misleading claims of the exporter to the extent that the volume of imports from Saudi Arabia have been low and the import price from Saudi Arabia has been higher than other countries.
- ii. The shutdown of Cumene Plant or suspension of Phenol-Acetone is primarily due to long period of dumping of these products in the Indian market. It has led to significant weakening of HOCL and is getting reflected in parameters such as profits, ROI, ability to raise funds for running operations.
- iii. The change in fuel is not an extraordinary cost. It has been charged as a revenue expense which is consistent with GAAP. GAAP specifically states that write-offs, write-downs, gains, or losses on the following items are not to be treated as extraordinary items. These include (a)

Abandonment of property, (b) Accruals on long-term contracts, (c) Disposal of a competent of an entity, (d) Effects of a strike, (e) Equipment leased to others, (f) Foreign currency exchange, (g) Foreign currency translation, (h) Intangible assets, (i) Inventories, (j) Receivables and (k) Sale of property.

- iv. Examples of items that could be classified as extraordinary are destruction of facilities by an earthquake or destruction of a vineyard by a hailstorm in a region where hailstorm damage is rare. Conversely, an example of an item that does not qualify as extraordinary is weather-related crop damage in a region where such crop damage is relatively frequent. The intent behind reporting extraordinary items within separate line items in the income statement is to clarify to the readers which items are totally unrelated to the operational and financial results of the business.
- v. LNG was anticipated to be a cheaper fuel. LNG was not available before 2013-14 in Cochin.
- vi. It was anticipated that LNG would become cheaper fuel as compared to LSFO and it would become available in Cochin in 2013-14. Therefore, the company set up facilities for using LNG as a fuel. The company hoped that this would save cost of the company.
- vii. The company started using LNG as a fuel as and when it was introduced in 2013-14. It implies that relevant price of LNG and LSFO have been changing from time to time and do not prove the case that LNG is invariably a cheaper source of fuel as compared to LSFO.
- viii. Since as a fuel LNG was not available in Cochin prior to 2013-14, the performance of the domestic industry over the present injury period is not impacted due to increase in the cost. At best it implies that the cost of the company in future could reduce. The deterioration in profitability in the current injury period, however, is not at all impacted by the use of fuel.
- ix. It is a well settled position that the domestic industry should be seen as it exists not under ideal conditions, as repeatedly held by CESTAT in a number of investigations.
- x. The increase in power consumption is not because of inefficiency of the domestic industry.
- xi. The decline in profit is significantly beyond the increase in wages. Wages per MT are showing increasing trend not because of higher wages paid, but because of arrears of wages paid in next year and declines in production over the year.

- xii. HOCL is not facing injury due to intrinsic factors. Being an old plant, its depreciation and interests cost are low and, therefore, the maintenance cost is low as compared to a new plant. This is a general business/economic situation and there is nothing unusual about it.
- xiii. There is a steep decline in profits of the domestic industry showing clear causal link with the dumped imports.
- xiv. Injury margin in case of Saudi Arabia is quite significant.
- xv. Imports from Taiwan are at dumped prices and, therefore, the injury caused by other dumped sources cannot and need not be segregated. As regards contention that injury to the domestic industry is due to imports from Taiwan, it is submitted that the Designated Authority is not required to determine injury and causal link individually from each sources.
- xvi. Once it is established that injury to the domestic industry is required to be determined on the basis of cumulation law, the Designated Authority shall not examine individual injury from each source.
- xvii. In 2013-14, the prices from Saudi Arabia and Taiwan are almost comparable. Even in 2014-15, they are comparable. In fact there is a fierce competition between the two. Exporters are hiding the facts and making incorrect statements.
- xviii. As far as the argument that Saudi Arabian exporters do not have the intention to eat the petitioner's share, it is submitted that the price of imports is causing injury and not volumes imported from Saudi Arabia or any other country.
- xix. There is no incorrect determination of price undercutting. Assessable value has been used to determine landed value. If the price undercutting range is 0- 10, it is an incorrect to assume that it must mean zero. There is a clear positive undercutting.
- xx. There are apparent contradictions in the arguments of the two exporters.
- xxi. The claimed injury is not impacted due to Rasayani operations. Out of the products identified by the interested parties, only phenol and acetone are produced at Cochin. Other products are produced at Rasayani. The claimed injury to the domestic industry is on account of phenol and acetone which is produced at Cochin. Therefore, the claim that the petitioner has failed to achieve its targets for other products as well is out of place and does not arise.
- xxii. The issue of depreciation of Indian currency is well addressed by the Indian jurisprudence. Contrary to the argument raised by the exporter, CESTAT has clearly established in its decisions that the duties are

required to be determined in US dollars to ensure that the quantum of protection is not eroded by devaluation of INR.

- xxiii. The Authority has invariably addressed the issue of demand supply gap. Demand supply gap justifies imports per-se but not dumping of the product in the country. It has been provided in a CESTAT decision that if the exporters wanted to supply the goods to meet requirement in Indian market that could be done by exporting the requirements at a price equivalent to normal value but not at a dumped value to capture the market.
- xxiv. The volume of imports from the subject countries has significantly increased over the period of time and even after the period of investigation. The imports are occurring at a price which shall lead to substantial increase in the demand for the dumped product in the country.
- xxv. The exporters are saddled with significant unutilized capacities. Most of the countries have capacities beyond the domestic demand. These excessive capacities are the reason behind dumping of the product in the country.
- xxvi. Exporters have started looking at India as a strong market since the import have grown consistently.
- xxvii. There is no basis for the argument that this case is not fit for cumulating. The conditions prescribed by law are clearly met in the present case. The import prices from Saudi Arabia have moved in the same direction as that of import price from Taiwan and the rest of the world. It is not even the argument of Saudi exporters that they are catering to very particular market where the other exporters are not present. The goods supplied by Saudi Arabia are being sold to same set of consumers as the goods supplied from Taiwan and other countries.
- xxviii. Cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported articles and the like domestic articles.
- xxix. The domestic industry is suffering because of dumping of both Phenol and Acetone in the Indian market. Phenol and Acetone are co-products and price of both Phenol and Acetone moves in the same direction as opposed to co-products such as caustic soda and chlorine where prices move in the reverse direction. The shutdown in plant was because of unviable operations caused by significant dumping of the product in the country.

- xxx. As regards the consideration of 2013-14 data, petitioners submit that while injury to the domestic industry is required to be determined over the injury period, nothing prevents the Designated Authority from considering subsequent and prior information in order to address the argument raised by the interested parties.
- xxxi. The demand in the period of investigation was 285% of the capacity of the domestic industry and, therefore, mild decline in demand should not have caused injury to the domestic industry. The exporters and consumers seem to be under the impression that the exporters are in a privileged category, where volumes sold by them are covered under an insurance policy and would be unaffected by decline in demand. If the demand has declined, all parties should be equally affected by the same. In the instant case, however, the position is just the reverse. Whereas demand has shown some decline, imports from subject countries have shown robust increase. Only the phenomenon of dumping can explain this kind of unnatural market situations. In a fair market situation, all parties should be equally affected by the market situation.
- xxxii. The market share of supporter is unaffected but there is continuous increase in cost of production of SI Group, and decline in profitability is to such an extent that SI Group has also now suffered financial losses.
- xxxiii. The selling price has increased but besides that raw material cost also has substantially increased. The increase in selling price is far less than the increase in costs on account of raw materials. So there is clear price depression or suppression.
- xxxiv. It cannot be said that unexpected increase in the cost of raw materials has affected profitability. The unexpected increase in the cost of raw materials occurred globally and for all parties. It has not happened selectively for the domestic industry.
- xxxv. Causal Link is clearly established. Phenol and Acetone are co-products and both are suffering injury due to dumping of the product in the country. Turnover from Phenol is invariably higher than turnover of Acetone for the reasons that (a) the volume of output is higher for Phenol and lower for Acetone, (b) selling price of Phenol is generally higher than the price of Acetone. However, the cost of production has been determined after duly apportioning cost between Phenol and Acetone on the basis of respective turnover and therefore higher turnover of Phenol has resulted in higher apportionment of

expenses to Phenol, resulting in lower cost of production of Acetone. The claimed injury is despite this lower cost of production of Acetone.

xxxvi. The Designated Authority may determine return on the basis of net present value of the assets.

Views of the opposing interested parties

68. The other interested parties have made the following submissions with respect to material injury to the domestic industry:

- i. The post POI data was used to show increase in imports and fall in prices from Saudi Arabia which has no relevance and should not be used in the present investigation.
- ii. The petitioner has failed to disclose the nature and extent of intermittent closures and other aspects related to closure of plant at Kochi. This must be examined.
- iii. The raw material and fuel used by the petitioner is a major reason for its high cost of production. The petitioner has been using a costlier fuel-LSFO, which is the reason for its high cost. Thus, it is not the alleged dumped imports from the subject countries which are a cause of injury to the petitioner. Instead, it is their own intrinsic factors, which are causing them trouble. DGAD is requested to consider this as an extra-ordinary expense which resulted in inflated non-injurious price.
- iv. There has been increase in power consumption. The DGAD should ensure that the best utilization norms for power are considered for determination of non-injurious price.
- v. In the light of poor productivity and poor performances of the petitioner company and also shut down of its plant for some time, the wages and salaries paid to the employees and increase in the level of employment seem to be too high.
- vi. The petitioner is blaming imports without disclosing its intrinsic problems, which is incorrect. The intrinsic problems such as old depreciated plants is one of the major causes of injury to the petitioner. If the petitioner is unable to realize its costs and claims price suppression, imports cannot be blamed for such inefficiency of the petitioner.

- vii. SI Group seems to be in a better position compared to HOCL. The better performance of SI Group indicates no causal link with imports.
- viii. There is no injury margin/price underselling in case of imports from Saudi Arabia.
- ix. There are other factors causing injury such as old machinery, imports from Taiwan and other countries and withdrawal of Anti Dumping Duty from Phenol. Thus, there is no link between imports from Saudi Arabia and profitability of the petitioner.
- x. This case is not fit for cumulation. The conditions of competition between the imports from Saudi Arabia vis-à-vis the domestic like articles and imports from Taiwan vis-à-vis the domestic articles are not at all similar. There is no merit in comparing imports from Taiwan and Saudi Arabia together. The import prices from Saudi Arabia are much higher than the import prices from Taiwan. Respondents relied on 2013-14 data to prove increased imports from Saudi Arabia which is not available to any interested party. Reliance on 2013-14 data is incorrect and the DGAD does not consider post POI data.
- xi. There is no intention to eat up the petitioner's share by Saudi Arabia.
- xii. The petitioner has failed to achieve its target for other products as well.
- xiii. There has been depreciation of the Indian currency, which if taken, would show that anti dumping duty so imposed will be based on an inflated injury margin.
- xiv. There is a huge demand supply gap. With sales exceeding production, the domestic industry will not benefit from imposition of anti dumping duty. Anti Dumping Duty will be disastrous for user industries dependent on imports.
- xv. There is no evidence of threat of material injury. There is no substantial increase in imports, no excess capacity exists and the market share of petitioners hasn't declined due to imports from Saudi Arabia.
- xvi. The petitioner has incorrectly claimed that import prices are significantly lower than the selling price in India since there is very small undercutting and negative underselling.
- xvii. The petitioner has not proved that exporters have started looking at India as a strong market.

- xviii. The production, productivity and capacity utilization of the Domestic Industry has declined in the injury period due to shutdown in their Phenol plant.
- xix. The market share of the supporter is unaffected even when market share of the petitioner has declined.
- xx. The selling price of applicant has increased, and commensurate to increase in costs hence no price depression or suppression.
- xxi. Unexpected increase in the cost of raw materials has affected profitability.
- xxii. The inventory has reduced.
- xxiii. There is no causal link. HOCL has produced lower Acetone in the injury period due to poor performance of Phenol and plant shut down. The RTI response, i.e., Excise Commissioner's report on HOCL's production, sales and prices obtained through an RTI response shows that turnover from Phenol is higher than the turnover from Acetone. Due to the Cumene route, it cannot make Acetone without making Phenol.
- xxiv. There has been an increase in raw material cost. The value of Benzene consumed has increased significantly.
- xxv. The price injury is exaggerated due to substantial underselling claims which are not justified. The Designated Authority should calculate the capital employed on the basis of the present value of the assets, which admittedly has reduced by 100% and the methodology adopted for calculation of the non-injurious price (NIP) is to be clearly disclosed by the Designated Authority.
- xxvi. Granting 22% ROC is not logical and appropriate with the current context, time and situation as the rate of other taxes has reduced chronologically.
- xxvii. HOCL can only meet 17% of the demand in the country as it is inefficient to fulfill the demand prevailing in India.
- xxviii. While determining the Dumping Margin and Injury Margin, the non-participation of other domestic producer, the SI Group, may be kept in consideration.

- xxix. HOCL has been claiming that almost all countries manufacturing Acetone are dumping into India. This claim is highly exaggerating and misleading.
- xxx. While determining the Dumping Margin and Injury Margin, the inefficiencies prevailing in the Public Sector Plant (HOCL) may please be kept in consideration.
- xxxi. The methodology of allocation of expenses between Acetone and Phenol claimed by the domestic industry keeps on changing between one investigation to another. So the same may be checked properly.
- xxxii. The application of the petitioner does not indicate any link between the losses suffered by the applicant domestic industry and the imports from Saudi Arabia. There exist other factors such as old plant and machinery, withdrawal of anti-dumping duty on phenol, performance of other domestic producer, inconclusive price undercutting analysis, closure of Kochi Plant, loss of entire net worth, etc, which have contributed to poor performance of the petitioner.
- xxxiii. Anti-dumping duty on acetone was revoked recently on imports of acetone from Taiwan, which resulted in increase in imports from Taiwan. Imports from Saudi Arabia cannot be clubbed together with imports from Taiwan to analyze injury to the petitioner.
- xxxiv. In determination of non-injurious price, the petitioner seems to have considered a lot of extra-ordinary expenses, which should be excluded while arriving at the non-injurious price.
- xxxv. During the injury period, applicant was able to dispose of almost whatever it was producing. In such a scenario, upon considering the sales of two domestic producers, there existed a demand-supply gap of 72% in the domestic market during the Period of Investigation. Even assuming that applicant would dispose of its entire capacity, there would remain a demand supply gap of 65%. Imposition of duties would only create distortion in the market and is against public interest.

Examination by the Authority

69. The Authority has taken note of various submissions of the interested parties on consequent injury to the domestic industry and has analyzed the same considering the facts available on record and applicable law. While most of the issues are concerning the facts and figures which are addressed ipso facto

in the injury analysis, the specific submissions are examined and addressed below.

70. As regards the contention that post POI data has been used to show increase in import and fall in prices from Saudi Arabia and that it has no relevance, the Authority notes that the post POI data in the instant case is not relevant to show the increase in imports and fall in prices from Saudi Arabia.
71. As regards the Cumene plant at Kochi, the Authority has thoroughly examined the situation and noted that the shutdown of Cumene plant or suspension of phenol-acetone is primarily due to long period of dumping of these products in the Indian market. This dumping is not a recent phenomena. In fact the prolonged dumping has significantly weakened HOCL and the same is now getting reflected not only in parameters such as profits and ROI, but also in parameters such as ability to raise funds for running operations.
72. As regards the use of costlier fuel LSFO by the petitioner, the Authority notes that LNG was anticipated to be a cheaper fuel and available in 2013-14. It was not available before 2013-14. The company started using LNG as a fuel when it was introduced in 2013-14. The Authority notes that the relevant prices of LNG and LSFO have been changing from time to time and there is no conclusive proof of LNG being an invariably cheaper source of fuel as compared to LSFO.
73. The performance of domestic industry over the present injury period is not impacted due to increase in cost. The Authority finds that the deterioration in profitability in the current injury period is not at all impacted by the use of fuel.
74. As regards the submission that the petitioner has failed to achieve its targets for other products, the Authority notes that the claimed injury to domestic industry is on account of Phenol and Acetone which is produced at Cochin and not by Rasayani plant, where other products are produced.
75. As regards the submission that depreciation of Indian currency shows that anti dumping duty imposed will be based on inflated injury margin, the Authority notes that duties are required to be determined in US dollar to ensure that the quantum of protection is not eroded by devaluation of INR. This is an established practice of the Authority.
76. As regards the contention that there is a huge demand supply gap, the Authority notes that the demand supply gap justifies imports per-se but not

dumping of the product in the country. This has been well addressed by the CESTAT as well.

77. As regards the submission that there is no evidence of material injury, the Authority notes that the volume of imports from the subject countries has significantly increased. Further, the volumes of imports have increased further after the period of investigation. The volume of exports known to be made by Taiwan to India and to the world clearly demonstrate a significant potential of injury to the domestic industry in case the dumping is allowed to persist.

78. As regards the contention that there is no proof that exporters have started looking at India as a strong market, the Authority notes evidence to the contrary and finds that the imports from Saudi Arabia over a period of time including the POI show that India is being looked at as a strong market for their products.

79. With regard to the argument of return on investment, the Authority notes that the return on investment has been allowed as per consistent practice followed by the Authority in all the cases. The Authority has conducted the investigation based upon data provided by the Domestic Industry within the scope of Anti Dumping Rules.

80. As regards the submission that the case is not fit for cumulative assessment, the Authority notes that Annexure II (iii) of the Anti Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that:-

(a) The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;

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

81. In the present investigation, the Authority finds cumulative assessment to be appropriate. The margins of dumping for each of the subject goods from

each of the subject countries are more than the limits prescribed by the law. The volume of imports from each of the subject countries is more than the limits prescribed. Cumulative assessment is also appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market. In this regard the Authority notes that the product manufactured by the producers from the subject countries inter-se, in comparison to the product manufactured by the domestic industry, has comparable properties. Further, there are limited consumers who use this material. Imported and domestic materials are being used interchangeably by same segment of the customers. The Authority notes that the exporters from the subject countries and the domestic industry have sold the same product in the same period to the same segment of the customers. Further, the market share of imports from each of the subject countries is found to be more than de minimis. Further, the Authority notes that the domestic producer and the exporters from the subject countries sell the like product to the same category of customers and both are competing in the same market. Both are found to be used by the consumers interchangeably. Therefore, the Authority considers that cumulative assessment of the effects of imports in the present case is appropriate and as per the established practice.

82. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

83. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

84. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Hindustan Organic Chemicals Limited and M/s SI Group Ltd, constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows.

Volume effect of dumped imports and impact on domestic Industry

a) Demand and Market Share

85. The Authority has determined demand or apparent consumption of the product in India as the sum of the domestic sales of the Indian producers and imports of the subject goods in India from all other countries. It is seen that demand of the product under consideration in the country has increased. Although the demand has shown some decline in the POI as compared to preceding year, it may be noted that even this demand is quite significant. There seems to be no impact of this slight decline in demand on the injury being suffered by the domestic industry. The domestic industry's capacity constituted about 35% of the demand and, therefore, in any case, the absolute demand for the product under consideration during the period was quite significant for the domestic industry to produce and sell. Domestic industry's production and sale have not suffered due to this slight decline in the demand.

Demand and Market Share in India

Particulars	Unit	2009-10	2010-11	2011-12	POI
Installed Capacity of DI	MT	45,500	45,500	45,500	47,140
Demand in India					
Sales of Domestic Industry	MT	44,400	51,268	41,060	38,161
Subject Countries	MT	10,596	22,483	38,849	56,296
Taiwan	MT	10,596	17,993	33,159	49,015
Saudi Arabia	MT	0	4,490	5,690	7,281
Countries Attracting ADD	MT	67,652	53,683	58,631	39,310
Other Countries-Imports	MT	2,353	2,691	5,431	444
Total Demand/Consumption	MT	1,25,001	1,30,125	1,43,971	1,34,211
Market Share in Demand					
Sales of Domestic Industry	%	35.52	39.40	28.52	28.43

Particulars	Unit	2009-10	2010-11	2011-12	POI
Subject Countries	%	8.48	17.28	26.98	41.95
Taiwan	%	8.48	13.83	23.03	36.52
Saudi Arabia	%	-	3.45	3.95	5.43
Countries Attracting ADD	%	54.12	41.25	40.72	29.29
Other Countries-Imports	%	1.88	2.07	3.77	0.33
Total Share	%	100.00	100.00	100.00	100.00

b. Import volumes and market shares

86. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. In this regard, Annexure II (ii) of the AD Rules provides as under:

“While examining the volume of dumped imports the said Authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India.”

87. Volume of imports and imports in relation to production and consumption in India are given in the table below:

Import Volume	Unit	2009-10	2010-11	2011-12	POI
Subject Countries	MT	10,596	22,483	38,849	56,296
Trend	Trend	100	212	367	531
Chinese Taipei	MT	10,596	17,993	33,159	49,015
Trend	Trend	100	170	313	463
Saudi Arabia	MT	0	4,490	5,690	7,281
Trend	Trend		100	127	162
Other countries attracting ADD	MT	67,652	53,683	58,631	39,310
Other countries	MT	2,353	2,691	5,431	444
Total Imports	MT	80,601	78,857	1,02,911	96,050
Imports from Subject Countries in relation to:					
Total Imports	%	13.15	28.51	37.75	58.61
Consumption	%	8.48	17.28	26.98	41.95
Production	%	23.37	44.76	93.23	151.82

88. The Authority notes that the subject imports have shown an increasing trend in the POI. The volume of imports from the subject countries has increased substantially throughout the period. Further, it is noted that the imports are significant and increasing in terms of demand and production in India. Thus, the imports have increased both in absolute terms and in relation to production and consumption in India.

Price Effect of the Dumped imports on the Domestic Industry

a) Price Undercutting and Price Underselling

89. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

90. The Authority has worked out price undercutting by comparing the export price from the subject countries with the domestic selling price in India of the subject goods for the period.

91. The Authority notes that weighted average landed price of imports (after including basic customs duties) has been significantly below the selling prices of the domestic industry, thus, resulting in significant price undercutting.

92. The Authority has worked out price underselling by comparing the export price from the subject countries with the non-injurious price of the domestic industry for the period. The Authority notes the injury margins to be quite significant.

Price Undercutting-Taiwan

Particulars	UNIT	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	***	***	***	***
Trend	Index	100	104	134	140
Net Sales Realization	Rs./MT	***	***	***	***
Trend	Index	100	104	137	143
Price Undercutting	Rs./MT	***	***	***	***
	Index	100	105	165	184
	%	***	***	***	***

Particulars	UNIT	2009-10	2010-11	2011-12	POI
	Range	5-15%	5-15%	5-15%	5-15%

Price Undercutting-Saudi Arabia

Particulars	UNIT	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	-	***	***	***
	Index		100	143	156
Net Sales Realization	Rs./MT		***	***	***
	Index		100	131	137
Price Undercutting	Rs./MT		***	***	***
	Index		100	77	55
	%		***	***	***
	Range		15-25%	5-15%	0-10%

Price Undercutting-Subject Countries

Particulars	UNIT	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	***	***	***	***
	Index	100	102	134	140
Net Sales Realization	Rs./MT	***	***	***	***
	Index	100	104	137	143
Price Undercutting	Rs./MT	***	***	***	***
	Index	100	131	167	177
	%	***	***	***	***
	Range	5-15%	5-15%	5-15%	5-15%

Price Underselling

Particulars	UNIT	Taiwan	Saudi Arabia	Subject countries
Non Injurious Price	Rs./MT	***	***	***
Landed Price	Rs./MT	***	***	***
Price Underselling	Rs./MT	***	***	***
	%	***	***	***
	Range	5-15%	5-15%	5-15%

b) Price Suppression and Depression

93. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the information with regard to unit cost of sales, domestic selling price and unit profit/loss over the injury period has been analyzed. It is seen that the landed price of the imports is significantly below the cost of production of the domestic industry. Whereas both the cost of production and the selling price have increased over the period, the increase in selling price is far lower than the increase in the cost of production. It is further noted that the imports have had a significant suppressing effect on the prices of the domestic industry in the market. The Authority finds that the domestic industry has been unable to increase its prices in proportion to increase in cost.

94. The Authority notes that apart from increase in selling price, the raw material cost has also increased substantially. In fact the increase in selling price is far less than the increase in the costs on account of raw materials. Thus, the Authority finds clear price depression or suppression.

Price Suppression and Depression

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs./MT	***	***	***	***
Trend	Index	100	86	128	161
Selling Price	Rs./MT	***	***	***	***
Trend	Index	100	104	137	143
Landed Price ósubject countries	Rs./MT	***	***	***	***
Trend	Index	100	102	134	140

Impact on Economic Parameters of the Domestic Industry

95. Annexure II to the Anti-dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on the domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return

on investments or utilization of capacity, factors affecting domestic prices, the magnitude of the margin of dumping, actual and potential negative effects on cash flow, inventories, employment, wages, growth and ability to raise capital investments.

96. Various injury parameters relating to the domestic industry are discussed herein below.

a) Capacity, Production, Capacity Utilization and Sales

97. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:

Capacity, Production, Capacity Utilization and Sales

Particulars	UNIT	2009-10	2010-11	2011-12	POI
Capacity	MT	45,500	45,500	45,500	47,140
Trend	Index	100	100	100	104
Production	MT	45,336	50,236	41,669	37,080
Trend	Index	100	111	92	82
Capacity utilization	%	99.64%	110.41%	91.58%	78.66%
Domestic Sales (including captive)	MT	44,400	51,268	41,060	38,161
Trend	Index	100	115	92	86

98. The Authority notes that despite increase in demand of the subject goods, sales volumes of the domestic industry have declined significantly in the POI. The production of the domestic industry has declined steeply in the POI as a result of decline in the sales volumes. Further, despite no capacity additions by the domestic industry and sufficient demand in the country, capacity utilization of the domestic industry has declined considerably over the injury period.

99. It is noted that exporters have significant unutilized capacities. These excessive capacities created in the countries are found to be the reason of dumping of the product in the country.

b) Profits, Return on Capital Employed and Cash Profit

100. The profits, return on investment and cash profit of the domestic industry have been examined as under:

Profits, Return on Capital Employed and Cash Profit

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs./MT	***	***	***	***
Trend	Index	100	86	128	161
Selling price	Rs./MT	***	***	***	***
Trend	Index	100	104	137	143
Profit/Loss	Rs./MT	***	***	***	***
Trend	Index	100	373	265	-101
Profit/Loss	Rs. Lakh	***	***	***	***
Trend	Index	100	437	256	-92
Profit before Interest & Tax	Rs. Lakh	***	***	***	***
Trend	Index	100	354	219	-49
ROCE	%	***	***	***	***
Trend	Index	100	485	257	-77
Cash Profit	Rs. Lakh	***	***	***	***
Trend	Index	100	408	244	-74

101. The Authority notes from the above that:

- i. The profits of the domestic industry declined significantly in the present period of investigation. Though there was an increase in 2010-11, profits declined significantly thereafter and the domestic industry is currently suffering financial losses.
- ii. Even when the costs of sales and selling price have moved in the same direction, the extent of movement is different for cost and price.
- iii. Profit before interest increased in 2010-11 and thereafter declined significantly with a steep fall during the period of investigation.
- iv. The cash profits showed the same trend as that of profits. The cash profits of the domestic industry increased in 2010-11, but thereafter has

been declining significantly resulting in cash losses to the domestic industry in the POI.

v. The return on capital employed has deteriorated and reached negative levels in the POI, even though it increased in 2010-11.

vi. It is clear that the domestic industry has been suffering continued injury in terms of profit-related parameters. The position of the domestic industry with respect to these parameters has deteriorated substantially in the period of investigation as a result of dumping from fresh sources in addition to existing sources.

c) Employment and Wages

102. The status of employment levels and wages of the domestic industry has been as under:

Employment and Wages

Particulars	Unit	2009-10	2010-11	2011-12	POI
No. of Employees	Nos	***	***	***	***
Trend	Index	100	103	103	103
Wages	Rs. Lakh	***	***	***	***
Trend	Index	100	208	247	261

103. It is noted from the above that the employment and wages have shown improvement in the injury period. However, noting the fact that the domestic industry is a multi product company and performance on account of these factors are governed more by the law of the land, these parameters may not be reflective of the injury suffered by the domestic industry.

d) Productivity

104. The productivity of the domestic industry is given in the following table.

Productivity

Particulars	Unit	2009-10	2010-11	2011-12	POI
Productivity per employee	MT	***	***	***	***
Trend	Index	100	108	89	79
Productivity per day	MT	***	***	***	***

Trend	Index	100	111	92	82
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105. The Authority notes that the productivity per employee and productivity per day has declined significantly over the period of injury.

e) Inventories

106. The Authority has examined the inventory level of the domestic industry which is given in the table below:

Inventories

Inventories	Unit	2009-10	2010-11	2011-12	POI
Opening Stock	MT	***	***	***	***
Closing stock	MT	***	***	***	***
Average Stock	MT	***	***	***	***
Average Stock	Index	100	97	82	65

107. It is noted from the above table that the inventory of the domestic industry has remained significant throughout the injury period.

f) Magnitude of Dumping

108. 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 margin determined by the Authority against the subject countries in the POI is above de-minimis and very substantial. The impact of dumping on the domestic industry is significant.

g) Ability to raise capital

109. The Authority notes that the Domestic Industry has not made fresh investment in the production of the product under consideration nor planned any significant fresh investment in view of persistent dumping of the product in the country.

h) Growth

110. With regard to the growth of the domestic industry, the position is as under:

Growth

Growth % (Year by Year)	Unit	2009-10	2010-11	2011-12	POI
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Production Volume	%	-	11%	-17%	-11%
Domestic Sales Volume	%	-	15%	-20%	-7%
Profit/Loss	%	-	337%	-42%	-136%
Return on Capital Employed	%	-	385%	37%	-100%

111. The Authority notes that the domestic industry has shown positive growth till 2010-11 which became significantly negative in the POI as is shown in the table above.

Other Known Factors and Causal Link

112. The Authority has examined whether other known factors could have caused injury to the domestic industry as follows:

(a) Contraction in demand and / or change in the pattern of consumption

113. The Authority notes that demand for the product in the POI was 285% of capacity of the domestic industry and, therefore, slight decline in demand should not have caused injury to the domestic industry. Further, the Authority has found no evidence of a change in the pattern of consumption of the product.

(b) Trade restrictive practices of and competition between foreign and domestic producers

114. The Authority notes that the subject goods are freely importable and there are no trade restrictive practices in the domestic market. Further there is no perceptible competition among the domestic producers, except that is obvious of a market economy. It is noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and the competition between the foreign producers and domestic producers causing injury to the domestic industry.

(c) Developments in Technology

115. The Authority notes that there are no developments in technology with respect to the product or its manufacture that could have resulted in the injury caused to the domestic industry.

(d) Export performance

116. The Authority notes that the claimed injury to the Domestic Industry is solely on account of domestic operations. The Domestic Industry is found to be mainly into domestic market and not exports. So this factor cannot be said to have caused injury to the Domestic Industry.

(e) Productivity of the domestic industry

117. The Authority notes that the claimed injury to the domestic industry is not due to deterioration in the productivity of the Domestic Industry.

Conclusion on Injury and Causation

118. The Authority notes that there has been an increase in the volume of dumped imports from the subject countries in absolute terms and relative to apparent consumption and production in India. Production of the domestic industry has declined steeply in the POI as a result of decline in sales volumes. Profit-related parameters of the domestic industry have all been significantly adverse. Inventories have been significant.

119. The Authority notes that it is clear that imports from the subject country are causing injury to the domestic industry.

Magnitude of injury and injury margin

120. The Authority has determined the non-injurious price for the domestic industry, taking into consideration the cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed value of the subject goods imports from the subject countries to determine the injury margin. The injury margin has been worked out as follows:

Injury Margin

Particulars	Qty (MT)	NIP (USD/ MT)	Landed Value (USD/ MT)	Injury Margin (USD/ MT)	Injury Margin (%)	Injury Margin Range (%)
Formosa Chemicals and Fibre Corporation (Producer/ Exporter)	***	***	***	***	***	5-15
Formosa Chemicals and Fibre Corporation (Producer)/ Kolmar Group AG (Exporter)	***	***	***	***	***	0-10
Wt. Average	***	***	***	***	***	5-15

Particulars	Qty (MT)	NIP (USD/MT)	Landed Value (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Injury Margin Range (%)
Taiwan Prosperity Chemical Corporation (Producer/Exporter)	***	***	***	***	***	15-25
Taiwan (Non Cooperative Producer/Exporter)	***	***	***	***	***	20-30
Saudi Kayan Petrochemical Co. (Producer)- Saudi Basic Industries Corporation (SABIC) (Exporter)	***	***	***	***	***	10-20
Saudi Arabia - Non Cooperative Producer/Exporter	***	***	***	***	***	15-25

121. It is noted that the level of injury margin, as determined, is considered significant.

I. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

122. 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 reestablish 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 countries in any way and, therefore, would not affect the availability of the product to the consumers.

123. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

J. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

J.1 Post Disclosure Statement submissions by the opposing Interested Parties

124. Following are in brief the post Disclosure Statement submissions made by M/s Chang Chun Plastics Co. Ltd (öCCPö), Taiwan (Producer & Exporter)

- a. The examination by Designated Authority in its Disclosure Statement with regard to Chang Chun Plastics Co. Ltd (Producer/Exporter) Taiwan (CCP), contravenes and departs from the provisions of the WTO Anti-Dumping Agreement (ADA).
- b. Refusing to grant individual dumping margin based on export volume lacks merit. In respect of granting individual dumping margin, no export volume criteria have been contemplated under the Anti-Dumping Agreement. Designated Authority must clarify in its Findings that what is the definition of insignificant volume and where the word insignificant volume for exports has been prescribed under the ADA. The Designated Authority must also mention the law which authorizes the Investigating Authority to reject response of a fully participating exporter. The ADA as per Article 6.10 expressly dictates that the Authority shall determine an individual margin of dumping for any exporter which had submitted the necessary information for consideration during the course of investigation. Individual dumping margin determination for known exporter such as M/s Chang Chun Plastics Co. Ltd is mandatory as per various Panel and Appellate Body reports.
- c. The Law as per Article 6.8 of ADA authorizes the Investigating Authority to reject the response of exporter only if it refuses access to or impedes the investigation, whereas CCP has been fully cooperative and filed all responses in time.
- d. This arbitrary approach of the Investigating Authority is inconsistent not only with the WTO Agreement but also past practice of the DGAD. For instance in the new shipper review investigation concerning import of Lead Acid Batteries from China PR, the exporter, Yuasa Battery Guangdong Co. Ltd. China PR, made only one shipment to India and constituted only 0.10 of the total exports from China PR. Therein the individual dumping margin was granted to the exporter.

125. Following are in brief the post Disclosure Statement submissions made by Formosa Chemicals and Fibre Corporation (FCFC), Taiwan

- a. In order to make a fair comparison, FCFC's export sales to India should be compared only to its sales to the Taiwan customers at the same trade level as that of its Indian importers. This issue has not been examined and considered by the Designated Authority in its Disclosure Statement.
- b. Given that all FCFC's Indian sales were made to either Indian or International traders, FCFC submits that its Indian export sales should only be compared to its sales to domestic traders.
- c. The trade level adjustment is specifically confirmed of its legitimacy and necessity in the ADA and national anti dumping laws.
- d. FCFC's domestic sales data showed a distinct and consistent difference in the price between traders (distributors) and end users, which indeed warrants an adjustment to the normal value when comparing it to the export price which was sold to international traders.

126. Following are in brief the post Disclosure Statement submissions made by Saudi Kayan, Saudi Arabia and SABIC, Saudi Arabia

- a. Combined injury information of SI Group and HOCL Ltd were finally provided on 24th March 2014, which was clearly at a belated stage during the investigation
- b. The Authority has stated that imports made by SI Group were under the duty exemption scheme and meant to manufacture the product for the purpose of export. It does not matter if the goods have been imported for the purpose of domestic sales or export sales. The only relevant fact is whether they have been imported at all. The Authority does not make any distinction between imports made for the purpose of export and imports made for the purpose of domestic sales.
- c. Authority has arbitrarily implied that the quantity of imports made by the SI Group is on the lesser side and, therefore, SI Group should not be excluded from the scope of "domestic industry".
- d. The Authority has made a blanket statement that both the producers, including SI Group, are suffering injury without offering any data in support of such a statement and neglected to consider the specific averments made by the respondents that SI Group is making profits and only HOCL is suffering losses. Based on a comparison of original petition filed only by HOCL and combined data filed thereafter containing information for HOCL and SI Group as well as the data in the disclosure statement, it is very clear that SI Group is in a substantially better situation

as compared to HOCL.

- e. It is the consistent practice of the Authority to treat the producer/exporter as non-cooperative in cases where all the entities engaged in the transactions do not file the required responses. The Authority is requested to follow the precedents and treat TPCC and FCFC as non-cooperative.
- f. Being an original investigation, post POI data has no relevance in the investigation and should not be used. If the Post POI data is relevant then exchange rate in the post POI period is also relevant.
- g. It is the intrinsic factors of the applicant which are causing injury and not the imports from the subject countries.
- h. The demand-supply gap is too high for the domestic industry to fill. With sales exceeding production, the domestic industry will not benefit from the imposition of anti-dumping duty. However, the imposition of anti-dumping duty would be disastrous for the user industries who are highly dependent on imports with only limited domestic supplies.
- i. Imports of the subject goods from Saudi Arabia form only 5.43% of the total imports of the subject goods. Imports of the subject goods which form only a miniscule portion of the total imports must be discarded by the Authority as such imports cannot cause injury to the domestic industry.
- j. The Authority did not intimate any of the interested parties as to whether the investigation was extended further or not and what were the "special circumstances" for requesting extension of time.
- k. Respondents also request the Authority to recalculate the landed value by using assessable value and adding basic customs duty and cess.

127. Following are in brief the post Disclosure Statement submissions made by Jupiter Dyechem Private Limited

- a. The complete revision of injury information nine months after initiation is unacceptable and should not be allowed by the Designated Authority.
- b. The inclusion of supporter into the scope of the domestic industry is inequitable and against the prior practice of the Designated Authority.
- c. With regard to cost and depreciation allocation methodology no indication is given as to how it was verified and checked.
- d. An RTI response placed earlier on record showed some shutdowns on account of stock accumulation. The Authority is requested to clarify how it has segregated the injury suffered by the petitioner on account of these shutdowns which were not related to the subject imports.

- e. The volume and price at which SI Group imports is in fact at a dumped import price or an injurious price.
- f. A consistent methodology should be followed in terms of determining export price for the countrywide margin and average price of the import data as per the recent practice of Authority should be relied upon.
- g. Designated Authority should clarify how it has segregated the impact of Phenol's poor performance of the domestic industry.
- h. Designated Authority's summarized dismissal of the interested parties' claims regarding non-attributive factors without examining the merits of each issue is in gross violation of the principles of natural justice.
- i. It is not the sales that have suppressed production in the injury period. Since in 2012-13 the sales of Acetone are actually greater than the production, it implies that it is the production itself that is limiting the sales of HOCL.
- j. The two primary reasons for HOCL producing lower Acetone in the injury period are poor performance of Phenol and Plant shutdown.
- k. Price injury claimed by HOCL appears to be exaggerated due to substantial underselling claim which is not justified.
- l. The Designated Authority ought to calculate the capital employed on the basis of the present value of the assets, which admittedly has reduced by 100% and the methodology adopted for calculation of the non-injurious price (NIP) is to be clearly discussed by the Designated Authority. The Authority should clarify the treatment of various elements while calculating NIP. The same may be done by merely disclosing methodology without disclosing exact figures.

J.2 Post Disclosure Statement submissions by the Domestic Industry

128. Following are in brief the post Disclosure Statement submissions made by the domestic industry:

- a. The SI Group has provided complete support during the petition stage itself. The imports by SI Group India Limited are made under the duty exemption scheme and are meant for manufacturing goods for export purpose and since such duty free imports have not been traded in the domestic industry, the

said imports should not disqualify SI Group from being part of the domestic industry.

- b. The injury information of SI Group was very much available in the public file. Thus the scope of domestic industry stands satisfied.
- c. The joint costs apportioned between Phenol and Acetone in the respective ratio is the consistent practice followed in this regard.
- d. The Authorization letter of SI Group was very much submitted and placed on record.
- e. The Authority may verify reasonableness of price transferability of Cumene to Acetone in respect of M/s Taiwan Prosperity Chemical Corporation (TPCCö) and of Benzene to Acetone in respect of M/s Formosa Chemicals Fabrics Corporation (FCFCö).
- f. The decline in inventories is as a result of cautious decision of one of the companies to regulate and reduce its production because of dumping of the product in the country.
- g. The exporter has resorted to excessive confidentiality. Therefore, the dumping margin cannot be determined on the basis of SABIC and Saudi Kayanø data.
- h. The law clearly provides for cumulative assessment of injury to the domestic industry.
- i. The non injurious price determined is too low and grossly inadequate to protect the legitimate interests of the domestic industry.
- j. Both dumping margin and injury margin in the POI are significantly positive.
- k. Domestic industry has suffered material injury as a result of dumping.
- l. Anti dumping duties are required to be imposed in accordance with the dumping margin and injury margin.

m. The anti dumping duty may be imposed as fixed quantum of duty.

n. The duties are required to be determined in US dollars.

J.3 Examination by the Authority

129. The Authority noted that most of the post Disclosure Statement submissions are repetitive and have already been dealt with in the Disclosure Statement. However, the post Disclosure Statement submissions have again been examined and are dealt with as under:

- a) As regards the submissions of Chang Chun Plastics that the disclosure contravenes the provisions of WTO Agreement, the Authority holds that the Disclosure Statement and present Findings are fully consistent with the Customs Tariff Act, the Anti Dumping Rules and WTO Agreement on Anti dumping.
- b) As regards the argument that insignificant volume of exports by an exporter cannot be a parameter to deny determination of individual dumping margin to that exporter, the Authority holds that individual dumping margin cannot be determined when the volume of export is very low to determine representative export price. The Authority notes that Art. 6.10 of the WTO Agreement is not relevant to the facts of this case.
- c) The Authority has not determined separate dumping margin for Chang Chun Plastics because of insignificant volume of exports made by the company and for not for its failure to provide necessary evidence.
- d) As regards reference to past practices, the Authority notes that Authority has in the past also declined to determine dumping margin for the responding exporters when it was found that the volume of export was insignificant.
- e) As regards the claim of level of trade by Formosa, the Authority notes that the exporter has not established a consistent pattern of price difference between price to traders and end consumers. The exporter has not demonstrated that it maintains a declared price list and a consistent difference in its prices to the traders and the end consumers. In fact, the

exporter has admitted that there is no price list and the prices are fixed with mutual negotiations with the buyers. It is also noted that the exporter has not demonstrated difference in the functions performed by the two levels of trade. Further, the Authority also notes that the practice of the Authority, in general, has been that for the purpose of determining the dumping margin, the Authority does not distinguish between different types of sales, i.e., sales to the resellers or end-users, unless complete verifiable evidence has been provided in this regard. In this case, the Authority, based on the facts of the case, does not see any merit to deviate from the general practice of not allowing the level of trade adjustment. The Authority, therefore, decides not to allow the level of trade adjustment in this case and accordingly, considers all the domestic sales for determination of normal value.

- f) As regards the contention that injury information of the domestic industry was provided at a belated stage of the investigations, the Authority notes the said information was made available on 24th March 2014, i.e., 297 days before issuance of Disclosure Statement. The Authority, therefore, holds that the interested parties had sufficient time and opportunity to offer comments on such combined information filed by the domestic industry and defend their interests.
- g) Some interested parties have disputed inclusion of SI Group within the scope of domestic industry. The Authority, however, holds that it is a well settled legal position that the Designated Authority has discretion to include or exclude a domestic producer who falls within the category of relationship under Rule 2(b) or who has itself imported the product. Inclusion of SI Group has been on the basis of such parameters which have been consistently considered relevant by the Authority for this purpose. Further, the Authority holds that exclusion of SI Group would have led to higher degree of injury margin and would have shown higher degree of adverse effect of the dumped imports on the domestic industry. Thus, inclusion of SI Group within the scope of domestic industry in fact has resulted in lower injury margin.
- h) The interested parties have contended that the Authority has made a statement without any data that performance of both the domestic producers individually shows injury. It is clarified that the observation of the Authority is based on examination of individual information given by

both the companies. In fact, the petition contains injury information only for HOCL and thereafter, combined data of HOCL and SI Group was made available to the interested parties. The interested parties were, therefore, clearly in a position to offer comments on the individual performance of both the companies.

- i) As regards the contention that Authority should treat a domestic producer as non cooperative if the company has not provided relevant information, the Authority notes that both SI Group and HOCL have fully cooperated in the present investigations and, therefore, there is no necessity of treating any party as a non cooperating domestic producer.
- j) As regards argument that intrinsic factors or other factors have caused injury to the domestic industry, the Authority notes that the interested parties have not established that the deterioration in performance of either of the domestic producers is on account of such intrinsic factors or other factors.
- k) As regards demand supply gap, the Authority holds that the demand supply gap in the product cannot prejudice the rights of the domestic industry to seek protection under the law. It is the consistent practice of the Authority to recommend imposition of anti dumping duties, if it is established that dumping is causing injury to the domestic industry.
- l) As regards the argument that imports from Saudi Arabia are only 5.2% of the total imports, the Authority notes that the Rule 14 of the Anti dumping Rules and Article 5.8 of the WTO Agreement deals with negligible volume of imports and provides that the imports are negligible only if the same are below 3% from the individual country.
- m) As regards extension of time to complete the investigations granted by the Central Government and intimation of the same to the interested parties, it is clarified that the fact of extension of time was placed on the website of the Directorate, even though it is not mandatory under the law that such extension of time are intimated to the interested parties.
- n) As regards the contentions concerning calculations of landed price of import, the Authority has applied its consistent methodology for calculation of landed price of the imports.

K. CONCLUSION

130. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject countries below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the subject countries.

L. RECOMMENDATIONS

131. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti dumping duty is required to offset dumping and consequent injury equal to the lesser of margin of dumping and margin of injury, so as to remove injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports of the product under consideration has been compared with the non-injurious price of the domestic like product produced by the domestic industry for the period of investigation.

132. 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 the margin of dumping and the margin of injury so as to remove injury to the domestic industry. Accordingly, anti dumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government on all imports of the subject goods originating in or exported from the subject countries.

Duty Table

Sl. No.	Heading/ Subheading	Description of goods	Specificatio ns	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Curr ency
1	29141100	Acetone	In all forms and strengths	Chinese Taipei	Chinese Taipei	Formosa Chemicals and Fibre Corporation	Formosa Chemicals and Fibre Corporation	86.10	MT	USD
2	29141100	Acetone	In all forms and strengths	Chinese Taipei	Chinese Taipei	Formosa Chemicals and Fibre Corporation	M/s Kolmar Group AG, Switzerland	86.10	MT	USD
3	29141100	Acetone	In all forms and strengths	Chinese Taipei	Chinese Taipei	Taiwan Prosperity Chemical Corporation	Taiwan Prosperity Chemical Corporation	205.05	MT	USD
4	29141100	Acetone	In all forms and strengths	Chinese Taipei	Chinese Taipei	Any combination other than Sl. No 1 to 3 above		271.37	MT	USD
5	29141100	Acetone	In all forms and strengths	Chinese Taipei	Any country other than Chinese Taipei and countries attracting anti dumping duty	Any	Any	271.37	MT	USD
6	29141100	Acetone	In all forms and strengths	Any country other than Chinese Taipei and countries attracting anti dumping duty	Chinese Taipei	Any	Any	271.37	MT	USD
7	29141100	Acetone	In all forms and strengths	Saudi Arabia	Saudi Arabia	Saudi Kayan Petrochemical Company	Saudi Basic Industries Corporation	132.98	MT	USD
8	29141100	Acetone	In all forms and strengths	Saudi Arabia	Saudi Arabia	Saudi Kayan Petrochemical Company	Saudi Kayan Petrochemical Company	132.98	MT	USD
9	29141100	Acetone	In all forms and strengths	Saudi Arabia	Saudi Arabia	Any combination other than Sl. No 7 and 8 above		203.85	MT	USD
10	29141100	Acetone	In all forms and strengths	Any country other than Saudi Arabia and countries attracting anti dumping duty	Saudi Arabia	Any	Any	203.85	MT	USD
11	29141100	Acetone	In all forms and strengths	Saudi Arabia	Any country other than Saudi Arabia and countries attracting anti dumping duty	Any	Any	203.85	MT	USD

133. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
134. An appeal against the order of the Central Government arising out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J K Dadoo)
Designated Authority