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Government of India
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Udyog Bhawan, New Delhi
No. 15/1/2012-DGAD

Date: 13th December, 2013

Final findings

Subject: Sunset review of Anti Dumping Duty imposed in respect of imports of Acetone originating in or exported from European Union, South Africa, Singapore and USA

Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

A. BACKGROUND OF THE CASE

WHEREAS, having regard to above Rules, the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation on 7th Sept., 2006 into alleged dumping of Acetone originating in or exported from European Union, Chinese Taipei, Singapore, South Africa and USA and provisional antidumping duty was imposed vide customs notification no. 77 /2007-Customs dated 19th June, 2007 on the basis of the preliminary findings of the Authority dated 25th April, 2007. The final findings were notified vide notification dated 4th January, 2008 and the Department of Revenue imposed definitive anti dumping duties on the subject goods from the subject countries vide Notification No. 33/2008-Customs dated 11th March, 2008.

2. AND WHEREAS, the Designated Authority conducted midterm review investigation against imports of subject goods from Taiwan and concluded vide Notification dated 10th April, 2012 recommended withdrawal of anti dumping duty from subject goods originating in or exported from Taiwan. Department of Revenue has withdrawn the anti dumping duty vide Notification No. 29 /2012-Customs (ADD) dated 29th May, 2012.

3. AND WHEREAS M/s Hindustan Organic Chemicals Limited (HOCL) filed a duly substantiated application in accordance with the Act and the AD Rules before the Authority alleging continued dumping of the subject goods originating in or exported from European Union, Singapore, South Africa and USA and requested for review and continuation of the anti-dumping duties. Having satisfied that the petitioner has substantiated the need for a review, the

Designated Authority considered it appropriate to initiate sunset review vide notification no. 15/1/2012 -DGAD dated 15th June, 2012. The validity of the antidumping duty on the imports of the subject goods from the subject countries was extended up to 18th June 2013 by the Central Government vide Notification No. 37/2012-Customs (ADD) dated 19th July, 2012. Further, Central Government granted additional time till 14th December 2013 to complete the investigations and notify the final findings.

AND WHEREAS the Designated Authority initiated a midterm review investigation vide Notification dated 23rd December 2011 on the basis of a written application received from an importer of the subject goods. However, the midterm review investigation was closed vide Notification No. 15/15/2011 dated 18th June, 2012 in view of the initiation of the present sunset review investigation on 15th June, 2012.

B. GENERAL PROCEDURE

4. The procedure described below has been followed with regard to the investigation:
 - a. The Authority issued public notification no. 15/1/2012 -DGAD dated 15th June, 2012 initiating sunset review investigations, which was published in the Extraordinary Gazette of India.
 - b. The Authority forwarded a copy of the public notice to the known producers and/or exporters in the subject countries and provided them opportunity to provide relevant information and make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2)
 - c. The Authority forwarded a copy of the public notice to all the known importers and/or consumers of subject goods in India and advised them to provide relevant information and make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).
 - d. The Authority provided copies of the non-confidential version of the application to the known producers and/or exporters and the Embassy of the subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential application was also made available for other interested parties, on request.
 - e. The Authority sent a questionnaire to elicit relevant information to the government of subject countries, including known exporters/producers in accordance with the Rule 6(4). However none of the exporters/producers from the subject countries except Singapore and South Africa have filed response to the questionnaire.
 - f. Questionnaire was sent to known importers or users for providing necessary information in accordance with Rule 6(4). The Authority provided opportunity to the industrial users of the product under consideration, to furnish information considered relevant to the investigation regarding dumping, injury and causality.
 - g. The questionnaire response has been filed by the following companies:
 - M/s Sasol Solvents and M/s Sasol Middle East FZCO.
 - M/s Petrochem Middle East FZE and M/s Petrochem Middle East (India) Pvt. Ltd
 - M/s Sumitomo Corporation Asia Pte. Ltd, Singapore.

- Mitsui & Co. (Asia Pacific) Pte. Ltd. (MAP) and Mitsui Phenols Singapore Pte. Ltd, (MPS) Singapore
 - M/s Haresh Petrochem Singapore Pte. Ltd and Haresh Petrochem Pvt. Ltd, India
- h. The Authority held a public hearing on 7th March, 2013 to provide an opportunity to the interested parties to present relevant information orally. The parties attending the public hearing were advised to file written submissions of the information presented orally. Authority has considered these written submissions and rejoinders received from interested parties.
- i. Arguments raised and information/evidence provided by the interested parties, including domestic industry, during the course of the investigation, to that extent the same are considered relevant to the present investigation, have been appropriately considered by the Authority.
- j. The Authority during the course of investigation satisfied itself as to the accuracy of the information supplied upon which these findings are based. The Authority conducted on-the-spot verification at the premises of the domestic industry to the extent considered relevant and necessary. Additional/ supplementary details regarding injury were sought from the domestic industry, which were also received.
- k. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have been considered in Final Findings. The following interested parties have commented to the disclosure statement
- M/s Sasol Solvents and M/s Sasol Middle East FZCO.
 - M/s Petrochem Middle East FZE and M/s Petrochem Middle East (India) Pvt. Ltd
 - M/s Sumitomo Corporation Asia Pte. Ltd, Singapore.
 - Mitsui & Co. (Asia Pacific) Pte. Ltd. (MAP) and Mitsui Phenols Singapore Pte. Ltd, (MPS) Singapore
 - The domestic industry
- l. The Authority made available non-confidential version of the evidence presented by domestic industry through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
- m. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- n. **** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.
- o. Investigation was carried out for the period starting from 1st January 2011 to 31st December 2011 (12 months and has been referred to as the period of investigation or POI). The examination of trends in the context of injury analysis covered the periods 2008-09, 2009-10 2010-11 & POI. The data beyond POI (from Jan to June 12) has also been examined to determine the likelihood of dumping and injury.

- p. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority shall record findings on the basis of the facts available.
- q. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted, and such information has been considered confidential and not disclosed to other interested parties.
- r. The Central government extended the time period to complete the investigation and notify the final findings till 14th December, 2013.
- s. The exchange rate for the POI was taken as 1US\$ = Rs.48.14

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. The product under consideration in the present investigations is Acetone. The product under consideration in the original investigation was 'Acetone'. The product under consideration remains the same for the purposes of this review. As per the original investigation carried out by the Authority, the product has been defined as under:

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

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

6. Acetone is classified under Customs Tariff heading no. 2914.11. However, the customs classification is indicative only and in no way binding on the scope of the present investigation and proposed measure.

7. The present investigation being a sun set review investigation and anti- dumping duties, as earlier recommended by the Authority, being in force on the imports of the subject goods from the subject countries, the Authority considers that the scope of the product under consideration in the present investigation remains the same as that of the original investigation. Moreover, none of the interested parties have made any relevant submission requesting modification (including curtailment) in the scope of the review.

D. Domestic Industry and Standing Submissions by the Domestic Industry

8. The following submissions have been made by the domestic industry with regard to scope of the Domestic Industry and Standing:

- i. The petitioner is a major producer of the subject goods in India. There is one more producer of the product under consideration in the country, other than the petitioner, i.e., SI Group India Ltd.
- ii. Present petition is for sunset review. In a sunset review investigation, the issue of standing of the petitioner is not relevant.
- iii. SI Group has not participated in any of the investigation ever since the present management has taken over of the company. Nor can the petitioner force SI Group to participate in the investigation.

Views of the Importers, Consumers, Exporters and Other Interested Parties

9. The following submissions have been made by the opposing interested parties with regard to scope of the Domestic Industry and Standing:

- i. There is no support letter from SI group as contended by the domestic industry.
- ii. SI Group has conveniently abstained from participating as domestic industry without providing any explanation. The Hon'ble Designated Authority should independently assess the factual situation prior to considering HOCL as the Domestic Industry.

Examination by Authority

10. The application was filed by M/s Hindustan Organic Chemicals Limited. There is one more domestic producer of subject goods, M/s SI Group India Ltd. SI Group India Ltd has supported the application and their letter of support is on record of the authority. It is noted that production of M/s Hindustan Organic Chemicals Limited constitutes 47.40% of total domestic production and therefore constitutes a 'major proportion'. Even though the present investigation is a sunset review investigation, the applicant has the standing to file the present application as domestic industry as per Rule 2(b) and 5(3) of Anti dumping Rules.

11. M/s SI Group India Ltd. has supported the application filed by the domestic industry. However, no injury response in the form and manner of application proforma for domestic industry has been filed by them. Therefore, Authority has not considered SI Group within the scope of the domestic industry. However, information provided by SI Group has separately been examined under appropriate headings.

E. Miscellaneous Submissions

Views of the domestic industry

12. The domestic industry has made the following miscellaneous submission:

- i. 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 the consumers to import with no or low quantum of anti dumping duty.

- ii. Responding to the issue raised by the interested parties, the domestic industry has submitted that the expansion plan drawn by the domestic industry was never approved by the Ministry of Chemicals and Petrochemicals. The industry has no freedom to take decisions without approval of the concerned competent department in the Ministry of Chemicals and Petrochemicals.
- iii. The fact that import under advance license has been exempted from payment of anti dumping duty does not imply that imports under advance licence should not be considered for the purpose of injury analysis. These imports have significant adverse price effect on the domestic industry.

Views of the Importers, Consumers, Exporters and Other Interested Parties

13. The importers, consumers, exporters and other interested parties have made the following miscellaneous submission:
- i. HOCL has been operating with a continuous buffer of trade remedial measures to soften its inefficiency for nearly 15 years. It has failed to make any improvements in its production facility or process since inception thereby remaining at the same level of inefficiency as before.
 - ii. Petitioner has claimed excessive confidentiality. Trade Notice no.1 of 2011 mandates a rigid application of the confidentiality principles.
 - iii. Advance license exports imports should be excluded from the import volumes considered for examining injury and dumping. Effect of expiry of duty would be only on duty paid imports.

Submissions to Disclosure statement by Exporters and importers

- iv. There was a faulty dumping margin methodology at the time of initiation. Besides, there was no injury and no likely hood of injury on account of dumped imports from subject countries. Also, non attribution has been ignored. There is continued Abuse of the Trade Remedial measures by the Petitioner for more than a Decade. It has been submitted that the Designated Authority has relied upon prevailing prices in Europe and USA on the basis of ICIS LOR. However, the Hon'ble Designated Authority has not made any averment or disclosure concerning the adjustments to the said value to arrive at the 'ex-factory' price. It appears that the Hon'ble Designated Authority has erroneously considered the "as is price" reported in ICIS-LOR as 'normal value' and has not made a comparison on the ex-factory basis. They have submitted that Change in methodology to single weighted average duty for producer and exporters is arbitrary. It has also been submitted that post POI data was filed at a belated stage.

Examination by the Authority

14. With regard to the argument that the petitioner is resorting to trade remedial measures 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.
15. With regard to the argument that advance license exports imports should be excluded from the injury analysis, it is recalled that the Authority has noted in the previous findings that the imports made under duty exemption scheme create competition and change the price line as the importers would procure the goods from exporters or producers whosoever gives competitive price. Therefore, imports made under duty exemption scheme cannot be considered to have not affected the price in the market. The Authority has been consistently considering all imports of the product – whether duty paid or duty free– for injury analysis. Duty free imports have, therefore, not been excluded for the purpose of injury analysis.
16. With regard to the argument on excessive confidentiality, it is clarified that the authority has granted confidentiality only after examining and satisfying the confidentiality claims of the interested parties.
17. With regard to comments to the disclosure statement by interested parties, it is noted that most of the arguments by the interested parties are mere repetitions and have been addressed in this finding elsewhere. The Authority has examined the additional submissions made by the interested parties in the appropriate headings in this findings. As regards the contention that post POI data was filed at a belated stage, the Authority notes that the information on post POI was filed along with the written submissions and the interested parties had sufficient time to comment on the same. The same is there in the public file.
18. As regards the contention regarding adjustments made to the ICIS LOR prices, the Authority notes that appropriate adjustments have been made in order to arrive at net export price as well as landed value.

F. DUMPING MARGIN

Views of the domestic industry

19. Following are the views of the domestic industry

- i. Subject countries are continuously dumping goods in the domestic market.
- ii. Same producer has sold the goods through more than one chain. Thus, if any chain is able to get negative injury margin, the producers would be able to get zero duty for that chain and would thereafter be able to export entire material through that chain. The authority should therefore give one duty to one set of producer and exporters.

Views of the Importers, Consumers, Exporters and Other Interested Parties

20. Following are the views of the domestic industry

- i. It is the duty of the Authority to examine adjustments on the merit of each case. Merely because an adjustment has not been granted previously does not justify a default exclusion of such an adjustment.
- ii. There has been a recent change in the methodology of calculating dumping and injury margins for various producer-exporter combinations. Change in methodology to single weighted average duty for producer and exporters are arbitrary and in violation of doctrine of legitimate expectation and due process as no opportunity were given to the parties to defend their interests. Further, there is no reasoned order provided justifying such a change in practice.
- iii. The accordances of producer based margins are accepted to be part and parcel of WTO consistent practice world-wide. However, the duties accorded thereof are not given in combinations. If the Authority intends to continue with this practice, it must firstly clarify to all interested parties what the practice will be since it has been in violation of its obligations under the principles of natural justice.
- iv. If the Authority seeks to change its practice, it must do so in a WTO-consistent manner. Duties therefore should be recommended on a producer-specific basis rather than combination basis.

Examination by the Authority

21. 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);

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

- M/s Sasol Solvents, South Africa and M/s Sasol Middle East FZCO, UAE.
- M/s Petrochem Middle East FZE, UAE and M/s Petrochem Middle East (India) Pvt. Ltd, India
- M/s Sumitomo Corporation Asia Pte. Ltd, Singapore
- Mitsui & Co. (Asia Pacific) Pte. Ltd. (MAP) and Mitsui Phenols Singapore Pte. Ltd, (MPS) Singapore
- M/s Haresh Petrochem Singapore Pte. Ltd, Singapore and Haresh Petrochem Pvt. Ltd, India

23. 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.

24. In the absence of cooperation from the other producers/exporters in subject countries, the Authority has determined normal value, on the basis of facts available in terms of Rule 6(8) of AD Rules read with Article 6.8 of the WTO Agreement.

25. Accordingly, 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

26. 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 has been assessed on monthly basis.

27. 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.

Normal Value for cooperating producer and exporter from Singapore

28. After examining the response from cooperating producer and exporters from Singapore and unaffiliated trader from UAE, it is noted that M/s Mitsui Phenols Singapore Pte. Ltd., (MPS) and M/s **Mitsui & Co. (Asia Pacific) Pte. Ltd. (MAP)** from Singapore has responded to the Authority and has submitted exporter questionnaire response. Their response along with the additional information submitted during the course of the proceedings was examined and it is noted that the product concerned is produced by the Company Mitsui Phenols Singapore Pte. Ltd (MPS). It is further noted that in terms of the production process, benzene and propylene are procured from domestic as well as imported sources to produce cumene. From cumene, the company produces phenol and acetone. It was noted during the response that domestic sales are made by this company to domestic customers directly or through its affiliated trading house i.e. MAP. It was also noted that the company was also selling the subject goods in the domestic market which it had bought from its related company M/s MPS.
29. The responses filed by these companies was examined. It is noted from the questionnaires response that M/s MPS has given month-wise costing for the subject goods. It is noted from the information submitted that the domestic sales meet the sufficiency test. The cost of production of the subject goods as indicated in Appendix-8B of the response has been accepted for the purposes of carrying out the ordinary course of trade test. Adjustments thereof have been allowed. Based on such a determination, the Normal Value has been worked out on a monthly basis.
30. To determine the normal value for the non-cooperating exporters, the normal values determined for the co-operating parties have been adopted. The adjustments allowed to the co-operating exporters have been adjusted to arrive at the ex-factory normal values thereof.

Normal Value for cooperating producer and exporter from South Africa

31. The Authority notes that M/s Sasol Solvents, South Africa and M/s Sasol Middle East FZCO, UAE has responded to the Authority and has submitted Exporters Questionnaire response. Their response along with the additional information submitted during the course of the proceedings was examined and it was noted that the product concerned is produced by M/s

Sasol Solvents and exported to India through M/s Sasol Middle East FZCO, UAE which is a subsidiary company. It was also noted that domestic sales are made by M/s Sasol Solvents to domestic customers directly.

32. Transaction-wise details on domestic sales provided by the M/s Sasol Solvents have been relied upon to determine normal values. The responses filed by this company was examined. It is noted from the questionnaires response that the company has given month-wise costing for the subject goods. It is noted from the examination that the domestic sales meets the sufficiency test. The cost of production of the subject goods as indicated in Appendix-8B of the response has been accepted for the purposes of carrying out the ordinary course of trade test. Adjustments thereof have been allowed after examination. The expenses claimed towards inland freight, terminal/storage expenses, credit costs etc by M/s Sasol Solvents have been adjusted to determine normal value. Based on such a determination, the Normal Value has been worked out on a monthly basis.

Normal value for non cooperative producers and exporters from South Africa

33. To determine the normal value for the non-cooperating exporters, the normal value determined for the co-operating exporter has been adopted. The adjustments allowed to the co-operating exporter have been adjusted to arrive at the ex-factory normal value thereof.

Normal Value for all producers/exporters USA

34. It is noted that none of the exporters from USA have responded to the Authority. The applicant had provided details of normal value in USA on the basis of price of subject goods as published in ICIS-LOR. It is noted that ICIS-LOR is the world's largest petrochemical market information provider and provides pricing data, high-value news, analysis and independent consulting, with over 30 years' experience of providing pricing information. In the absence of any response from the subject exporters, the Authority has determined normal value for all producers/exporters in USA on the basis of ICIS-LOR prices.

Normal value for all producers/exporters EU

35. None of the exporters from EU have responded to the Authority. The applicant had provided details of normal value in EU on the basis of price of subject goods as published in ICIS-LOR. It is noted that ICIS-LOR is the world's largest petrochemical market information provider and provides pricing data, high-value news, analysis and independent consulting, with over 30 years' experience of providing pricing information. In the absence of any response from the subject exporters, the Authority has determined normal value for all producers/exporters in EU on the basis of ICIS-LOR prices.

F.2 Export price

General methodology for determination of export price for the responding exporters

36. The Authority has examined the export prices in respect of responding exporters on the basis of questionnaire responses filed by them. The export prices and the adjustments thereof have been allowed after examination. Export Price at the ex factory level has been calculated by deducting all post factory expenses up to the producer.

Export price for Mitsui Phenols Singapore Pte. Ltd. (MPS), Singapore through Mitsui & Co. (Asia Pacific) Pte. Ltd. (MAP) to India

37. It is noted from the response that M/s MPS it has exported Acetone to India during the period of investigation through related company M/s MAP. It is seen that the exporter has made only bulk sales to India. Therefore, the export price for bulk has been determined. It is noted that all sales of the subject goods to India were made on FOB basis and that the expenses with regard to exports up to FOB to India have been incurred by the producer. The company has claimed adjustments on account of commission, customs clearance fee, bank discount interest, bank charges, harbour facility charge, harbour management fee, trade promotion service fee, harbour handling fee, loading survey fee and warehousing charges. These claims of adjustments have been accepted. The ex-factory export prices have thereafter been calculated on month-wise basis. It is further noted that M/s MAP is a trader and was procuring the subject goods from their related company M/s **Mitsui Phenols Singapore PTE. Ltd., (MPS)** and also from other sources. However, during the POI, they had sold the subject goods to India which was procured only from MPS. For determination of ex factory export price at the end of producer MPS, Singapore, necessary adjustments as mentioned above have been made.

Export price for Mitsui Phenols Singapore Pte. Ltd., through MAP, Singapore and M/s Haresh Petrochem Singapore PTE., Ltd., Singapore(HPSPL) to India.

38. It is further noted that the subject goods was also exported to India by the co-operating producer M/s MPS, Singapore and related trader M/s MAP, Singapore during the POI through Haresh Petrochem Singapore. M/s Haresh Petrochem Singapore PTE., Ltd., Singapore(HPSPL) is an exporter only, who has exported subject goods to India sourced from MAP and other sources and then exported to Haresh Petrochem PVT., Ltd., (India) and other in India. The subject goods which have been purchased from Mitsui & Co.,(Asia Pacific) PTE Ltd., Singapore, by Haresh Petrochem Singapore PTE., Ltd., Singapore(HPSPL) is produced by Mitsui Phenol Singapore PTE Ltd., Singapore. For determination of ex factory export price at the end of producer MPS, Singapore, necessary adjustments pertaining to traders in the chain have been made.

Export price for Mitsui Phenols Singapore Pte. Ltd., through Sumitomo and M/s Petrochem Middle-east (FZE), Dubai to India.

39. It was further noted that M/s Sumitomo was another trader and was procuring the subject goods from their unrelated company M/s **Mitsui Phenols Singapore PTE. Ltd., (MPS)** and also from other sources. However, during the POI, they had sold the subject goods to India which was procured largely from MPS. It was also noted that M/s. Sumitomo exported these purchased subject goods to India through another unaffiliated trader i.e. M/s Dubai

Petrochem FZE. These consignments were manufactured by Mitsui Phenols Singapore Pte. Ltd. (MPS). For determination of ex factory export price at the end of producer MPS, Singapore, necessary adjustments pertaining to traders in the chain have been made.

Export price for non cooperative producers/exporters in Singapore

40. Since no other response has been received from any other producer/exporter of the subject goods from Singapore the Authority has determined the Export prices as per facts available in terms of Rule 6(8) of the Anti Dumping Rules. Data has been collated from the information provided by the co-operative exporters.

Export price for Sasol Solvent through M/s. Sasol Middle East FZCO, South Africa

41. The transaction wise details for exports made to India through M/s Sasol Middle East FZCO were examined on a monthly basis to determine the export price. Expenses claimed by the Sasol Solvents and Sasol Middle East have been adjusted to arrive at ex-factory export price such as ocean freight, clearing and handling, credit costs, etc. The exports made to India were compared to the respective months in which domestic sales were carried out. By adopting this method, the export price for the cooperating producer and exporter was determined.

Export price for non cooperative producers/exporters in South Africa

42. Since no other response has been received from any other producer/exporter of the subject goods from South Africa the Authority has determined the Export prices as per facts available in terms of Rule 6(8) of the Anti Dumping Rules. Data has been collated from the information provided by the co-operative exporter.

Export price for all producers/exporters in USA

43. None of the exporters from USA have responded to the Authority. The Authority has considered information from the DGCI&S and has determined export price considering all imports of the product under consideration in India. Price adjustments have been made on the basis of claims made by petitioner domestic industry in view of non cooperation from the exporters from USA.

Export price for all producers/exporters in EU

44. None of the exporters from EU have responded to the Authority. The Authority has considered information from the DGCI&S and has determined export price considering all imports of the product under consideration in India. Price adjustments have been made on the basis of claims made by petitioner domestic industry in view of non cooperation from the exporters from EU.

Determination of Dumping Margin

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

Country of Origin	Country of Export	Producer	Exporter	Dumping Margin US\$/MT	Dumping Margin (%)	Wt. Avg. Dumping Margin US\$/MT	Wt. Avg. Dumping Margin (%)	Dumping Margin (%) Range
Singapore	Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd.	***	***	***	***	0-5
Singapore	Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd., M/s Sumitomo Corporation Asia Pte. Ltd., M/s Petrochem Middle East FZE, UAE	***	***			
Singapore	Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd. & M/s Haresh Petrochem Singapore Pte. Ltd.	***	***			
Singapore	Singapore	All other producers and exporters from Singapore		***	***			15-20
South Africa	South Africa	M/s Sasol Solvents	M/s Sasol Middle East FZCO, UAE	***	***			0-5
South Africa	South Africa	All other Producers and exporters from South Africa		***	***			30-35
EU	European Union	All Producers and exporters from EU		***	***			(0-5)
USA	USA	All Producers and exporters from USA		***	***			5-10

G. Injury Determination
Views of the Domestic Industry

46. The submissions made by the Domestic Industry with regard to injury and casual link are as follows:

- i. Imports from the subject countries have increased, causing injury to the domestic industry.
- ii. Imports from subject countries are undercutting the prices of the domestic industry.
- iii. Profitability and consequently return on investment and cash profit situation of the domestic industry has deteriorated.
- iv. The imports are still continuing at dumping prices.
- v. Domestic industry is facing injury from the dumping of subject goods. Further, there is no reason or justification to believe that revocation of the duty would not lead to increased or continued dumping at a higher level with consequent injury to the domestic industry.
- vi. The data of the domestic industry clearly shows decline in sales volume and consequently decline in production and capacity utilization.
- vii. Decline in sales volumes of the domestic industry is despite admitted demand supply gap in the country. In fact, in a situation of significant demand supply gap, the domestic industry should have sold all material it could product.
- viii. In a situation of significant global surpluses, the exporters are forced to sell at prevailing price. No exporter is in a position to dictate its own prices, if the price is falling in the global market in a product like the present.
- ix. Annual Report clearly highlights that the prominent cause of injury to the company is dumping of the product. Whereas the absolute difference in petitioner performance and global producers' performance could be on account of other factors, the deterioration in performance is due to dumping of the product.

Views of the Importers, Consumers, Exporters and Other Interested Parties

47. The submissions made by Importers, Consumers, Exporters and Other Interested Parties with regard to injury and casual link are as follows:

- i. The apparent injury claimed by the Domestic industry is clearly a result of an unnatural surge in cost and prices or imports from Taiwan. In either of the events, any alleged injury is not going to be a result of cessation of duties in the subject countries.
- ii. Petitioner has conveniently omitted to provide import data for the period post POI. Data up to six months after the period of investigation may be taken into account.

- iii. The data provides that the market share of subject countries has fallen and that of other countries has increased.
- iv. Domestic industry's sales decreased even when the other producer could maintain its sales.
- v. Phenol demand might have decreased which is the reason for acetone supply going down.
- vi. In a situation when imports are imperative claim of the domestic industry that its performance has deteriorated due to imports is totally incorrect. Imposition of duty will adversely impact the downstream industry.
- vii. Domestic industry is selling goods above the Non Injurious price and is hence not suffering any injury.
- viii. Domestic industry fails to point out that the market share of subject countries has actually declined over the POI.
- ix. The productivity of the Domestic industry has consistently remained inefficient. Petitioner has remained a poor performer for such a long time that it has been classified as a sick company by the BIFR under the SICA.
- x. Domestic industry's claim of injury is because of the decline in sales and the consequent decline in production.
- xi. No link has been established between cessation of duties and advance license imports since duty was never applied to advance license imports.
- xii. In all antidumping investigation it must be demonstrated that imports from subject countries are entering at dumped prices and the same are causing adverse effect on volume and prices of the domestic industry.
- xiii. Domestic industry has been in robust health and is consistently earning bumper profits in the past several years. During POI, Domestic industry earned highest profits.
- xiv. Claim of decline in production and sales is misleading. Sales of other Indian producer have increased significantly. There must be some other factors leading to the decline in the sales and production of the Domestic industry.
- xv. Domestic industry registered a 62% ROCE in midterm review investigation, the DA concluded no injury and at present with 75% ROCE, there cannot be any claim of injury.
- xvi. Designated Authority should adopt ROCE earned by the Domestic industry when there was no allegation of dumping as reasonable profit margin and not 22%.
- xvii. Stock is low and the sales to production ratio have increased noticeably towards the POI and post POI. This implies that it is not the sales volume of the domestic industry rather the production itself which has declined.
- xviii. Price- Volume effects have not been established.
- xix. Petitioner's claim to injury is because of the decline in sales and the consequent decline in production.

- xx. No link has been established between cessation of duties and advance license duties since duty was never applied to advance license imports.
- xxi. The imports from Taiwan are at the same level as they were prior to duties being levied.

Examination by the Authority

48. Rule 11 of the AD Rules read with its 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..." While 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.
49. Rule 23 of the Rules provide that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that the domestic industry has not suffered injury during the current period, the authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
50. Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
51. As regards the impact of the dumped imports on the domestic industry. Para (iv) of Annexure-II of the AD Rules states as follows:

"The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments."

52. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

Assessment of Demand and Market share

53. For the purpose of determining the demand and market share, the Authority has considered sales of the Indian producers and imports from various sources. The demand of the product in India has been computed as the sum of domestic sales of the Indian Producers and known imports from various countries. The demand so assessed is shown in the following table:

Market Share in Demand	UOM	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Sales of Domestic Industry	MT	26,007	22,658	27,419	20,817	8,864	17,729
Sales of Other Indian Producer	MT	14,542	18,644	21,023	21,338	10,932	21,864
Total imports	MT	68,576	80,601	78,857	96,059	51,631	1,03,263
Imports from subject countries	MT	30,219	34,896	25,398	22,349	16,066	32,132
EU	MT	6,366	10,953	2,064	3,249	1,646	3,292
SINGAPORE	MT	9,645	12,716	17,728	16,147	11,543	23,086
SOUTH AFRICA	MT	10,399	9,388	2,505	2,183	1,366	2,732
USA	MT	3,809	1,839	3,101	770	1,511	3,022
Imports from Other countries attracting ADD	MT	26,460	32,756	28,285	33,243	13,571	27,141
Other Countries – Imports	MT	11,896	12,949	25,174	40,467	21,995	43,990
Total Demand	MT	1,09,125	1,21,903	1,27,299	1,38,213	71,428	1,42,856
Market Share in Demand	UOM	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Domestic Industry	%	24%	19%	22%	15%	12%	12%
Other Domestic Producer	%	13%	15%	17%	15%	15%	15%
Subject Countries	%	28%	29%	20%	16%	22%	22%
EU	%	6%	9%	2%	2%	2%	2%
SINGAPORE	%	9%	10%	14%	12%	16%	16%
SOUTH AFRICA	%	10%	8%	2%	2%	2%	2%
U S A	%	3%	2%	2%	1%	2%	2%
Other Countries attracting ADD	%	24%	27%	22%	24%	19%	19%
Other Countries	%	11%	11%	20%	29%	31%	31%
		100%	100%	100%	100%	100%	100%

54. It is noted that the apparent consumption of the subject goods has consistently increased over the injury period. Even though market share of subject imports except EU have declined over the injury period, the same however remains significant considering that anti dumping duty was in force on these imports.

A. Volume Effects of Dumped Imports

Import Volume and Market Share

55. With regard to the 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. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S for all countries. The volume of imports of the subject good from the subject countries have been analyzed as under:

Particulars	Unit	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Subject Country	MT	30,219	34,896	25,398	22,349	16,066	32,132
EU	MT	6,366	10,953	2,064	3,249	1,646	3,292
SINGAPORE	MT	9,645	12,716	17,728	16,147	11,543	23,086
SOUTH AFRICA	MT	10,399	9,388	2,505	2,183	1,366	2,732
U S A	MT	3,809	1,839	3,101	770	1,511	3,022
Other Countries attracting ADD	MT	26,460	32,756	28,285	33,243	13,571	27,141
Other Countries	MT	11,896	12,949	25,174	40,467	21,995	43,990
Total Imports	MT	68,576	80,601	78,857	96,059	51,631	1,03,263
Market Share in Imports							
Subject Country	%	31%	30%	24%	19%	24%	24%
EU	%	6%	9%	2%	3%	2%	2%
SINGAPORE	%	10%	11%	17%	14%	17%	17%
SOUTH AFRICA	%	11%	8%	2%	2%	2%	2%
U S A	%	4%	2%	3%	1%	2%	2%
Other Countries attracting ADD	%	27%	28%	27%	28%	20%	20%
Other Countries	%	12%	11%	24%	34%	32%	32%
Total Imports	%	100%	100%	100%	100%	100%	100%

56. It is noted that the imports from subject countries increased in 2009-10 and has then declined. The volume of imports from subject countries except EU however remained significant considering that anti dumping duties were in force. The imports from subject countries except EU constitute 21% of the total imports into India in the investigation period and is considered significant. Imports from subject countries except EU in relation to production and consumption of subject goods has also remained significant during the same period. The imports from ALL subject countries constitute 24% of the total imports into India in the investigation period and is considered significant

Price Effect

57. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products 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. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any.

Price undercutting and price underselling

58. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. The following table shows the Net Selling Price of the domestic industry, Landed price of the dumped imports and the price undercutting.

USA

Particulars	UOM	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Net Sales Realization	Rs/MT	***	***	***	***	***	***
Trend		100	97	100	124	141	141
Landed Value without ADD	Rs/MT	48,643	34,518	49,596	69,179	51,011	51,011
Trend		100	71	102	142	105	105
Landed Value with ADD	Rs/MT	58,433	44,843	59,466	79,192	62,239	62,239
Trend		100	77	102	136	107	107
Price Undercutting without ADD	Rs/MT	***	***	***	***	***	***
Trend		100	1,572	6	-897	2,200	2,200
	%	***	***	***	***	***	***
	Range %	0-10	25-35	0-10	(10-20)	20-30	20-30
Price Undercutting with ADD	Rs/MT	***	***	***	***	***	***
Trend		-100	33	-110	-197	82	82
	%	***	***	***	***	***	***
	Range	(10-20)	0-10	(15-25)	(25-35)	10-20	10-20

Singapore

Particulars	UOM	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Net Sales Realization	Rs/MT	***	***	***	***	***	***
Trend		100	97	100	124	141	141
Landed Value without ADD	Rs/MT	44,210	43,703	42,400	54,870	60,323	60,323
Trend		100	99	96	124	136	136
Landed Value with ADD	Rs/MT	55,204	55,298	53,485	66,115	72,933	72,933
Trend		100	100	97	120	132	132
Price Undercutting without ADD	Rs/MT	***	***	***	***	***	***
Trend		100	78	137	127	176	176
	%	11%	9%	15%	11%	13%	13%
	Range %	5-15	0-10	10-20	5-15	5-15	5-15
Price Undercutting with ADD	Rs/MT	***	***	***	***	***	***
Trend		-100	-131	-67	-79	-58	-58
	%	-12%	-16%	-8%	-7%	-5%	-5%
	Range	(10-20)	(10-20)	(0-10)	(0-10)	(0-10)	(0-10)

South Africa

Particulars	UOM	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Net Sales Realization	Rs/MT	***	***	***	***	***	***
Trend		100	97	100	124	141	141

Landed Value without ADD	Rs/MT	44,619	38,251	47,344	57,154	54,083	54,083
Trend		100	86	106	128	121	121
Landed Value with ADD	Rs/MT	52,846	46,928	55,639	65,569	63,520	63,520
Trend		100	89	105	124	120	120
Price Undercutting without ADD	Rs/MT	***	***	***	***	***	***
	Trend	100	196	47	91	319	319
	%	***	***	***	***	***	***
	Range %	5-15	15-25	0-10	5-15	15-25	15-25
Price Undercutting with ADD	Rs/MT	***	***	***	***	***	***
	Trend	-100	26	-179	-118	181	181
	%	***	***	***	***	***	***
	Range	(0-10)	0-10	(10-20)	(0-10)	5-15	5-15

59. The Authority notes that the landed price of imports from Singapore, South Africa and USA without anti dumping duty have remained below the selling price of the domestic industry throughout the injury period and also during the Post POI (with the exception of imports from USA during the POI). Thus the imports are significantly undercutting the prices of domestic industry.

Price underselling

60. The following table shows the Non Injurious Price of the domestic industry, Landed price of the dumped imports and the price underselling. In view of significant cost and price difference on month by month basis, the authority has undertaken month by month comparison.

Price Under-selling

Singapore

Particulars	UOM	PoI	Post-PoI
Non-Injurious Price of Domestic Industry	Rs/MT	***	***
Trend		100	111
Landed value without ADD	Rs/MT	***	***
Trend		100	110
Price Underselling without ADD	Rs/MT	***	***
	%	***	***
	Range %	(0-10)	(0-10)

South Africa

Particulars	UOM	PoI	Post-PoI
Non-Injurious Price of Domestic Industry	Rs/MT	***	***
Trend		100	111
Landed value without ADD	Rs/MT	***	***
Trend		100	95
Price Underselling without ADD	Rs/MT	***	***

	%	***	***
	Range %	(5-15)	0-10

USA

Particulars	UOM	POI	Post-POI
Non injurious price	Rs/MT	***	***
Trend		100	110.98
Landed Value without ADD	Rs/MT	***	***
Trend		100	73.74
Price Underselling without ADD	Rs/MT	***	***
	%	***	***
	Range %	(30-35)	(10-15)

61. It is noted that during the investigation period, the price underselling is negative with respect to Singapore, South Africa and USA, while for the post POI the same is negative with respect to Singapore and positive for South Africa and USA.

Price Suppression and Depression

62. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of selling price of the domestic industry has been compared with the cost of production. The data given below shows that the domestic industry's selling price have remained above cost of sales throughout the injury period. While in 2009-10, the decline in selling price was less than decline in cost of production, in 2010-11, the cost of production declined, selling price increased. However, in investigation period, whereas both cost of production and selling price increased, the increase in cost of production was far higher than the increase in the selling price.

Particulars	UOM	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Cost of production	Rs/MT	***	***	***	***	***	***
Trend	Index	100	93	79	113	148	148
Net selling Price	Rs/MT	***	***	***	***	***	***
Trend	Index	100	97	100	124	141	141
Profit/Loss	Rs/MT	***	***	***	***	***	***
Trend	Index	100	303	1,402	827	-286	-286
Landed Price-Singapore	Rs/MT	44,210	43,703	42,400	54,870	60,323	60,323
Trend	Index	100	99	96	124	136	136
Landed Price-South Africa	Rs/MT	44,619	38,251	47,344	57,154	54,083	54,083
Trend	Index	100	86	106	128	121	121
Landed Price-USA	Rs/MT	48,643	34,518	49,596	69,179	51,011	51,011
Trend	Index	100	71	102	142	105	105

B. Economic Parameters affecting Domestic Industry

63. As per Annexure II to the AD Rules, the Authority is required to examine the impact of the dumped imports on the domestic industry concerned, which includes an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, various economic parameters of the domestic industry have been analyzed as follows.

Sales, Capacity, Production, and Capacity Utilization

64. The performance of the domestic industry in respect of sales, capacity, production, and capacity utilization has been as follows:

Particulars	Unit	2008-09	2009-10	2010-11	POI	Post-POI	Annualised
Installed capacity	MT	24,640	24,640	24,640	24,640	12,320	24,640
Trend		100	100	100	100	100	100
Production	MT	26,544	23,084	26,959	20,694	8,530	17,060
Trend		100	87	102	78	64	64
Capacity Utilization	%	108%	94%	109%	84%	69%	69%
Trend		100.00	86.97	101.56	77.96	64.27	64.27
Domestic Sales	MT	26,007	22,658	27,419	20,817	8,864	17,729
Indexed		100	87	105	80	68	68

65. It is noted that production, sales and capacity utilization declined significantly in 2009-10 and thereafter increased significantly in 2010-11. Production, sales and capacity utilization, however declined significantly once again in the investigation period.

Market share in Demand

66. The effects of the dumped imports on the domestic sales and the market share of the domestic industry have been as below:

Market Share in Demand	UOM	2008-09	2009-10	2010-11	POI	Post-POI	Annualized
Domestic Industry	%	24%	19%	22%	15%	12%	12%
Other Domestic Producer	%	13%	15%	17%	15%	15%	15%

67. It is noted that the market share of the domestic industry as well as that of the other Indian producer declined over the injury period.

Profits, return on investment and cash flow

68. The cost of sales, selling price and profit/loss of the domestic industry has been analyzed as follows:

Particulars	Unit	2008-09	2009-10	2010-11	POI	Post POI
Cost of production	Rs./MT	***	***	***	***	***
Trend	Index	100	93	79	113	148
Net selling Price	Rs./MT	***	***	***	***	***
Trend	Index	100	97	100	124	141
Profit/Loss	Rs./MT	***	***	***	***	***
Trend	Index	100	303	1,402	827	-286
Profit/loss	Rs. Lakh	***	***	***	***	***
Trend	Indexed	100	264	1,478	662	-97
Profit before Interest	Rs. Lakh	***	***	***	***	***
Trend	Indexed	100	200	922	469	-11
Cash Profit	Rs. Lakh	***	***	***	***	***
Trend	Indexed	100	217	1,100	509	-55
Return on Capital Employed	%	***	***	***	***	***
Trend	Indexed	100	149	1,126	483	-19

69. It is seen that:

- a. Cost of sales and selling price of the domestic industry has increased over the injury period.
- b. Profit, cash profit and return on investment increased till 2010-11 and have thereafter declined in the investigation period.

Inventories

70. The data relating to inventory of the subject goods are shown in the following table:

Particulars	Unit	2008-09	2009-10	2010-11	POI	Post-POI
Average Stocks	MT	***	***	***	***	***
Average Stocks	Index	100	208	205	164	218

71. It is noted that inventories with the Domestic Industry have increased over the injury period despite having sufficient demand in the domestic market. The increase in inventory is despite significantly low production in these periods.

Employment and wages

72. The position with regard to employment and wages is as follows:

Particulars	Unit	2008-09	2009-10	2010-11	POI	Post-POI
Employment	No	***	***	***	***	***
Trend	Indexed	100	96.8	99.2	99.2	99.2
Wages	Rs. Lakh	***	***	***	***	***
Trend	Indexed	100	100	232.34	284.33	276.08
Productivity per Employee	Mt	***	***	***	***	***
Trend	Indexed	100	89.84	102.38	78.59	32.39
Productivity per day	Mt	***	***	***	***	***
Trend	indexed	100	86.97	101.56	77.96	32.13

73. It has been contended by the domestic industry that given the fact that the domestic industry is a multi product company, the labour laws in the Country and anti dumping duties in force, these parameters may not show the potential adverse effect of dumping. It is noted that the number of employees has remained in the same region and wages paid have increased.

Productivity

74. Data relating to productivity shows as follows:

Particulars	Unit	2008-09	2009-10	2010-11	POI	Post-POI
Employment	No	***	***	***	***	***
Trend	Indexed	100	96.80	99.20	99.20	99.20
Wages	Rs. Lakh	***	***	***	***	***
Trend	Indexed	100	100	232.34	284.33	276.08
Productivity per Employee	Mt	***	***	***	***	***
Trend	Indexed	100	89.84	102.38	78.59	32.39
Productivity per day	Mt	***	***	***	***	***
Trend	indexed	100	86.97	101.56	77.96	32.13

75. It is noted that productivity of the domestic industry has declined over the injury period. .

Magnitude of Dumping

76. Dumping margin determined for all the subject countries except EU is above de minimis and significant.

Growth

Growth Year by year		2009-10	2010-11	POI	Post-POI
Production	%	-13	17	-23	-59
Sales	%	-13	21	-24	-57
Profits	%	164	460	-55	-115
Market share	%	49	656	-57	-104
ROI	%	-22	16	-30	-18

77. It is noted that growth in major parameters shows a negative trend during POI and post POI.

Magnitude of Injury margin:

78. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from for determination of injury margin during the POI. The injury margin is negative for all subject countries except for residual producers and exporters from Singapore and South Africa. The injury margin is worked out as under:

Country of Export	Producer	Exporter	Injury Margin US\$/MT	Injury Margin (%)	Wt. Avg. Injury Margin US\$/MT	Wt. Avg. Injury Margin (%)	Injury Margin (%) Range
Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd.,	***	***			(0-5)
Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd., M/s Sumitomo Corporation Asia Pte. Ltd., M/s Petrochem Middle East FZE, UAE	***	***	***	***	
Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd., & M/s Hareesh Petrochem Singapore Pte. Ltd.	***	***			
Singapore	All other producers/exporters from Singapore		***	***			15-20
South Africa	M/s Sasol Solvents	M/s Sasol Middle East FZCO, UAE	***	***			(10-15)
South Africa	All other producers/ exporters from south Africa		***	***			0-5
European Union	All producers/exporters from EU		***	***			(10-20)
USA	All producers/exporters from USA		***	***			(25-35)

Conclusion on Injury

79. In view of the above, it is noted that:

- i. Imports from subject countries except EU declined over the injury period. However, the absolute volume of imports is significant. Further, the market share of imports of subject countries except EU in the total demand and production is also significant.
- ii. Imports from other countries dumping the product or under investigations at present for dumping of the product are quite significant.
- iii. The price undercutting is significant throughout the injury period.
- iv. The Performance of the Domestic Industry in terms of profits, return on investments, cash flow, inventories etc. improved till 2010-11. The same however declined significantly in the POI.
- v. Production, sales, capacity utilization and market share also increased till 2010-11. The same however significantly declined thereafter in the POI.

In view of the above, the Authority concludes that the performance of the domestic industry improved upto 2010-11 and has then declined in the POI. Overall, the operating performance of the domestic industry has improved during the POI as compared to base year.

H. Likelihood of Continuation or Recurrence of Dumping and Injury

80. Following is the submission of domestic industry with regards to Likelihood of Continuation or Recurrence of Dumping and Injury

Views of the domestic industry

- i. The dumping of the product under consideration continued from the subject countries even after the imposition of anti dumping duty.
- ii. Producers in subject countries are holding significant capacities. In case of revocation of anti dumping duty, the volume of subject goods' imports is bound to increase further.
- iii. Exports from subject countries to third countries are at dumped prices. Further, the producers are faced with production cuts.
- iv. The subject countries hold a significant market share in the Indian Market.
- v. Positive dumping margin and injury margin in exports to India and third countries for post period of investigation establishes likelihood of dumping and injury in the event of cessation of anti dumping duty.
- vi. Whilst the capacities in the Indian market are lower than demand in the country, the capacities in the global market are significantly higher than global demand for the product.
- vii. The changes in circumstances with regard to dumping and injury were highly temporary in nature as also happened in the case of imports from Taiwan. The dumping margin and injury margin in the present period from Taiwan is significantly high once again. The authority has in fact initiated anti dumping investigations in respect of imports from Taiwan.
- viii. Research shows that worldwide demand for phenol could create a surplus of some 200,000 tonnes of acetone by 2015. Acetone is a joint product of phenol - one tonne of phenol produces 0.62 tonnes of acetone. The acetone market is not growing therefore creating excess of acetone in the market.
- ix. Subsequent to the disclosure statement, the domestic industry has mostly reiterated its views submitted earlier to the Authority. It has been submitted that the Authority revoked duties from Taiwan holding no likelihood of dumping and injury. However, current volume and value of imports made the Authority initiate a fresh investigation. It has also been submitted that the present global surplus capacity which is lower than the global demand itself provides significant opportunity to the producers from subject countries to intensify dumping in the event of cessation of anti dumping duty. The performance of the domestic industry has deteriorated in Post POI in terms of production, capacity utilization, domestic sales, market share, profit, cash flow, return on investment, productivity and inventories. The domestic industry has also started suffering financial losses
- x. It has been submitted that significant exports are made at dumped and injurious price by all the subject countries individually. The Authority has done third country dumping and injury analysis on the basis of customs data. It appears that the responding exporters have not provided information provide transaction wise details

- of their exports to third countries for the investigation period and post investigation period. Therefore the responding exporters could not have been treated as cooperate. Once dumping margin and injury margin is positive in the investigation period, the same itself establishes the need for extension, regardless of position in the post investigation period.
- xi. It has been submitted that when exports to India during investigation period or post investigation period itself shows likelihood, the same itself establishes the need for extension, regardless of position in third countries exports. Anti dumping duty is required to be extended. Quantum of duty is not required to be modified as since the present case is based on the likelihood of dumping and injury to the Domestic industry.

Views of the Importers, Consumers, Exporters and Other Interested Parties

81. Following is the submission of domestic industry with regards to Likelihood of Continuation or Recurrence of Dumping and Injury

- i. An examination of the data shall show that no likelihood of dumping or injury exists owing to exports from Singapore.
- ii. The petitioner's claim that import volumes have increased, does not imply that goods are being dumped.
- iii. The data provided for the claim that there are disposable capacities for dumping in the subject countries is without a reliable source.
- iv. If prevailing import price in the Indian Market is lower than raw material cost, no producer would prefer to sell its goods at such a price. The claim of price attractiveness holds no ground.
- v. Merely claiming that the domestic industry is vulnerable does not prove likelihood of dumping.
- vi. Merely because there is present undercutting establishes likelihood of neither dumping nor injury.
- vii. The imports from Taiwan are at the same level as they were prior to duties being levied.
- viii. In their comments to the disclosure statement, the producers and exporters from Singapore and South Africa have submitted that For USA and EU the Hon'ble Designated Authority has considered the customs data of the respective countries and for Singapore and South Africa, as per UN Comtrade, which is a public domain database. Despite public availability of such data, the Hon'ble Designated Authority has not disclosed the figures as per which such an analysis has been conducted. It has also been submitted that no dumping margin analysis or table has been provided to justify the Designated Authority's findings on dumping margin calculations for third country exports.
- ix. It has been submitted through illustrations that causal link has been absent in this case.
- x. It has been submitted that rate of Duties recommended in a Sunset Review cannot be in Disregard to Margins calculated in the Review.
- xi. It has been submitted that in case the Hon'ble Designated Authority concludes that there is a "likelihood" of continuation or recurrence of dumping and injury, the

Hon'ble Designated Authority is mandated to assess the rate or quantum of applicable to each co-operating exporter based on the individual margin of dumping calculated for the respective producer or exporter. In conformity with Rule 23 (3) of the Anti-dumping Rules, the said margin of dumping or injury should be determined in accordance with the provisions Rules 10, 11, 17 and Annexures I,II and III for the data submitted for the “period of investigation”.

Examination by the Authority

82. The Authority has examined the contention of various interested parties. The Authority had called for additional information from the domestic industry for the period beyond the period of investigation. Further, the Authority has considered exports from subject countries to India and third countries in the investigation period and post POI. It is noted that information with regard to exports from subject countries to third countries during the Post POI period (January to June, 2012) have been provided by the responding exporters from South Africa and Singapore on a monthly basis while for the USA and EU, the Authority has relied upon exporting countries customs data for a period from January to December, 2012 on a consolidated basis (and not month wise) as six months data is not available. In this regard the Authority notes as under:

i. Volume and Price effect and its impact on the domestic industry during Post POI period

83. In order to examine the likelihood of injury to the domestic industry due to dumped imports in the post investigation period, the authority has analysed the performance of the domestic industry during the period from January 2012-June 2012. After examining the volume and price effects of imports of subject goods from subject countries and its impact on the domestic industry, it is noted that the imports of the subject goods from the subject countries have increased significantly in absolute terms as also in relation to production and consumption of the subject goods in India in post POI as compared to the POI. It is also noted that exports from all four subject countries are significantly undercutting the prices of domestic industry during the POI and Post POI period. The price underselling effect on account of imports from South Africa is positive while from Singapore, it is negative. The same is positive with regard to imports from USA and EU.

Particulars	UOM	EU		USA	
		POI	Post-POI	POI	Post-POI
Net Sales Realization	Rs/MT	***	***	***	***
Landed Value without ADD	Rs/MT	***	***	***	***
Price Undercutting without ADD	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range %	0-10	20-30	10-20	20-30
Non-Injurious Price of Domestic Industry	Rs/MT	***	***	***	***
Landed value without ADD	Rs/MT	***	***	***	***

Price Underselling without ADD	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range %	(10-20)	0-10	30-40	5-15

Source (DGCIS data)

Particulars	UOM	Singapore		South Africa	
		POI	Post-POI	POI	Post-POI
Net Sales Realization	Rs/MT	***	***	***	***
Trend		***	***	***	***
Landed Value without ADD	Rs/MT	***	***	***	***
Trend		***	***	***	***
Price Undercutting without ADD	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range %	5-15	15-25	5-15	5-15
Non-Injurious Price of Domestic Industry	Rs/MT	***	***	***	***
Trend		***	***	***	***
Landed value without ADD	Rs/MT	***	***	***	***
Trend		***	***	***	***
Price Underselling without ADD	Rs/MT	***	***	***	***
	%	***	***	***	***
	Range %	(0-10)	(0-10)	(5-15)	0-10

Source (DGCIS data)

84. The imports from subject countries are causing significant price suppression in this period. With regard to consequent impact of the dumped imports on the domestic industry in the post investigation period, it is concluded that the performance of the domestic industry has deteriorated in respect of production, capacity utilization, domestic sales, market share, profit, cash flow, return on investment, productivity and inventories. The domestic industry has started suffering financial losses.

S. No.	Particulars	UOM	POI	Post –POI (annualized)
1	Capacity Utilization	%	77.96	64.27
2	Production	MT	20,694	17,060
3	Sales Volume	MT	20,817	17,729
4	Cost of Sales	Rs./MT	***	***
5	Sales Price	Rs./MT	***	***
6	Profit	Rs./MT	***	***
7	PBIT	Rs./Lakh	***	***
8	Cash Profit	Rs./Lakh	***	***
9	Return on Investment	%	***	***

Dumping Margin post POI for Exports to India (Source : exporters data from Singapore and South Africa and DGCIS data from USA and EU)

85. The Authority has determined the normal value for the subject countries as per price prevailing in the subject countries, except South Africa and Singapore. Normal value for

South Africa and EU has been determined taking into account information submitted by the exporters during the investigation. The normal value for USA and EU has been determined on the basis of best facts available and these have been compared with export price so determined at ex-factory level to determine the likely dumping margin. The dumping margin in the post POI is significantly positive for all countries except Singapore as can be seen from the table below. This shows likelihood of intensified dumping of subject goods from subject countries in the event of revocation of anti dumping duty.

Country of Export	Producer/ Exporter	Likely Dumping Margin US\$/Mt.	Likely Dumping Margin (%)	Likely Dumping Margin (%) Range
Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	***	***	(0-5)
South Africa	M/s Sasol Solvents	***	***	0-5
European Union	All exporters from EU	***	***	15-20
USA	All exporters from USA	***	***	50-55

Injury margin post POI for Exports to India: (Source: exporter’s data from Singapore and South Africa and DGCIS data from USA and EU)

86. The Authority has determined the non-injurious price for the domestic industry for post investigation period, i.e., Jan 12-Jun 12, on the basis of the principles laid down in the Rules. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports from the subject countries to determine likely injury margin. The likely injury margin post POI is significantly positive as except Singapore and South Africa as can be seen from the table below. This clearly shows likelihood of intensified injury to the domestic industry from subject countries in the event of revocation of anti dumping duty.

Country of Export	Producer	Likely Injury Margin (US\$/MT)	Likely Injury Margin (%)	Likely Injury Margin (%) Range
Singapore	M/s Mitsui Phenols Singapore Pte. Ltd.	***	***	(5-10)
South Africa	M/s Sasol Solvents	***	***	(0-5)
European Union	All producers/exporters from EU	***	***	5-10
USA	All producers/exporters from USA	***	***	10-15

Dumping margin and Injury Margin for POI and post POI on account of exports from subject countries to third countries

87. The dumping margin with respect to exports to third countries from subject countries has also been determined. It is noted that the likely dumping margin for producers and exporters from Singapore and USA on account of exports to third countries during post POI is positive, while the same is negative with respect to South Africa and EU. For the POI, the dumping margin for producers and exporters from Singapore, EU and USA on account of exports to third countries during POI is positive, while the same is negative with respect to South Africa.

88. The injury margin with respect to exports to third countries from subject countries has also been determined. It is noted that the likely injury margin for producers and exporters from Singapore during post POI is positive, while the same is negative with respect to South Africa, USA and EU. For the POI, the injury margin for producers and exporters from Singapore on account of exports to third countries during POI is positive, while the same is negative with respect to South Africa, EU and USA.

ii. Significant dumped and injurious exports from subject countries:

89. The domestic industry in its submissions before the Designated Authority claimed that the subject goods are being exported by the exporters from the subject countries to third countries at a price which is dumped prices. In this regard, the information relating to subject exports to various countries globally were examined by the Authority on country by country basis for the POI and for the period post investigation period, i.e., Jan 12-Dec 12. Export data for USA and EU was has been considered as per the customs data of the

respective countries and for Singapore and South Africa, information has been taken from UN Comtrade. Considering these prices as FOB export prices, dumping margin and injury margin were determined for these transactions, after due adjustments (from FOB to ex factory in respect of dumping margin and from FOB to landed price in respect of injury margin). The share of dumped imports below normal value and share of injurious exports below NIP are considered significant.

90. It is seen that total volume of exports from subject countries to various countries globally during the POI as well as post investigation period was significant. Further, significant exports are made at dumped and injurious price by all the subject countries individually. It is, thus, seen that a very significant proportion of subject countries exports' made to third countries was at dumped prices and at a price where domestic industry would suffer injury, if these exports are diverted to Indian market. Further, considering demand in India, this volume of exports at dumping and injurious prices is quite significant.

iii. Capacities

91. The domestic industry has submitted that the capacity with the producers from subject countries as per 2011 World Market Outlook and Forecast up to 2016 is as follows:

Subject Countries	Capacity (MT)
European Union	1,742,200
South Africa	24,800
Singapore	186,000
USA	1,814,740
Total	3,767,740

92. It has been submitted that there exists significant capacity with the subject countries. Domestic Industry has further submitted that growth in production of phenol will lead to surplus production of acetone whose global demand is not increasing which is likely to lead to intensified dumping in the event of revocation of duty.

I. Causal Link

93. Under Section 9A (5) of the Act, the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties. The Authority has examined whether other parameters listed under the AD Rules have caused injury to the Domestic Industry.

- (a) **Volume and value of imports not sold at dumped prices:** - It is noted that the domestic industry is facing injury from dumped imports from the subject countries except EU during the POI and subject countries except Singapore during the Post POI in addition to countries attracting anti dumping duty.
- (b) **Contraction in demand:-** The Authority notes that the demand of the product under consideration has shown a positive growth throughout the injury period. Hence, contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry.
- (c) **Changes in the patterns of consumption:-** The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is therefore could not have contributed to the injury to the domestic industry.
- (d) **Trade restrictive practices of and competition between the foreign and domestic producers:** - There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- (e) **Developments in technology:-**Technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.
- (f) **Performance of other products produced and sold by the domestic industry:** - The domestic industry is multi-product company. However, injury analysis has been made with respect to the product under consideration.
- (g) **Productivity:** - It is observed that Productivity of the domestic industry has decreased which is a result of decrease in the production.

Examination by Authority on the issues concerning likely hood of dumping and injury after disclosure statement

94. As regards the contention that sources relied upon, especially on likelihood, was not disclosed, the Authority notes that the letter filed by the domestic industry on likelihood relied upon by the Authority in this finding was placed in the public file and the interested parties had time to respond to the same. As regards the contention that other factor such as imports from other countries are causing injury to the domestic industry, the Authority notes that in a sunset review investigation the focus is on the likelihood of dumping and injury. The Authority has held in this finding that there exist likelihood of dumping and injury to the domestic industry in the event of cessation of anti dumping duties. With regard to the argument that there is an absence of causal link in the likely hood analysis, it is noted that imports of subject goods from subject countries are having an adverse price effect during the Post POI period and because of that (along with other factors), the operating performance of the domestic industry has gone down during the post POI period. It is also noted that the

requirement under AD Rule is that subject imports need not be the sole cause of injury to the domestic industry.

95. As regards the contention about data relied on publically available information for examining imports from subject countries in the post POI period, the Authority notes that the data relied by the Authority is based on the information submitted by the responding producers and exporters from subject countries, and also the data submitted by the domestic industry and World Trade Atlas which is placed in the public file.

Conclusions on likely hood of dumping and injury in the event of revocation of anti dumping duties on subject countries

96. With respect to imports from Singapore, the Authority notes that dumping margin determined for the POI is positive and injury margin determined is negative. Both dumping margin and injury margin are negative for the Post POI period for exports to India. However, dumping margin and injury margin determined for third country exports during POI as well as post POI is positive which establishes likelihood of dumping and injury in the event of cessation of anti dumping duties from Singapore.
97. With respect to imports from USA, the Authority notes that dumping margin determined for the POI is positive and injury margin determined is negative. However, dumping margin and injury margin determined for post POI is positive which establishes likelihood of dumping and injury in the event of cessation of anti dumping duties from USA.
98. With respect to imports from EU, the Authority notes that dumping margin and injury margin determined for the POI is negative. However, both dumping margin as well as injury margin is positive during the post POI period which establishes likelihood of dumping and injury in the event of cessation of anti dumping duties from EU.
99. With respect to imports from South Africa, the Authority notes that there is sole producer in South Africa who has responded to the investigation. It is noted that even though the dumping margin determined for the POI is positive the injury margin determined for the POI, Post POI and for third country is negative. However, for examining the likely hood of dumping of subject goods and consequent injury to the domestic industry to the domestic industry, the World Trade Atlas report containing the country wise exports to other countries during the POI and post POI was examined. It was noted that though on the weighted average basis, the dumping margin is positive and injury margin is negative for the POI, the volume of the exports to third countries below normal value is significant and account for 70.49% of their total exports while injurious exports to third countries during the POI account for 26.70%. of the total exports to third countries. Post POI, the weighted average dumping margin and injury margin on the basis of World Trade Atlas report is positive, and the volume of the exports to third countries below normal value is significant and account for 48.35% of their total exports while injurious exports to third countries during the POI account for 48.35% of the total exports to third countries. Considering the huge demand of subject goods in India and the limited production capacity of the domestic producers in India, these volumes i.e. 42946 MT of subject goods which are below the normal value and

16,270 MT of subject goods which are below NIP are likely to be diverted to India and likely to be dumped and cause injury to the domestic industry (during the POI) in the event of revocation of anti dumping duties from South Africa. It is therefore concluded that cessation of duties is likely to lead recurrence of dumping and injury on account of imports from South Africa.

Conclusions

100. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis, the Authority concludes that :

- i. There are continued imports of the product under consideration at dumped prices from the subject countries except EU during the period of investigation in this sunset review.
- ii. Though imports of dumped subject goods from subject countries except EU are undercutting the prices of the domestic industry during the POI, the adverse impact of the same on the volume, prices and profitability of the domestic industry during the POI has not been observed.
- iii. The subject goods are however likely to enter the Indian market at dumped prices if the anti-dumping duties in force ceases to operate and the situation of domestic industry is likely to deteriorate if the existing anti dumping duties from subject countries are allowed to cease.
- iv. The deterioration in the performance of the domestic industry is likely to be because of dumped imports from subject countries.
- v. Thus the anti-dumping duties on subject goods are required to be extended from subject countries.

101. Having concluded that there is likelihood of recurrence of dumping and injury on account of imports of subject goods from subject countries, if the existing anti dumping duties are allowed to cease, the Authority concludes that the anti dumping measure is required to be extended in respect of imports from subject countries.

102. After having concluded in the earlier paragraphs that non continuation of anti dumping duties from subject countries is likely to cause recurrence of dumping and injury to the domestic industry, it is recommended to extend the anti dumping duties on the imports of the subject goods from subject countries, which was imposed vide Notification No.33/2008-Customs, dated the 11th March, 2008, extended vide Customs Notification No. 37/2012-Customs dated 19th July 2012.

103. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(J S Deepak)
Designated Authority