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**F.No. 7/15/2018-DGAD**

**Government of India**

**Ministry of Commerce & Industry**

**Department of Commerce**

**(Directorate General of Trade Remedies)**

**4<sup>th</sup> Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated 22<sup>nd</sup> November, 2018

**NOTIFICATION**

**FINAL FINDINGS**

Subject: **Sunset Review of anti-dumping investigation on the imports of “Methylene Chloride” originating in or exported from the European Union and the United States.**

**A. BACKGROUND OF THE CASE**

1. **F. No. 7/15/2018-DGAD:** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the **Act**) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the **Rules**) thereof;
2. Whereas having regard to the above Act and the Rules, the Designated Authority (hereinafter referred to as the "**Authority**") initiated an anti-dumping investigation against imports of Methylene Chloride originating in or exported from the European Union, the United States, and Korea RP vide Notification No.14/19/2012-DGAD on 04<sup>th</sup> April, 2013. The Preliminary Findings were notified on 06<sup>th</sup> September, 2013 and the provisional duties were imposed by the Ministry of Finance vide Notification No. 24/2013 – Cus (ADD) dated 21<sup>st</sup> October, 2013. The Authority had thereafter issued final findings on 2<sup>nd</sup> April, 2014 recommending the imposition of definitive anti-dumping duties on the subject imports. The definitive anti-dumping duties on the subject goods imported from the subject countries were imposed by the Ministry of Finance vide Customs Notification No. 24/2014 – Cus (ADD) dated 21<sup>st</sup> May, 2014.

3. Whereas, in terms of the Act and the Rules, the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.
4. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
5. And whereas, M/s Gujarat Fluorochemicals Ltd. and M/s Chemplast Sanmar Ltd. (hereinafter also referred to as the "**Petitioners**" or "**Applicants**") filed an application before the Authority in accordance with the Act and the Rules alleging continuation of dumping of Methylene Chloride (hereinafter also referred to as the "**subject goods**") originating in or exported from the European Union and the United States, and the likelihood of continuation of dumping of the subject goods, originating in or exported from Korea RP, and consequent injury to the domestic industry. The Applicants have requested the Authority for review and continuation of the anti-dumping duties on the imports of the subject goods from these countries.
6. And whereas, in view of the duly substantiated application filed in accordance with Section 9A(5) of the Act read with Rule 23 of the Rules, and on finding that prima facie evidence of dumping of the subject goods, originating in or exported from the United States of America (USA) and the European Union (EU) (hereinafter also referred to as the "**subject countries**"), injury to the domestic industry and causal link between the alleged dumping and injury exists to justify initiation of anti-dumping investigation; the Authority issued a public notice vide Notification No. F.No.7/15/2018-DGAD dated 03rd May, 2018 to examine whether the expiry of the anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
7. Since there were no imports of the subject goods from Korea RP in the POI and consequently no evidence of current dumping by the Korean producers, the sunset review investigation concerning imports originating or exported from Korea RP was not initiated.
8. The scope of the present review covers all aspects of the original investigation concerning imports of the subject goods, originating in or exported from the subject countries.

## **B. GENERAL PROCEDURE**

9. The procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority:
- i. The Authority notified the Embassies/Missions of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the sunset review investigation in accordance with sub-rule (5) of Rule 5.
  - ii. The Authority sent a copy of the initiation notification to the Embassies/Missions of the subject countries in India, known producers/exporters from the subject countries, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the Applicants and requested them to make their views known in writing within 40 days of the initiation notification.
  - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies/Missions of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
  - iv. The Embassies/Missions of the subject countries in India were also requested to advise the exporters/producers from their respective countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
  - v. The Authority sent Exporter's Questionnaire to elicit relevant information from the following known producers/exporters in accordance with Rule 6(4) of the Rules:

### The European Union

- a) DOW Chemicals
- b) INEOS Chlor Limited
- c) Akzo Nobel Industrial Chemicals Ltd.
- d) Solvay SA - rue de Ransbeek
- e) Arkema SA
- f) M/s. Akzo Nobel Industrial Chemicals B.V

### The United States

- a) Olin Corporation
- b) Occidental Chemical Corporation

c) Dow Texas Operations 2301

- vi. However, no producer/exporter responded to questionnaire sent by the Authority.
- vii. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
  - a. Vardhaman Trading Corporation
  - b. Harsh Kumar & Company
  - c. Ralchem Limited
  - d. Morpean LABS
  - e. Surya Medicare Limited
  - f. Indsol Drugs Limited
  - g. Meghmani Organics Limited
  - h. United Phosphorus Limited
  - i. KDL Biotech Limited
  - j. Sun Pharmaceuticals Industries Limited
  - k. Rails India Limited
  - l. Alembic Limited
  - m. Hindustan Chemicals Industries
- viii. However, no importer of the subject goods responded to questionnaire sent by the Authority.
- ix. The Authority made available non-confidential version of the evidence and submissions presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- x. A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- xi. The Non-Injurious Price (NIP) has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry, based on the optimum cost of production and cost to make & sell the subject goods in India. The optimum cost of production and cost to make & sell the subject goods has been based on the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules.

- xii. The Authority held an oral hearing on 26<sup>th</sup> July, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6). The hearing was attended by the representatives of the domestic industry only, who presented their views orally and were subsequently advised to file written submissions of the same with the Authority.
- xiii. A disclosure statement, disclosing the essential facts of the investigation, was issued by the Authority on 12th November, 2018 inviting comments. No submissions have been made by any interested party apart from the domestic industry during the course of this investigation. Therefore, there were no submissions apart from the domestic industry that needed to be addressed by the Authority.
- xiv. Verification of the data of the domestic industry was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon by the Authority.
- xv. The Period of Investigation (POI) for the purpose of the present review investigation is 1<sup>st</sup> January, 2017 to 31<sup>st</sup> December, 2017 (12 months). The examination of trends in the context of injury analysis covered the years 2014-2015, 2015- 2016, 2016-2017 and the POI.
- xvi. Information provided by the domestic industry on confidential basis was examined 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 as confidential and not disclosed to other interested parties. Wherever possible, the domestic industry was directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xvii. 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 considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xviii. ‘\*\*\*’ in this document represents information furnished to the Authority on confidential basis and so considered by the Authority under the Rules.
- xix. The exchange rate for the POI has been taken by the Authority as Rs.66.07 = 1 US\$.

## **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **C.1 Views of the Domestic industry**

10. The views of the domestic industry are as follows:

- i. The present investigation is a sunset review investigation. The product involved in the original investigation and in the present sunset review investigation is Methylene Chloride, also known as Dichloromethane or Methylene Dichloride (hereinafter also referred to as the "**subject goods**", or "**PUC**" or "**MDC**"). The product under consideration in the present sunset review investigation is the same as has been defined by the Authority in the original investigation.
- ii. Methylene Chloride is an organic compound with molecular formula  $CH_2Cl_2$ . It is a colourless liquid with sweetish ether-like odour and is used as a solvent predominantly. It is essentially non-flammable under most conditions of use. However, it can burn if strongly heated. Methylene Chloride may decompose at high temperatures forming toxic gases. It is completely miscible with variety of solvents.
- iii. Methylene Chloride is a solvent and is used in the manufacturing of polycarbonate and phenolic resins, rayon yarn, pharmaceuticals, agro and fragrance chemicals. It is also used as an extractant for edible fats, cocoa, butter and essences.
- iv. The PUC in this investigation should remain the same as was defined in the course of the original investigation.
- v. Considering that the present application is for sunset review of existing anti-dumping duty and that there are no major developments since the previous investigations with regard to the PUC, the scope of the PUC is required to be kept the same as that in the original investigation.
- vi. There are no grades of the subject goods. However, it can be traded in loose or packed, thereby having direct effect on prices.
- vii. Methylene Chloride is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act, 1975, under customs subheading 29031200. The customs classification is indicative only and in no way binding on the scope of the present investigation.
- viii. There are two processes for production of Methylene Chloride – Methane route and Methanol route. The product produced through both the routes has essentially similar

technical characteristics. Thus, the difference in production process does not result in a different product.

## **C.2 Views of other Interested Parties**

11. Since no interested party apart from the domestic industry has participated in this investigation, there are no submissions by other interested parties for the Authority to consider.

## **C.3 Examination by the Authority**

12. The product under consideration in this investigation is Methylene Chloride, also known as Dichloromethane or Methylene Dichloride. It is an organic compound with molecular formula  $CH_2Cl_2$ . It is a colourless liquid with sweetish ether-like odour and is used as a solvent, predominantly. It is essentially non-flammable under most conditions of use. However, it can burn if strongly heated. MDC may decompose at high temperatures forming toxic gases. It is completely miscible with a variety of solvents.
13. The subject goods are classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act, 1975, under customs subheading 29031200. However, customs classifications are indicative only and in no way binding on the scope of this investigation.
14. The present investigation being a sunset review investigation and anti-dumping duties, as recommended earlier 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 subject goods in the present investigation remains the same as that in the original investigation.
15. With regard to like article, Rule 2(d) of the Anti-Dumping Rules provides as under:

*"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*
16. After considering the information on record, the Authority holds that there is no known difference in the PUC exported from the subject countries and the product produced by the Indian industry. The goods produced by the domestic industry is comparable to the PUC in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the

goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

17. Thus, the Authority holds that the subject product produced by the applicant domestic industry is like article to the PUC exported from the subject countries, in accordance with the AD Rules.

## **D. SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **D.1 Submissions by the domestic industry**

18. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
  - i. The petition was jointly filed by Gujarat Fluorochemicals Ltd. and Chemplast Sanmar as the domestic producers of the PUC. There are three other producers of the subject goods in India, namely, TGV SRAAC Ltd. (formerly Sree Rayalaseema Alkalies and Allied Chemicals Ltd.), Gujarat Alkalies & Chemicals Ltd. and SRF Ltd. The Petition is supported by TGV SRAAC Ltd
  - ii. The Applicants account for 52.80% of the total domestic production and therefore can be termed to be holding a major proportion of the domestic production of the subject goods in India.
  - iii. The share of the Applicants along with the supporter accounts for 69.12% of the total Indian production.
  - iv. There are no imports of the PUC by the Applicants or any of their related parties during the POI, within the meaning of Rule 2(b) nor are they related to any of the importers or exporters for the subject countries. Therefore, the Applicants clearly satisfy the standing criteria and constitute domestic industry within the meaning of the Rules.

### **D.2 Views of other Interested Parties**

19. Since no interested party apart from the domestic industry has participated in this investigation, there are no submissions by other interested parties for the Authority to consider.

### **D.3 Examination by the Authority**

20. The application has been jointly filed by Gujarat Fluorochemicals Ltd. and Chemplast Sanmar and is supported by TGV SRAAC Ltd.
21. As per the information provided by the Applicants as part of their Petition, it can be seen that the Applicants constitute 52.80% of the total domestic production; and, after including the production of the supporter M/s TGV SRAAC Ltd, their collective share accounts for 69.12% of the total Indian production, as seen from the table below.

#### **Statement of Indian Production**

<b>S. No</b>	<b>Particulars</b>	<b>Unit</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
<b>A.</b>	<b>Petitioner Companies</b>					
1.	Chemplast Sanmar Ltd.	MT	***	***	***	***
2.	Gujarat Fluorochemicals Ltd.	MT	***	***	***	***
	<i>Total of Applicants</i>	<i>MT</i>	<i>70,459</i>	<i>71,365</i>	<i>74,650</i>	<i>71344</i>
<b>B</b>	<b>Supporter</b>					
	TGV SRAAC Ltd.	MT	***	***	***	***
<b>C.</b>	<b>Other Indian Producers</b>	MT				
1.	Gujarat Alkalies & Chemicals Ltd.	MT	***	***	***	***
2.	SRF Ltd.	MT	***	***	***	***
	<i>Total of Other Indian Producers</i>	<i>MT</i>	<i>39,271</i>	<i>39,636</i>	<i>41,724</i>	<i>41,733</i>
	<b>Total Indian Production</b>	<b>MT</b>	<b>1,09,730</b>	<b>1,11,000</b>	<b>1,33,572</b>	<b>1,35,125</b>
	<i>Share in Production</i>					
	Applicant Companies	%	64.21	64.29	55.89	52.80

	Supporters	%	-	-	***	***
	Other Domestic Producers	%	35.79	35.71	31.24	30.88
	<i>Total</i>	%	100	100	100	100

22. Further, as per the information submitted by the Applicants, they are not found to have imported the subject goods during the POI, and they are also not found to be related to any exporter of the subject goods in the subject countries or any importer of the PUC in India within the meaning of Rule 2(b).
23. In view of the above and after due examination, the Authority holds that the Applicants satisfy the standing requirements and constitute domestic industry under Rule 2(b) and Rule 5(3) of the AD Rules.

**E. ISSUES RELATING TO CONFIDENTIALITY**

**E1. Examination by the Authority**

24. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
25. There are no submissions made by the interested parties with regard to confidentiality.

**F. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN**

**F.1 Determination of Normal Value for producers and exporters in the subject countries**

26. The provisions pertaining to normal value are given in Section 9A(1)(c) of the Act and Annexure - I to AD Rules. According to Section 9A (1) (c) of the Customs Tariff Act, 1975, 'Normal Value' in relation to an article means:

*(i) the comparable price, in the ordinary course of trade, for the like article when destined 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 to 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):*

*Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

27. None of the producers/exporters from the United States and the European Union have filed the response to questionnaire. In view of non-cooperation from producers /exporters from the subject countries, the Authority is not able to determine individual dumping margin and is constrained to proceed with the principles of best available information. The Authority determined normal value as per facts available in terms of Rule 6(8) of the Rules. Accordingly, Constructed Normal value has been determined as shown in the dumping margin table below.
28. The Authority has determined the Normal Value for the subject goods exported by all exporters in the subject countries by considering the optimum cost of production and after making additions for selling, general & administrative costs and providing reasonable profit.

## **F.2 Determination of Export Price for producers and exporters in the subject countries**

29. The Authority has determined the export price for producers/exporters in the subject countries on the basis of the DGCI&S transaction -wise data. The export price has been

adjusted on account of Freight, Marine Insurance, Bank Charges, Port Expenses to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for exports from subject countries is as shown in the dumping margin table below.

**F.3 Determination of dumping margin for producers and exporters in the subject countries**

30. Considering the normal value and export price as above, the dumping margin for all exporters of the subject goods from the subject countries is determined as below:

<b>S.No</b>	<b>Particulars</b>	<b>UOM</b>	<b>United States</b>	<b>European Union</b>
1a	Import volume Packed	MT	NIL	0.41
1b	Import volume Loose	MT	4,347	10,413
1	<b>Total Imports</b>	<b>MT</b>	<b>4,347</b>	<b>10,414</b>
2a	Constructed normal value- Packed	Rs./MT	***	***
2b	Constructed normal value Loose	Rs./MT	***	***
2	<b>CNV- Wt. Avg</b>	Rs./MT	***	***
3a	NEP Packed	Rs./MT	***	***
3b	NEP Loose	Rs./MT	***	***
3	<b>Net Export Price (Wt. Avg.)</b>	Rs./ MT	***	***
4a	Dumping Margin	Rs./ MT	***	***
4b	<b>Dumping Margin</b>	US\$/MT	***	***
4c	<b>Dumping Margin</b>	%	***	***
4d	Dumping Margin	Range	90-100	75-85

**G. INJURY AND CAUSAL LINK**

**G.1 Views of the Domestic industry**

31. The following are the injury related submissions made by the domestic industry during

the course of the present investigation which are considered relevant by the Authority:

- i. Unlike original investigations, sunset reviews are prospective in nature, as they focus on the likelihood of the continuation or recurrence of dumping and injury, in case anti-dumping duties are removed.
- ii. With respect to injury determination, if the anti-dumping duty has had the desired effect, the condition of the domestic industry is expected to have improved during the period the anti-dumping duty was in force. Therefore, the assessment whether injury will continue, or recur, would entail a counter-factual analysis of the future events, based on projected levels of dumped imports, prices, and impact on domestic industry.
- iii. Imports from the EU increased in 2015-16, the year following the base year. The same decreased later till and including in the POI. However, the same remained substantial throughout the injury period.
- iv. Imports from the USA decreased throughout the injury period but so has the import price. However, the same remained substantial throughout the injury period.
- v. The present decline in imports is due to anti-dumping duty in existence. Imports from the subject countries will, in all likelihood, regain the previous levels in the event of cessation of anti-dumping duty.
- vi. The share of subject imports in Indian demand has decreased throughout the injury period.
- vii. In the case of the EU and the USA, the landed price of imports is materially below the net sales realization throughout the injury period including the period of investigation.
- viii. Price undercutting in case of imports of packed form decreased throughout the injury period and was negative in the POI owing to negligible volume of imports.
- ix. The imports depressed the prices of domestic industry and prevented the price increases that would have occurred had it not been for dumping of the subject goods from the subject countries.
- x. Production has increased slightly over the injury period but the same has decreased in the POI in comparison to the previous year.

- xi. Domestic sales have increased over the injury period but the same have decreased in the POI as compared to the previous year.
  - xii. Capacity utilization in the POI is more or less at the same level as compared to the base year but the same decreased when compared to the previous year. The average industry norm is 95-100%.
  - xiii. The profitability, cash profits, PBIT, and return on investment have declined throughout the injury period and to a significant extent.
  - xiv. Market share of the domestic industry declined in the injury period including the POI.
  - xv. Inventories with the domestic industry have shown some increase over the injury period.
  - xvi. Employment level has been stable over injury period. Wages paid out have increased in the injury period.
  - xvii. Productivity per day has increased over the injury period. However, inspite of the same, the domestic industry is not able to earn the desired ROI and the same deteriorated over the injury period.
  - xviii. The domestic industry's ability to raise capital investments will be jeopardized in the event of cessation of anti-dumping duty.
  - xix. The injury margin is not only positive but also significant in case of USA and EU.
  - xx. The demand/apparent consumption of the subject goods has increased over the injury period. The demand in POI is 15% more than what it was in the base year.
32. The domestic industry made following submissions regarding the presence of causal link:
- i. Causal link has already been established in the original investigation.
  - ii. It is a settled position of law that causal link analysis is not mandatorily required to be done in a sunset review investigation. The WTO Appellate Body report in *US – OCTG* held that there is no requirement to establish the existence of a causal link between likely dumping and likely injury, as a matter of legal obligation, in a sunset review determination.
  - iii. Imports of the product from other countries are either attracting anti-dumping duty or are insignificant in volume or are at prices higher than the subject

countries.

- iv. There is no decline in demand and therefore possible decline in demand is not a factor of injury to the domestic industry.
- v. There are no trade restrictive practices or technology issues which can be attributed to the cause of injury to the domestic industry.
- vi. Injury to domestic sales cannot be attributed to exports.
- vii. The productivity of the domestic industry has gone up over the injury investigation period. Therefore, productivity is not a cause of injury to the domestic industry.

## **G.2 Views of other Interested Parties**

- 33. Since no interested party apart from the domestic industry has participated in this investigation, there are no submissions by other interested parties for the Authority to consider.

## **G.3 Examination by the Authority**

- 34. The submissions made by the domestic industry during the course of investigation with regard to injury and causal link, and considered relevant by the Authority are examined and addressed as under:
- 35. The Authority has assessed injury by examining both volume effect and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry.

### **G.2.1 Volume effect of dumped imports**

#### **a) Assessment of demand**

- 36. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed is given in the table below.

### Demand and Market Share

<b>Particulars</b>	<b>Unit</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
Sales of Domestic Industry	MT	***	***	***	***
Sales of other Indian producers including supporter	MT	***	***	***	***
Imports from subject countries	MT	25,784	26,061	22,290	14,761
Imports from other countries attracting ADD	MT	27,295	69,146	40,847	39,463
Imports from Other Countries	MT	13,396	7,476	13,867	16,651
<b>Total Demand</b>	<b>MT</b>	<b>1,77,212</b>	<b>2,10,488</b>	<b>2,06,520</b>	<b>2,03,278</b>
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>119</i>	<i>117</i>	<i>115</i>

37. The Authority notes that the demand for the PUC increased significantly sin 2015-16 from 2014-15 but declined thereafter in 2016-17 and the POI.

**b) Import volumes and share of subject countries**

38. 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. The volume of imports of the subject goods from the subject countries has been analysed as under:

### Imports and Market Share

S.No	Particulars	Unit	2014-15	2015-16	2016-17	POI
1.a	Imports from EU	MT	12,936	18,997	15,482	10,414
1.b	Imports from USA	MT	12,848	7,064	6,808	4,347
1	<i>Imports from subject countries</i>	<i>MT</i>	<i>25,784</i>	<i>26,061</i>	<i>22,290</i>	<i>14,761</i>
2	Total Demand	MT	1,77,212	2,10,488	2,06,521	2,03,278
3	Total Indian Production	MT	1,09,730	1,11,000	1,33,572	1,35,124
Volume of imports from subject countries in relation to						
3.	Demand in India	%	14.55	12.39	10.79	7.26
4.	Production in India	%	23.50	14.47	16.69	10.92

39. From the above table, it can be seen that:

- i. The imports from the subject countries have declined over the injury period, except in 2016-17.
- ii. The share of subject imports in relation to consumption in India has significantly decreased in 2015-16 from 2014-15. It increased thereafter in 2016-17 before declining to 7.26% in the POI.
- iii. The share of subject imports in relation to production in India has decreased over the injury period, except in 2016-17. The share of subject imports in relation to production in India has fallen to 10.92% in the POI.

### **G.3. 1. Import Price**

40. The import price from the subject countries has decreased over the injury period as would be seen from the table below. There is 21% decline in import price in the POI as compared to that in the base year. The import prices from subject countries are considerably lower than that from countries already attracting anti-dumping duty, and also from other countries.

#### **CIF Import Price**

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Import from Subject Countries	Rs./MT	34,229	28,303	25,310	27,208
(i)	EU	Rs./MT	36,645	28,247	25,720	27,288
(ii)	USA	Rs./MT	31,796	28,453	24,376	27,015
2	Other Countries attracting ADD	Rs./MT	41,270	35,248	27,036	28,638
3	Imports from rest of the countries.	Rs./MT	38,531	33,879	32,138	31,627

### **G.3.2 Price effect of dumped imports**

41. 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 increase, which otherwise would have occurred, to a significant degree.

#### **a) Price Undercutting**

42. In this regard, a comparison has been made between the landed value of the PUC from the subject countries and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The price of the domestic industry was determined at the ex-factory level. The domestic prices and margin of undercutting is shown as per the table below:

### Price Undercutting

S.No	Particulars	Unit	EU	USA	Subject Countries
1.	Landed price of imports without ADD	Rs./MT	29,690	29,393	29,603
2.	Net Sales Realisation of domestic industry in India	Rs./MT	***	***	***
3.a	Price undercutting without ADD	Rs./MT	***	***	***
3.b	Price undercutting without ADD	%	***	***	***
3.c	Price undercutting without ADD	Range	20-30	20-30	20-30
4.	Anti-dumping duty	Rs./MT	21,142	21,802	21,336
4.a	Price undercutting with ADD	Rs./MT	***	***	***
4.b	Price undercutting with ADD	%	***	***	***
4.c	Price undercutting with ADD	Range	(20-30)	(20-30)	(20-30)

43. Price undercutting by imports of subject goods (without including anti-dumping duty) from the EU and the USA is positive and substantial. When anti-dumping duty is included in the landed price of imports from the subject countries, the price undercutting becomes negative for both the EU and the USA.

#### **b) Price Underselling**

44. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports from subject countries. Comparison of the NIP of the domestic industry with weighted average landed price of imports shows as follows:

### Price Underselling

S.No	Particulars	Unit	EU	USA	Subject Countries
1.	Landed price of imports without ADD	Rs./MT	29,690	29,393	29,603
2.	Non-Injurious Price	Rs./MT	***	***	***
3.a	Price underselling	Rs./MT	***	***	***
3.b	Price underselling	%	***	***	***
3.c	Price underselling	Range	40-50	40-50	40-50

45. It is noted from the above table that price underselling in respect of the import of subject goods from subject countries is positive and significant.

**c) Price suppression and depression effects of the dumped imports**

46. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority has considered the changes in the costs and prices over the injury period.

### Price Suppression/ Depression

Particulars	Unit	2014-15	2015-16	2016-17	POI
Landed Price without ADD	Rs./MT	37,651	31,121	27,395	29,603
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>83</i>	<i>73</i>	<i>79</i>
Cost of sales per unit – domestic sales	Rs./MT	***	***	***	***

<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>96</i>	<i>101</i>	<i>112</i>
Selling price per unit – domestic sales	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>87</i>	<i>84</i>	<i>90</i>

47. From the above table, it can be seen that:

- i. The landed value of imports from the subject countries has declined in the injury period, having only increased in the POI.
- ii. The cost of sales of the domestic industry has increased by 12% in the POI vis-à-vis the base year.
- iii. Selling price of the domestic industry has declined by 10% in the POI vis-à-vis the base year.
- iv. The effect of price depression and price suppression is thus visible.

### **Conclusion on Volume and Price Effect**

48. While the volume of imports declined during this period, it nevertheless remained significant both in absolute terms and in relation to production and consumption. The import price has also declined over the injury period before increasing marginally in the POI. The effect of such dumped imports has been to depress the prices and prevent price increases which otherwise would have occurred.

### **G.3.3 Examination of Economic Parameters relating to Domestic Industry**

49. Annexure II to the AD 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 domestic producers of such products, the AD 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, ability to raise capital investments.

50. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.

51. Accordingly, various economic parameters of the domestic industry are analyzed herein below:

**a) Capacity, Production, Capacity Utilization and Domestic Sales**

52. The performance of the domestic industry with regard to production, capacity, capacity utilization, and domestic sales was as follows:

S.No	Particulars	Unit	2014-15	2015-16	2016-17	POI
1.	Capacity	MT	***	***	***	***
2.	Production	MT	***	***	***	***
3.	Capacity Utilisation	%	89	90	94	90
4.	Domestic Sales	MT	***	***	***	***

53. From the above table, it can be seen that:

- i. The domestic industry's capacity has remained constant throughout the injury investigation period.
- ii. Production has increased throughout the injury period, except for the POI, when production declined as compared to that in the previous year.
- iii. Capacity utilization of the domestic industry has been quite good during the

injury analysis period.

- iv. Domestic sales volume has increased throughout the injury period with marginal decline in the POI.

**b) Market Share**

54. The effect of the dumped imports on the market share of the domestic industry has been examined as below:

**Market share in Demand**

<b>Particulars</b>	<b>Unit</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
Share of domestic industry	%	40.36	32.97	35.76	36.13
Share of other producers including supporter	%	22.13	18.24	26.95	29.01
Share of domestic producers	%	62.49	51.21	62.71	65.14
Share of subject countries	%	14.55	12.39	10.79	7.26
Share of all other countries	%	22.96	36.41	26.5	27.6
Total	%	100.00%	100.00%	100.00%	100.00%

55. From the above table, it can be seen that:

- i. Market share of the domestic industry declined in 2015-16 and has thereafter been improving.
- ii. Market share of other domestic producers declined in 2015-16 and has thereafter been improving.
- iii. The market share of import from the subject countries has constantly declined during the injury period.

**c) Inventories**

56. The data relating to inventory of the subject goods is shown in the following table.

### Inventory

Particulars	UOM	2014-15	2015-16	2016-17	POI
Inventory	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	138	264	136
Inventory, as no. of days of production	MT/day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	138	264	136
Inventory, as no. of days of sales	MT/day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	138	264	136

57. From the above table, it can be seen that:

- i. The average inventory increased throughout the injury period, except for a decline in the POI.
- ii. The inventory per day in terms of both production and sales has followed the same trend.

#### d) Profits, return on investment and cash flow

58. The profit/loss, cash profits and return on investment of the domestic industry has been analysed as follows:

#### Profits, return on investment and cash flow

Particulars	UOM	2014-15	2015-16	2016-17	POI
PBIT – domestic sales	Rs. lacs	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	53	20	13
PBIT per unit – domestic sales	Rs. / MT	***	***	***	***

<i>Indexed</i>	<i>Trend</i>	100	55	19	13
Cash Profits	Rs. lacs	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	24	20	55
Return on Capital Employed	%	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	66	22	17

59. From the above table, it can be seen that:

- i. The profitability parameters of the domestic industry have declined over the injury period.
- ii. PBIT for domestic sales has declined substantially over the injury period. A similar trend can be seen for PBIT-per unit of domestic sales.
- iii. Cash profits made by the domestic industry have declined continuously in the injury period and the POI.
- iv. The domestic industry earned healthy ROCE in 2014-15. It however declined continuously in the injury period and the POI.

**e) Employment and Productivity**

60. The number of personnel employed by the Applicants and the position with regard to productivity is as follows:

**Employment and Productivity**

<b>Particulars</b>	<b>UOM</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
No of Employees	Nos	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	97	96	97

Productivity Per Day	MT/Day	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	101	106	101

61. From the above table, it can be seen that:

- i. The number of personnel employed by the domestic industry has remained more or less the same.
- ii. Productivity of the domestic industry has also witnessed marginal change during the injury period.

**f) Growth**

<b>Particulars</b>	<b>UOM</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
Production volume	%	-	1.29	4.60	(4.43)
<i>Indexed</i>	<i>Trend</i>		100	358	(345)
Domestic sales volume	%	-	(2.96)	6.42	(0.58)
<i>Indexed</i>	<i>Trend</i>		(100)	217	(19)
Cost of sales per unit domestic sales	%	-	(4.09)	5.74	10.38
<i>Indexed</i>	<i>Trend</i>		(100)	140	254
Selling price per unit domestic sales	%	-	(13.00)	(4.69)	8.32
<i>Indexed</i>	<i>Trend</i>		(100)	(36)	64
PBIT per unit domestic sales	%	-	(41.83)	(59.33)	(36.91)
<i>Indexed</i>	<i>Trend</i>		(100)	(142)	(88)
PBIT per unit domestic sales	%	-	(44.93)	(64.65)	(33.43)

<i>Indexed</i>	<i>Trend</i>		(100)	(144)	(74)
ROCE per unit domestic sales	%	-	(33.92)	(66.04)	(23.05)
<i>Indexed</i>	<i>Trend</i>		(100)	(195)	(69)

62. The Authority notes that the growth of the domestic industry has been in the negative in the POI for all the aforesaid parameters.

**g) Ability to raise Capital Investment:**

63. There is no verifiable information either presented by the domestic industry or available on records on this issue. The Authority thus cannot make any conclusions regarding the impact of dumped imports on the domestic industry's ability to raise capital investments.

**H. MAGNITUDE OF INJURY MARGIN**

64. The determined non-injurious price of the subject goods produced by the Domestic Industry has been compared with the landed value of the exports from subject countries for determination of injury margin during POI as under:-

**Injury Margin**

<b>S.No</b>	<b>Particulars</b>	<b>UOM</b>	<b>United States</b>	<b>European Union</b>
1a	Import volume Packed	MT	NIL	0.41
1b	Import volume Loose	MT	4,347.27	10,413.46
1	<b>Total Imports</b>	<b>MT</b>	4,347.27	10,413.87
2a	NIP Packed	US\$/MT	***	***
2b	NIP Loose	US\$/MT	***	***
2	<b>NIP- Wt. Avrg</b>	US\$/MT	***	***

3a	Landed Value Packed	US\$/MT	***	***
3b	Landed Value Loose	US\$/MT	***	***
3	<b>Landed Value Avg</b>	US\$/MT	444.89	449.391
4a	<b>Injury Margin</b>	US\$/MT	***	***
4b	<b>Injury Margin</b>	%	***	***
4c	Injury Margin	Range	40-50	40-50

### **I. Conclusion on material Injury**

65. The Authority concludes that:

- a) Imports from the subject countries though declined over the injury period, but were nevertheless significant.
- b) The landed price of imports has declined over the injury period and has increased slightly in the POI.
- c) The imports are significantly undercutting the prices of the domestic industry.
- d) The imports have depressed the prices of the domestic industry and have prevented the price increases that could otherwise have occurred.
- e) The profitability, cash profits, PBIT and return on investment have declined throughout the injury period and to a significant extent.
- f) Injury margin is not only positive but significant also.

66. Thus, the domestic injury has continued to suffer price injury despite anti-dumping duties being in force.

### **J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

67. The Authority notes that this is a sunset review investigation and the focus of this investigation is to examine the likelihood of continuation or recurrence of dumping and injury if the anti-dumping duties were to be allowed to expire.

#### **J.1 Submissions made by the Domestic Industry**

68. The domestic industry made following submissions in support of its claim of likelihood

of continuation or recurrence of dumping and injury:

- i. The factors relevant to likelihood of dumping are relevant to the likelihood of injury as well in the present case.
- ii. Exports to the Indian market have been made at dumped prices. The dumping has continued from the USA and the EU.
- iii. The dumping and the injury margin in the current POI is positive and significant.
- iv. The price undercutting without prevailing antidumping duties is positive and significant.
- v. The current volume of imports itself is significant enough to establish the likelihood.
- vi. There is sufficient evidence that the volume of imports shall increase significantly in the event of revocation of anti-dumping duty.
- vii. Producers in the subject countries have significant freely-disposable production capacity which establishes that in the event of cessation of duties, exports to India will intensify.
- viii. The import prices are significantly below selling price of domestic industry. The consumers therefore switched to imported products. In the event of cessation of anti-dumping duty, it will lead to significant increase in imports of the product.
- ix. The domestic industry is suffering price injury. Cessation of anti-dumping duty would atleast imply intensified injury to the domestic industry.
- x. In the view of huge spare capacities of the relevant exporters, and their aggressive exporting strategy, the domestic industry is destined to suffer greatly if the current anti-dumping duty protection is removed.
- xi. There is sufficient evidence that after cessation of anti-dumping duty, exporters of subject countries would export subject goods at dumped and injurious prices.

## **J. 2 Examination by Authority**

69. The Authority has examined the contentions of the domestic industry to examine

likelihood of continuation or recurrence of dumping and injury with specific reference to the threat of material injury in terms of Annexure II (vii) of the Rules.

**(a) Significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation**

70. The volume of subject imports in the current injury period has declined continuously since the imposition of the anti-dumping duty.

**(b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports**

71. This parameter for ascertaining the threat of material injury/likelihood of recurrence of injury requires evaluation of existing surplus capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market.

72. The domestic industry has collected information regarding demand, production and sales of the subject goods in the subject countries, from the Market Research Report on Methylene Chloride, as provided by P&S Market Research.

73. The Authority notes, on the basis of information submitted by the Applicants, that the aggregated capacities of all producers in the EU is 9,43,100 MT whereas the domestic demand for the subject goods in the EU is 2,90,100 MT. The exportable surplus in the EU has been estimated at 6,53,000 MT.

74. The Authority notes, on the basis of information submitted by the Applicants, that the aggregated capacities of all producers in the USA is 2,01,400 MT whereas the domestic demand for the subject goods in the USA is 1,19,500 MT. The exportable surplus in the USA has been estimated at 81,900 MT.

**(c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports**

75. The landed value of imports from the subject countries has declined in the injury period, having only marginally increased in the POI.

76. The cost of sales of the domestic industry has increased by 12% in the POI vis-à-vis the base year.

77. Selling price of the domestic industry has declined by 10% in the POI vis-à-vis the base year.

78. Imports from subject countries are thus causing depressing and suppressing effect on the prices of the domestic industry.

**(d) Inventories of the article being investigated**

79. The facts available on records do not contain any evidence regarding inventories of the PUC with the exporters in the EU and USA.

**K. OTHER KNOWN FACTORS & CAUSAL LINK**

**K.1 Examination by the Authority**

80. It was further examined whether other following parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as under:

**(a) Volume and prices of imports from third countries**

81. The prices of imports being higher, the imports of the subject goods from other countries could not have caused injury to the domestic industry.

**(b) Contraction of demand and changes in the pattern of consumption.**

82. There has been increase in demand/apparent consumption of the subject goods over the injury period and hence contraction of demand cannot be a factor causing injury.

**(c) Developments in technology:**

83. Technology for production of the product concerned has not undergone any change.

**(d) Trade restrictive practices of and competition between the foreign and domestic producers**

84. There is no trade restrictive practice, which could have affected the Domestic Industry.

**(e) Export performance of the domestic industry**

85. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis.

**(f) Productivity of the Domestic Industry**

86. The productivity of the domestic industry has witnessed only marginal change over the injury investigation period.

**K.2. Examination by the Authority**

87 . Factors establishing Causal Link:

- a) The imports from USA and EU have continued at dumped prices.
- b) The imports are undercutting the prices of the domestic industry in the market. The domestic industry is also facing suppression & depression effect on its prices on account of dumped imports.
- c) The price depression/suppression has led to deterioration in profits, cash profits and ROI of the domestic industry.
- d) The producers in the subject countries have significant freely disposable production capacities. In the event of cessation of anti-dumping duty, the volume of dumped imports can witness increase.

**L. POST DISCLOSURE COMMENTS**

**L.1. Submissions by Domestic Industry**

88. The domestic industry, in its post disclosure submissions made following submissions. For the sake of brevity, comments made by the domestic industry, to the extent they are reiterations of the earlier submissions and already dealt with hereinabove, have not been repeated hereunder:

- a) Actual dumping margin has not been disclosed due to which an effective opportunity to make comments has been denied.
- b) The Authority may kindly specify in duty table that the subject goods should attract duty regardless of the customs classifications under which it is imported.
- c) None of the interested parties has participated in the present investigation. Thus, the Authority may consider the exporters non-cooperative and decide the matter as per Rule 6(8).

- d) While the Authority examined the likelihood of continuation of dumping and injury with specific reference to the parameters for threat of material injury in terms of Annexure II (vii) of the Rules, it has neither acknowledged nor considered nor addressed the following submissions of the domestic industry:
- (i) The dumping and injury margins determined in the original investigation and present investigation are positive and significant.
  - (ii) The domestic demand in EU is only 30.76% of the total capacities in EU. Further, the capacity in EU of the subject goods is 1185.42% of the total Indian capacity, 1321.92% of the Indian production and 1284.23% of the domestic sales of the domestic industry.
  - (iii) The additional production that can be achieved by the major producers in EU i.e. Akzo Nobel and INEOS is 36% of the Indian demand. There are other producers also in EU.
  - (iv) Similarly, the domestic demand in the USA is only 59% of the total capacities in the USA. Further, the capacity of the subject goods in USA is 253.15% of the total Indian capacity, 282.30% of the Indian production and 274.25% of the domestic sales of the domestic industry.
  - (v) The additional production that can be achieved by the major producers in USA is 29% of the Indian demand. There are other producers also in USA.
  - (vi) The producers and exporters in the USA and EU are export oriented and have exported to the world around 34% and 16% of their capacities respectively.
  - (vii) Akzo Noble, producer of subject goods in EU, has entered the design phase of a further expansion in Germany for the production of chloromethane.
  - (viii) While the use of methylene chloride in paint strippers is recently restricted in the EU, the same is going to happen in the USA as well. Thus, the weakening demand in EU and USA will lead to diversion of the subject goods to exports.
  - (ix) India is a lucrative market for the exporters. Asia Pacific is expected to be one of the fastest growing markets for Methylene Chloride due to increasing demand for solvents from various end-user industries. India and Pakistan accounted for second-largest market share for Methylene Chloride in Asia Pacific region. India is likely to be the fastest growing country for Methylene Chloride in this region.

- (x) Even if one of the conditions for likelihood is satisfied, duty cannot be allowed to expire. The same has been a consistent practice of the Authority.
  
- e) While the Authority has acknowledged the claim of the domestic industry regarding price difference in the landed and selling price, it has not addressed the issue. The analysis of this parameter is important in order to assess price attractiveness of Indian market. The price difference makes it evident that in the event of cessation of anti-dumping duty, the Indian market and prices would be too attractive to the foreign producers and is likely to motivate the foreign producers to increase their exports.
- f) Parameters of threat of material injury are not upper limit of parameters relevant to determination of likelihood and in case Designated Authority finds insufficient evidence of likelihood on the basis of threat parameters, Designated Authority is required to consider other parameters brought by the domestic industry
- g) In the Disclosure Statement issued, the Authority has examined the listed parameters under the Rules that could have contributed to injury to the domestic industry. The disclosed facts make it evident that none of the listed parameters have caused injury to the domestic industry. Nonetheless, the petitioners submit that the Authority has not acknowledged the following submissions made by the domestic industry, with respect to causal link:
  - (i) It is a settled position of law that causal link analysis is not mandatorily required to be done in sunset review investigations. The same has been affirmed by the Appellate Body in Oil Country Tubular Goods from Mexico (WT/DS282/AB/R) dated 2 November 2005)
  - (ii) The WTO Panel in US-DRAMS Case was also of the opinion that causal Link analysis is not a required factor in a sunset-review investigation.
  - (iii) Imports of the product from other countries are either attracting anti-dumping duty or are insignificant in volume or are at prices higher than that from subject countries.
  - (iv) The imports from USA and EU have continued at dumped prices and are available at prices lower than the domestic prices. Thus, if the anti-dumping duty is allowed to expire, the volume of dumped imports shall further intensify.
  - (v) The imports would significantly undercut the prices of the domestic industry in case of cessation of duty. Resultantly, the domestic industry, which is already

facing suppression and depression effect on its prices, would face further suppressing and depressing effect in case the ADD is not extended further.

- (vi) The price depression and suppression has led to deterioration in profits, cash profits and ROI of the domestic industry. Cessation of antidumping duty will result in further decline in profits and consequently return on capital employed and cash profits.
  - (vii) The producers in the subject countries have significant freely disposable production capacities. In the event of cessation of anti-dumping duty, the volume of dumped imports would intensify.
  - (viii) In case duty is ceased and consequently imports from the subject countries increase, the Domestic Industry would be forced to reduce the prices of the product concerned significantly and profitability would continue to deteriorate. The same would lead to further decline in cash flow and return on investment. Should the Domestic Industry choose to maintain its normal price levels, it is likely to lose its sales volume as consumers would increasingly switch over to the imports.
- h) The domestic industry requests the Authority to kindly consider the above while concluding the matter.
  - i) The Rules clearly requires the establishment of any one of the following factors:
    - a. Continuation of dumping and injury; or
    - b. Continuation of dumping and recurrence of injury; or
    - c. Recurrence of dumping and injury
  - j) “Or” should be used in its ordinary disjunctive sense which indicates that the above situations are mutually exclusive. It is a settled position of law that the word “or” has to be used in its ordinary sense unless reading it as disjunctive would result in an unintelligible or absurd meaning. Reliance is place on Supreme Court Judgment in Municipal Corpn. Of Delhi v. Tek Chand Bhatia [1980) 1 SCC 158].
  - k) Thus, if there is a case of continuing dumping and injury, then there cannot possibly be a recurrence of dumping and injury, since the latter would inherently require an absence of dumping to allow it to recur. Reliance is placed on Final Findings in Sunset Review of Anti-Dumping duties imposed on the imports of ‘Barium Carbonate’ from China PR, Notification No.15/27/2014 wherein it was held that the continuation of dumping and injury ipso facto indicates the likelihood of dumping and injury from the subject country in the event of cessation of the anti-dumping duty and

that likelihood analysis is not a necessity in the present review investigation due to continued dumping and continued injury to the domestic industry on account of such dumping.

- 1) Anti-dumping duty may be imposed as fixed quantum of anti-dumping duty (fixed form of duty), expressed in US\$/kg.

## **L.2. Examination by the Authority**

89. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from the subject countries. Under the Rules, the Authority is required to determine whether continued imposition of anti-dumping duty is warranted. This also requires examination whether the duty imposed is serving the intended purpose of eliminating injurious dumping.

90. The Authority notes that in the present investigation, there is continuous dumping of the subject goods from the EU and the USA, causing continued injury to the domestic industry. In view of the above, the Authority has reason to believe that in the event of cessation of anti-dumping duties, dumping may intensify from the subject countries causing injury to the domestic industry.

## **M. Conclusion**

91. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:

- (i) There is continued dumping of the product concerned from the subject countries, causing injury to the domestic industry.
- (ii) Price undercutting without anti-dumping duty is positive and significant.
- (iii) Despite the anti-dumping duty in force, the financial performance of the Domestic Industry has deteriorated. During the POI, the domestic industry has shown negative growth in terms of the economic parameters such as production, sales, profitability and ROCE. The dumped imports from EU & USA continue to cause injury to the domestic industry.

- (iv) Dumping of the product under consideration from EU & USA is likely to continue/intensify should the current anti-dumping duty be revoked.

**N. Indian industry’s interest and other issues**

92. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent injury to the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the 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. The consumers could still maintain two or even more sources of supply.

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

**O. Recommendations**

94. Having concluded as above, the Authority recommends continued imposition of Anti-Dumping Duty as indicated in column (8) of the table below for a period of five years concerning all imports of the subject goods originating in or exported from the subject countries ( i.e European Union and United State of America) .

**Duty Table**

Sl. No	Sub-heading	Description of goods	Country of origin	Country of Export	Producer	Exporter	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	2903 12	Dichloromethane (Methylene Chloride)	European Union	European Union	M/s. Akzo Nobel Industrial Chemicals	M/s. Akzo Nobel Industrial Chemicals	0.32	Kg	US Dollar

					B.V, Netherlands	B.V, Netherlands			
2	2903 12	Dichloromethane (Methylene Chloride)	European Union	European Union	Any producer or exporter other than combination at Serial Number 1	Any producer or exporter other than combination at Serial Number 1	0.36	kg	US Dollar
3	2903 12	Dichloromethane (Methylene Chloride)	Any country other than subject countries	European Union	Any	Any	0.36	Kg	US Dollar
4	2903 12	Dichloromethane (Methylene Chloride)	European Union	Any country	Any	Any	0.36	Kg	US Dollar
5	2903 12	Dichloromethane (Methylene Chloride)	United States of America	United States of America	Any	Any	0.33	Kg	US Dollar
6	2903 12	Dichloromethane (Methylene Chloride)	Any country other than subject countries	United States of America	Any	Any	0.33	Kg	US Dollar
7	2903 12	Dichloromethane (Methylene Chloride)	United States of America	Any country	Any	Any	0.33	Kg	US Dollar

## P. Further Procedures

95. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)

Additional Secretary and Director General