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F.No.14/19/2012-DGAD

**Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)**

DATE: 2 April, 2014

**Final findings
Notification**

**Sub: Anti-Dumping Investigation concerning import of “Methylene Chloride”
originating in or exported from EU, USA and Korea RP – Final findings.**

Whereas the Designated Authority (hereinafter referred to as the Authority), under the Customs Tariff Act, 1975, as amended from time to time, (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof, as amended from time to time, received a written application from M/s Chemplast Sanmar Limited and M/s Gujarat Fluorochemicals Ltd (hereinafter also referred to petitioners or applicants) alleging dumping of Methylene Chloride (hereinafter referred to as subject goods) from European Union, South Korea and USA (hereinafter referred to as subject countries).

2. Whereas the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 4th April, 2013 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the sub-Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommendation of the anti-dumping duty.

A. PROCEDURE

3. The Procedure described below has been followed with regard to this investigation:
 - i. The Authority notified the embassies of the subject countries in India about the receipt of application alleging dumping and injury before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Anti-dumping Rules.
 - ii. The Authority issued a public notice dated 4th April, 2013, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
 - iii. The Authority forwarded a copy of the public notice to all the known exporters

(whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the Anti-dumping Rules.

- iv. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India (whose details were made available by the Applicant) and advised them to make their views in writing within forty days from the date of the letter.
- v. The Authority provided a copy of the non-confidential version of the application to the known exporters and the embassies of the subject countries in India in accordance with Rule 6(3) of the Anti-dumping Rules. A copy of the Application was also made available other interested parties, upon request.
- vi. The Authority received a response from the Republic of Korea and M/s Samsung Fine Chemicals. However none of the exporters from the Korea has submitted any response to the exporter's questionnaire.
- vii. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the Anti-dumping Rules:
 - a. DOW Chemicals
 - b. INEOS Chlor Limited
 - c. Solvay SA
 - d. Arkema SA
 - e. Occidental Chemical Corporation
 - f. Dow Texas Operations
 - g. Samsung Fine Chemicals
 - h. OCI Corporation

Response to questionnaire was filed by M/s. Akzo Nobel Industrial Chemicals B.V., Netherlands and Akzo Nobel Industrial Chemicals GmbH, Germany. Further, M/s Samsung Fine Chemicals responded to the initiation notification. However, it did not file any questionnaire response.

- viii. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping 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
- ix. Following importers/consumers responded to the initiation notification.
- a. Hetero Labs ltd
 - b. Dr. Reddy's Laboratories Ltd
 - c. Aurobindo Pharma Ltd
 - d. Covalent Laboratories Ltd
 - e. Ranbaxy Laboratories Ltd
- x. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xi. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods for the past three years, including the period of investigation. The transaction wise import data received from the DGCI&S has been relied upon by the Authority in this finding.
- xii. The cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out in accordance with Annexure III of the anti dumping rules so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- xiii. The Designated Authority notified the Preliminary Findings, vide notification No. 14/19/2012-DGAD dated, 06.09.2013 and recommended imposition of provisional anti-dumping duties on the imports of subject goods, originating in or exported from the subject countries. The interim recommendations made by the Designated Authority were accepted by the Central Govt. and interim duties were levied vide notification no 24/2013-Customs (ADD) dated 21st Oct., 2012.
- xiv. In accordance with Rule 6(6) of the AD Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 22nd November, 2013. The parties who presented their views orally in the public hearing were requested to file written submissions of the views expressed orally. The interested parties were also given an opportunity to offer rejoinder to the submissions made by opposing interested parties. The arguments made by interested parties in the written submissions/rejoinders received from the interested parties have been considered, wherever found relevant, in this notification.

- xv. On the spot verification of the information provided by the applicants was carried out to the extent considered necessary for the purpose of Final findings.
- xvi. Investigation was carried out for the period starting from 1st January 2012 to 31st December 2012 (POI). The examination of trends, in the context of injury analysis, covered the period from April 2009-March 2010, April 2010-March 2011 April, April 2011-March 2012 and the POI.
- xvii. In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties vide disclosure statement dated 25th March, 2014 and comments received thereon, considered relevant by the Authority, have been addressed in this notification.
- xviii. *** in this Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules. The following interested parties submitted their comments to the disclosure statement.
- a The domestic industry.
 - b M/s Dr. Reddy's Laboratories Ltd
 - c M/s Aurobindo Pharma Ltd
 - d M/s Ranbaxy Laboratories Ltd
 - e M/s Akzo Nobel Industrial Chemicals GmbH, Germany and M/s. Akzo Nobel Industrial Chemicals BV, Netherlands

The arguments received from the interested parties have been considered, wherever found relevant, in this notification.

- xix. The weighted exchange rate adopted for the POI is 1 US \$ =Rs 53.69

B. Product Under Consideration and Like Article

Views of the Domestic Industry

4. Submissions made by the domestic industry on product under consideration are as follows:
- i. Methylene chloride is an organic compound with molecular formula CH₂Cl₂. It is a colorless liquid with sweetish ether- like odor, and is used as a solvent, predominantly. It is essentially non- flammable under most conditions of use, however, can burn if strongly heated.
 - ii. There are no known grades of the subject good. However, it can be traded in loose or packed, thereby, having direct effect on prices.

- iii. Methylene Chloride is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act under customs subheading 29031200. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.
- iv. There is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods.
- v. As regards existence of different grades, interested party making such a claim is required to establish the existence of different grades on the basis of product description as appearing in the import data or other import documents. If indeed the product has been consumed in different grades, nothing prevents the interested parties from providing relevant documents showing existence of different grades. There is no information provided by these interested parties to show existence of different grades of the product.
- vi. Whether the imports are loose or in drum, the description does not show that different grades are involved.
- vii. Post disclosure, it has been reiterated that existence of different grades of methylene chloride has not been established by the interested parties, which needs to be established on the basis of product description, as mentioned in the import data and product specifications.

Views of the other interested parties

5. Submissions made by interested parties on product under consideration are as follows:
 - i. The applicant has misled and concealed information on vital aspect concerning product under consideration. Monograph of Methylene Chloride in Indian Pharmacopoeia shows that there are different grades of Methylene Chloride for which prices differ. Imports in drums may bear a label specifying the grades. Thus, price differentials have been ignored by the Authority.
 - ii. There is price difference between drum packed and loose Methylene chloride which might not only be because of the cost of drum but may be on account of specific grades.
 - iii. Subject goods procured in drums IP grade is used as excipient in formulations basically for quoting of tablets. Impact of the price per tablet is 1%. Loose subject goods are mostly used by drug industry as solvent in the production on Active Pharmaceuticals Ingredients. Its usage and impact varies on drug to drug.
 - iv. Post disclosure, the other interested parties have mostly reiterated their submissions

made earlier in the investigation proceedings. It has been submitted that the determination of the Authority that, there are no known grades of Methylene Chloride is wrong and is denied. The analysis carried out by them shows that difference in rate per unit for drum packs and loose Methylene Chloride is not merely on account of cost of drums but may be on account of specified grades coming in drums only. Loose Methylene Chloride is mostly used by the drug industry as a solvent in the process of production of Active Pharmaceutical Ingredients (API). Its usage and impact on the cost varies from drug to drug. In case market condition of Chloroform and PTFE continues to be the same, or further worsens, the domestic producers would be left with no option except to discontinue production of Chloroform and eventually Methylene Chloride. It would spell doom for the drug industry. Basically, all the APIs particularly life saving drugs use Methylene Chloride as solvent and due to the step taken by the authorities, there will be shortage of life saving drugs in the country. The above step taken would cause injury to vast segment of drug manufacturers. This being a serious matter the authority should look into this matter seriously instead of sided tracking the issue as the basis of injury determination particularly for joint products are faulty and wrong as already pointed out by us.

Examination of the Authority

6. The product under consideration for the purpose of present investigation is “Methylene Chloride” also known as “Dichloromethane” and “Methylene Dichloride” (MDC).
7. Methylene chloride is an organic compound with molecular formula CH_2Cl_2 . It is a colorless liquid with sweetish ether-like odor, and is used as a solvent, predominantly. It is essentially non-flammable under most conditions of use, however, can burn if strongly heated. Methylene chloride may decompose at high temperatures forming toxic gases. It is completely miscible with a variety of solvents. MDC is a solvent and is used in the manufacturing of polycarbonate and phenolic resins, rayon yarn, pharmaceuticals, agro and fragrance. It is also used as an extractant for edible fats, cocoa, butter and essences.
8. There are two technologies for production of Methylene Chloride - Methane route and Methanol route. The product produced through the two routes has essentially similar technical specifications. Methylene Chloride is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act under customs subheading 29031200. The Customs classification is indicative only and in no way binding on the scope of the present investigation.
9. 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.”

10. After considering the information on record, the Authority has determined that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods. The consumers are using the two interchangeably.
11. With regard to the argument of the interested parties that there are different grades of Methylene Chloride, it is noted that the interested parties have not established existence of different grades of the product under consideration with significant difference in physical & chemical characteristics, manufacturing process, production technology, functions & uses, cost, price, etc. It is also noted that the Authority has not come across different grades of product under consideration with any significant difference in prices from the transaction wise import statistics which was made available by DGCI&S. In fact, it is noted that imports of subject goods are basically in bulk or drums. As regards the argument that there are different grades of subject goods, the Authority notes that if a product is imported in loose and drum, that does not imply that different grades of the product are involved. The Authority conducts separate analysis of different grades for the purpose of dumping margin, undercutting and injury margin, only if there is significant difference in the cost of production of different grades.
12. As far as difference in the cost & price of loose and drum product is concerned, the Authority has already acknowledged this fact in the preliminary findings and has done separate comparison of loose and drum product for the purpose of determination of dumping margin and injury margin. It is noted that both loose and packed form of the product have been imported into India and both have been supplied by the domestic industry.
13. As regards impact of the product on the prices of downstream product, the interested parties have not quantified and established that the impact of anti dumping duty on the downstream industry would be significant.

C. Domestic Industry and Standing

Views of the Domestic Industry

14. The Application has been jointly filed by M/s. Chemplast Sanmar Ltd. and M/s Gujarat Fluorochemicals Ltd. There are two other producers, namely Gujarat Alkalies & Chemicals Limited and SRF Ltd. SRF Ltd has supported the petition. It has been submitted that the application has been made by or on behalf of the domestic industry and the application satisfies the requirements of ‘standing’ under Rule 5 of the AD Rules and the petitioners

constitute 'Domestic Industry' in terms of Rule 2(b) of the AD Rules.

Views of the other interested parties

15. Submissions made by interested parties on domestic industry and standing are as follows:
 - a. SRF Ltd has apparently supported the petition but it has not made available any data as a participant. In view of its non-participation as well as not filing of any submission whatsoever, it should be treated as non-cooperative and not be considered as a 'supporter' of application.
 - b. GACL has not shown any interest whatsoever in the present investigation. It is not possible that subject imports would be affecting only one company while not affecting other producers

Examination by the Authority

16. Rule 2(b) of the AD Rules defines domestic industry as under: -

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

17. The Application has been jointly filed by M/s. Chemplast Sanmar Ltd. and M/s Gujarat Fluorochemicals Ltd. There are two other producers, namely Gujarat Alkalies & Chemicals Limited and SRF Ltd. SRF Ltd has supported the petition. The Authority notes that the petitioners account for more than 50% of the total Indian production. Further, production of the petitioners including supporter constitutes 83% of Indian productions and therefore production by the petitioners constitutes a major proportion in total production of the like product produced in India. It is further noted that none of petitioners has imported the product under consideration, nor they are related to an importer or exporter of the product under consideration. While M/s. SRF Ltd. has supported the petition, the company has not provided information relevant to injury determination. It is thus determined that the application has been made by or on behalf of the domestic industry comprising M/s. Chemplast Sanmar Ltd. and M/s Gujarat Fluorochemicals Ltd and the application satisfies the requirements of 'standing' under Rule 5 of the AD Rules. Therefore, the petitioners constitute 'Domestic Industry' in terms of Rule 2(b) of the AD Rules.
18. With regard to the contention of interested parties that SRF Ltd should not be treated as a supporter, it is noted that rule 5(3) of the rules requires the Authority to consider whether petition has been supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition, as the case may be, to the

application. Thus, if a domestic producer has supported the petition, the Designated Authority is required to consider the same for the purpose of Rule 5(3). However, under Rule 2(b), the Designated Authority is required to consider only those domestic producers who have provided relevant injury information. In the present case, it is noted that M/s SRF Ltd has supported the petition and the same is required to be considered for the purpose of Rule 5(3). However, for the purpose of scope of domestic industry comprising M/s. Chemplast Sanmar Ltd. and M/s Gujarat Fluorochemicals Ltd under Rule 2(b), since SRF has not provided injury information, the Authority has considered Chemplast Sanmar and GFL as the domestic industry.

D. Miscellaneous Submissions

Views of the Domestic Industry

19. Miscellaneous submissions made by the domestic industry are as follows:

- i. It is volume of imports that alone is required to be considered for the purposes of de-minimus test. Volume of exports as recorded in the exporting country's trade data is entirely irrelevant for the present purposes. The volumes of imports from Korea were 1811 MT which constituted 3.01 % of total imports
- ii. Exports made from the exporting country do not have direct impact on the price of the domestic industry in the market. It is the (a) resale price of the imported product, (b) volume of material lying at the port and (c) the resale price offered by the importers which are relevant for considering injury to the domestic industry. Therefore, it is the volume of material imported into India that is relevant for the present purposes.
- iii. Imports from China are at a price higher than imports from subject countries. Volume of imports from China has steeply declined over the injury period, whereas the volume of imports from Korea RP has increased. Import price from Korea is however clearly reflective and has followed the import price from Europe and US.
- iv. As regards the argument that changed circumstances should be examined from the withdrawal of duty in a previous investigation, the domestic industry has submitted that interested parties seems to have considered that anti dumping duty is a permanent duty. It has also been stated by the domestic industry that anti dumping duty is imposed only if a product has been exported at a dumping price and the same has caused injury to the domestic industry. Import prices were in the region of USD 770-820 PMT during the period 2010-11, which declined to USD 420-470 PMT during investigation period, thus showing that there has been a dramatic change in the product price.
- v. As regards the contention that traders have distorted price in the market, the domestic industry submits that whether the prices were low because of trader's participation or because of exporters exporting at a low price is irrelevant. Further, in any case, traders cannot sell the product at a price materially lower than their purchase price for a consistently longer period.
- vi. As regards the contention that plant has been mainly put for Chloroform and MDC

and carbon tetrachloride are jointly produced, the Domestic Industry submits that they have put up a plant for production of MDC and Chloroform. Project report of GFL for expansion of the plant establishes that the company found good market and demand for MDC and has set up a plant for production of MDC and Chloroform.

- vii. As regards the contention that determination of joint cost is necessary following appropriate costing methodologies, the domestic industry submits that well established methodology for determination of cost of production in a case like present where Chloroform and MDC have been co-produced has been followed. As far as CTC is concerned, while it is co-produced, it is a by-product for cost assessment. The information provided by the petitioners in this regard is fully consistent with the records maintained by the company.
- viii. Post disclosure, the domestic industry has mostly reiterated their submissions made earlier in the investigation proceedings. The following submissions have been made by the domestic industry.

- a. The authority has to determine injury to “the domestic industry” and not for “the domestic producers as a whole”. Non participation of GACL and SRF cannot be presumed that they are not suffering injury.
- b. The Indian market is being selectively targeted by the producers from USA and European producers to dump the subject goods; reason being, excess capacity and weak demand with foreign producers and India being a lucrative market.
- c. So long as the petitioner is offering the prices comparable to the import price, the petitioner is able to sell the volumes it can produce. However, in the process, domestic industry is suffering significant financial losses.
- d. DGCI&S data is Govt. of India data therefore it shall naturally have precedence over all other data, unless it is established on facts that there are errors in such data.
- e. The cost allocation/apportionments have not been done on the basis of capacity. Therefore, whatever is the capacity considered, the same does not vitiate the allocation/apportionment of expenses charged to MDC.
- f. The NIP determined is too low. The NIP should be based on actual cost of production and not notional costs.
- g. Telangana Strikes might have reduced the demand, however, the reduced demand were still significantly higher than the capacities with the domestic industry.
- h. Even if it is assumed that PTFE sales volumes suffered during the period, it could only imply reduction in Chloroform production and consequently MDC production. However, MDC and Chloroform production have increased over the period.
- i. The consumption of MDC by some of the major pharma industry is hardly around 1%. Therefore, imposition of ADD is not going to majorly affect these pharma industries’ cost.
- j. The form of measure is required to be kept as fixed quantum expressed in US\$.

View of the Importers/consumers and other interested parties

20. Submissions made on behalf of Govt. of Korea and Samasung Fine Chemicals are as follows:
- i. Import volume from Korea is negligible in proportion to total imports. It composed about 2.5% of the total import volume in January – December, 2012 as per Indian customs data.
 - ii. Even according to petition the share is 3.01% of total imports much lower than the share of EU and US and even lower than the share of other countries not subject to investigation. Therefore according to Article 5.8 of AD Agreement, the Authority should immediately terminate the investigation.
 - iii. Imports from China PR is above 4% of total imports and is more than the share of Korea but it has not been considered as the subject country.
 - iv. There were no exports by the respondents during the period for which domestic industry considered that it was injured. Only due to the subsequent *suomoto* expansion of the POI, exports by respondents were covered.
 - v. The DA ought to have verified and justified the changed circumstances that warranted the re-imposition of ADD, as an effect of which the domestic price as well as import prices have risen to artificially high levels.
 - vi. There could have been a distortion in market dynamics and pricing during POI because of traders. Data provided by the applicants included data by traders rather than only by end users and so reliability of the data is highly questionable.
 - vii. Applicant has put up plant for Chloroform which is used for the main activity of producing refrigeration gases and PTFE. MDC and carbon tetrachloride are jointly produced along with Chloroform. Methodology for allocation of joint product costs has not been followed.
 - viii. The import of the subject goods has no positive correlation with the injury to the Applicant Domestic Producers and as a result, the cause of injury to the Applicant Domestic Producers is not the import of the subject goods but another factor.
 - ix. There is a significant difference while computing the landed value on the basis of the exchange rate that has been adopted, as compared to the exchange rate that is currently prevailing. The fixing of the duty rate in US Dollars has resulted in the sharp increase of the injury margin.
 - x. Domestic Industry controls import prices. The applicants have increased the prices from Rs. 26 to Rs 46, which has forced the exporters to increase their prices and hindering the prices of life saving drugs.
 - xi. Claims made by the domestic industry are wrong such as, the common raw material used for the production of three joint products are methanol and chlorine and their rates remained at same level as they were in 2009-10. Further, chlorine is available free to them as a by product from their caustic soda plant.
 - xii. Post disclosure, the other interested parties have mostly reiterated their submissions

made earlier in the investigation proceedings. The following submissions have been made by the importers, users and exporters.

- xiii. The 2003 imposition of ADD on Methylene Chloride was on relevant and concerted representation withdrawn in 2005 being unsustainable. From the facts on record it is clear there had been no justification for levy of ADD on Methylene Chloride and on the basis of it being a co-product and incorrect determination of non-injurious price. It is humbly submitted that the DA ought to have verified and justified the changed circumstances in facts and law that warranted the re-imposition of ADD on Methylene Chloride
- xiv. A thorough glance through the Disclosure statement as well as the Preliminary report shows that there is no mention about the price determination by treating all the three products as joint products. It seems that figures given by the domestic industry for Methylene Chloride have been adopted without any detailed examination of relevant costs for common products which should have been done. Determination of non injurious price in a fair manner on a rational basis of allocation as applicable to joint product costing have been given a total miss in the preliminary findings as well as the Disclosure report as there is no mention of the basis adopted. Further, unless fair and objective non injurious price is worked out based on established procedures of costing the very objective of imposing antidumping duty would amount to enriching the domestic industry in an unfair manner and putting unnecessary burden on the users of Methylene Chloride
- xv. Joint costs as is well known are the costs of production process that yields multiple products simultaneously (three in the instant case). The split off point or point of separation is the juncture in a joint production process when two or more products become separately identifiable. Separable costs are all costs pertaining to materials and utilities and services, manufacturing overheads and so on. Costs which are incurred on each product beyond the split off point or separation point are assignable to the specific product on which they are incurred. None of the approaches as provided under costing methodologies have been followed and as such findings on non injurious price in the preliminary findings are consequently totally unjust. domestic industry is merely trying to load their costs on the basis of what the traffic can bear which cannot be considered under any circumstances
- xvi. With the imposition of the duty vide Notification dated October 21, 2013, the domestic industry increased the price of Methylene Chloride (“the said substance”) after the notification. @ Rs.46 per kg as on date as against Rs.26/- before the said notification, whereby creating monopoly in the domestic market. With the issuance of said notification, the exporters are forced to increase the price on par with domestic players whereby hindering the prices of life saving drugs and hindering

the domestic consumers.

- xvii. Two producers including state run Gujarat Alkali and Chemicals Limited have not claimed any injury and have not approached the Govt. As regards the Domestic Industry, Chlorine is available free to them as a byproduct from their caustic soda plant. The rate of Chlorine even otherwise is Rs. 3 to 4/Kg. There is no discussion on this in the preliminary findings as well as the disclosure report. When drums and loose Methylene Chloride are commonly marketed universally this distinction should not have been abolished by the authority at the behest of domestic industry and non injurious price of both should have been determined on a rational basis.
- xviii. Data of imports collected by Directorate General of Commercial Intelligence and Statistics (DGCI&S) have been used but not cross verified with the data which is normally available with International Business Services Organization, Mumbai collected from various ports.
- xix. Averaging of price of loose Methylene Chloride and Methylene Chloride in Drums totally wrong and unjustified
- xx. With regard to the Authority's determination in Para 21(i) to Para 21(xv) that, the volume improvement in the capacities by the domestic industry is not a factor to be taken into consideration and that the domestic industry has suffered extensively having decline in profits, return on investment and cash flows due to such import of Methylene Chloride is false. The Authority further opined that the fact that the domestic industry is engaged in production of refrigeration gases and PTFE, whose performance has declined due to which domestic industry is effected and not due to import of Methylene Chloride is not to be taken into consideration as the investigation is only concerned with the import of Methylene Chloride and the injury caused due to the domestic industry only is a prejudiced statement by the Authority.
- xxi. A thorough glance through the report shows that there is no mention about the price determination by treating all the three products as joint products. It seems that figures given by the domestic industry for Methylene Chloride have been adopted without any detailed examination.
- xxii. None of the approaches as provided under costing methodologies have been followed and as such findings on NIP are unjust.
- xxiii. The applicants have put up plant for Chloroform which is used for their main activity of producing refrigeration gases and PTFE. This product cannot be produced on standalone basis but along with this product, Joint products Methylene Chloride and Carbon tetrachloride are produced. Therefore, additional burden of

- ensuring fairness is imposed on the Authority.
- xxiv. There is no evidence to demonstrate that the exporter sold Methylene Chloride to India at a price much less than the price prevailing in the exporters' domestic market, whatever difference being attributable to purchasing power parity and other elements of costing.
- xxv. In this case, volume injury did not occur to the domestic manufacturers at all and evidence proves this. It is humbly submitted the DA failed to appreciate that there is no evidence on record to prove effect of the alleged dumped imports on prices in the Indian market for like articles, as demonstrated by decline in output, loss of sales, loss of market share, reduced profits, decline in productivity, decline in capacity utilization, reduced return on investments and price effects. The DA is requested to re-evaluate the body of evidence already available and now placed before it to evaluate injury in terms of economic indicators of the Applicant such as reduction in sales, output, profits, market share, productivity, return on investment, capacity utilization, employment and capitalization. It is strongly expected that though not all, most would elements would indicate that no decline had taken place.
- xxvi. Major use of Methylene Chloride is as a solvent by the API manufacturers and they would be adversely affected. API's are used in the manufacture of formulations and constitute 50% to 80% of their cost. In a situation of price control through Drugs (Prices Control) Order, 2013 both producers of API's and users of formulations would be adversely affected as producers of formulations cannot absorb such increases in the manufacturing costs of their formulations.
- xxvii. It has been submitted that there is no dumping by Akzo Nobel during the first six months of calendar year 2012 when first application was made by the domestic industry. It has also been submitted by them that the applicant domestic producer did not contain any evidence with respect to determination of export price and consequently dumping, which could have been considered for initiating the present investigation. In particular, they have stated that adjustments for ocean freight and commission has been inappropriately provided by the Domestic Industry and have also been accepted by the DGAD. They have highlighted issues relating to wrong earmarking of capacity for the subject goods which has resulted in the increase in the NIP for domestic industry. They have also added that there is no volume injury to the Petitioner domestic industry and inflated Costs and Losses reported by Domestic Industry have not been examined by DGAD. They have requested the Designated Authority to examine whether there has been a significant increase in the volume of dumped imports, either in absolute terms or relative to production or consumption in India.

Examination by Authority

21. The submissions made by the interested parties have been analysed by the Authority as follows:
- a. With regard to the argument on share of imports of Korea RP and China PR, it is noted that the Anti dumping Rules requires that the imports from the subject country should be more than negligible volume. It is noted that imports from Korea RP were above negligible volume (3.57%) and therefore investigation is not required to be terminated on this account. As regards China PR, it is noted that the import prices from China PR were much higher.
 - b. With regard to the argument that M/s Akzo did not cause injury, as it did not export from January to June 2012 which is the period for which the first application was filed, the Authority notes that the investigation period in the present case is Jan 12-Dec.12. The initial period for which the petition was filed is not material. Further, the Authority is not required to establish injury from a particular producer and exporter from a country. In fact, since conditions for cumulative assessment of injury are established in the present case, the Authority is required to assess injury to the domestic industry by considering imports from subject countries cumulatively. It has been examined whether the exporters from subject countries have dumped the subject goods in the investigation period considered and whether dumping of the product concerned has caused injury to the domestic industry.
 - c. With regard to the argument that the Authority should have verified and justified the changed circumstances that warranted the re-imposition of ADD, the Authority notes that changed circumstances need not be analysed in a fresh investigation.
 - d. With regards the contention that imports includes imports by traders as well which could have distorted the pricing, the Authority notes that imports were being made by traders as well as consumers throughout the injury period and therefore the deterioration in performance could not have been due to traders selling in the market. In any case, it is not relevant whether the pricing was distorted because of traders selling in the market. It is also noted that all the imports of subject goods made during injury period have been considered in this investigation. The imports considered by the Authority thus includes imports made by the consumers as well. It is also noted that whether the imports were made by the traders or by consumers, the same were made at dumped prices.
 - e. With regards the contention that the Domestic Industry has put up plant for Chloroform which is used for the main activity of producing refrigeration gases and PTFE, the Authority notes that domestic industry has submitted project report of GFL for expansion of the plant which shows that after finding good market and demand for MDC, it has set up a plant for production of MDC and Chloroform. Further, anti dumping investigations is product specific investigation. As regards determination of costs, it is noted that the cost of production determined and adopted for the present purposes is consistent with the cost records maintained by the company and cost audit report of the domestic industry.

- f. With regards to the determination concerning causal link, it is noted that the same has been duly analysed under the appropriate headings in this findings.
- g. With regard to the argument of difference in landed value due to exchange rate, the Authority notes that the injury margin is required to be determined by comparing the non injurious price with the landed price of imports during the period of investigation. The landed price of import is required to be determined by considering CIF import price during the investigation period. The current exchange rate is therefore not material for the purpose.
- h. With regard to the contention that the domestic industry controls import prices, the matter has been examined and it is noted that the domestic industry have reduced the prices to a level significantly below cost of production. Further, the data shows steep decline in the import prices of subject goods from subject countries and consequent decline in the selling price of the domestic industry.
- i. With regard to the contention of interested parties with regard to raw materials required for production of the product and its valuation, it is noted that the Authority has relied upon verified information and has satisfied itself with regard to appropriateness of the cost claims made by the domestic industry. There is no basis for the argument that Chlorine is available free to the domestic industry. The Authority has considered valuation of purchased and captive raw materials on the basis of the consumption weighted average price reflected in the records of the company.
- j. With regard to the argument that DGCI&S data has not been cross verified with IBIS data, the Authority notes that DGCI&S data is Govt. of India data and the Authority relies on the DGCI&S data unless it is established on facts that there are errors in such data. The interested party has failed to establish any error in the DGCI&S data. Moreover, examination of imports as per IBIS does not establish materially different facts with regard to import volumes and prices. It is also noted that the dumping margin in respect of responding exporter from EU is based on questionnaire response filed by the exporter.
- k. As regards the argument that price of loose and drums have been averaged by clubbing the two together, the Authority notes that separate comparison of MDC imported in loose and drum has been undertaken. Thereafter, weighted average dumping margin and injury margin for the product under consideration has been determined in consistence with the Rules.
- l. With regard to issues raised by various interested parties post disclosure, on the issue of dumping, injury and causal link, the same has been examined by the Authority under the appropriate headings in this finding.

CALCULATION OF DUMPING AND DUMPING MARGIN

Normal Value, Export Price and Dumping Margin

Normal value

22. 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);
23. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, barring below mentioned producer and exporter from EU, none of the producer/exporter from subject countries has co-operated in this investigation by filing their Questionnaires' responses. The questionnaire response has been filed by the following companies
- M/s. Akzo Nobel Industrial Chemicals B.V., Netherlands
 - Akzo Nobel Industrial Chemicals GmbH, Germany
- 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 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.

Normal value and Export price in case of M/s. Akzo Nobel Industrial Chemicals B.V., Netherlands and M/s. Akzo Nobel Industrial Chemicals GmbH, Germany

26. It has been submitted that M/s Akzo Nobel Industrial Chemicals B.V. is a 100% subsidiary of Akzo Nobel Chemicals B.V., The Netherlands. Further, it is noted that M/s Akzo Nobel Industrial Chemicals B.V. has entered into a Manufacturing & Sales Services Agreement

with Akzo Nobel Industrial Chemicals GmbH, Germany. In terms of the Manufacturing & Sales Services Agreement, Akzo Nobel Industrial Chemicals B.V. supplies all the raw materials required for manufacturing methylene chloride to Akzo Nobel Industrial Chemicals GmbH, Germany (with the exception of natural gas and electricity). Akzo Nobel Industrial Chemicals GmbH manufactures methylene chloride for Akzo Nobel Industrial Chemicals B.V. in its plant in Germany. For the manufacturing services rendered by Akzo Nobel Industrial Chemicals GmbH, it receives a fee from Akzo Nobel Industrial Chemicals B.V. It is also noted from the response that the product exported to India and sold in the home market is same in all respects. The exporter has claimed normal value based on sales made in the home market in EU.

27. It is further noted that M/s Akzo Nobel Industrial Chemicals GmbH is a 100% subsidiary of Akzo Nobel Chemicals Holding GmbH, Germany. Akzo Nobel Industrial Chemicals GmbH manufactures methylene chloride for Akzo Nobel Industrial Chemicals B.V. in its plant in Germany. Sales in home market as well as exports to India are performed by Akzo Nobel Industrial Chemicals B.V, Netherlands. From the exporters response, it is noted that M/s Akzo Nobel Industrial Chemicals B.V, Netherlands has exported the subject goods (all bulk) to India during the POI. Examination of response was carried out and a deficiency letter has been issued to the exporter asking them to comply with the deficiency. However, after examination of the response, it is considered appropriate to accept their response. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market (based on EU territory as a whole). It is also noted from the transaction wise information of domestic sales given in appendix 1 of the exporters questionnaire that the profit making sales in the domestic market are more than 80 % by the way of volume. Accordingly the total domestic sales have been taken into account for the purpose of determination of normal value. The adjustments claims by the exporter for sales in the domestic market i.e. inland freight, credit costs and commissions have been allowed as per the response. The normal value as determined is mentioned in the dumping margin table.
28. With regards to export price of subject goods from responding exporter to India, it is noted that M/s Akzo Nobel Industrial Chemicals B.V, Netherlands has exported the subject goods to India and has given the information in the appendix 2 of the response of the exporters' questionnaire. The exporter has claimed adjustments on account of ocean freight, insurance, commissions and credit costs which have been allowed. The net export price as determined for Akzo Nobel Industrial Chemicals B.V, Netherlands is given in the dumping margin table.

Normal value and Export price in case of other producers and exporters from EU

29. In view of the non cooperation of other exporters in this investigations, the Export price for other exporters has been determined based on the lower export price of the cooperating exporter from EU as best facts available after allowing for adjustments as per exporters data. The normal value has been determined as same for the cooperating exporter. The export price so determined has been compared with the normal value determined for cooperating producer and exporter from EU. Accordingly, export price and dumping margin for all other exporters from EU has been worked out as mentioned in the dumping

margin table. With regard to subject goods exported in packed or in drums, the cost of the drums as per the facts available have been added to determine the normal value and export price.

Normal value in case of all producers/exporters in USA.

30. It is noted that none of the exporters in USA has cooperated with the authority with questionnaire response. The petitioner had provided details of normal value in EU and 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 (barring Akzo Nobel) in the form and manner prescribed, the Authority has determined normal value for all producers/exporters in USA in accordance with Rule 6(8) supra. The normal value so determined is mentioned in the dumping margin table.

Normal value in case of all producers/exporters in Korea

31. It is noted that none of the exporters in Korea has cooperated with the authority with questionnaire response. The petitioner had provided details of normal value in EU and USA on the basis of price of subject goods as published in ICIS-LOR. However, the petitioner has not made available ICIS-LOR price for Korea RP. Even though Samsung Fine Chemicals responded to the authority, the company has not filed response to questionnaire. The Authority notes that in the absence of any response from the subject exporters in the form and manner prescribed, the Authority has constructed the normal value for all producers/exporters in Korea RP in accordance with Rule 6(8) supra i.e by taking into account international raw material price, best consumption norm and reasonable profit margin. The normal value so determined is mentioned in the dumping margin table.

Export price for all producers/exporters in USA and Korea

32. It is noted that none of the exporters from USA and Korea have responded to the authority. It is also noted that the Petitioner has determined export price on the basis of imports of the product under consideration in India, as reported by data supplying agencies. The Designated Authority has considered information received from the DGCI&S and has determined export price considering all imports of the product under consideration in India. Information on record shows that there is significant difference in the price of loose/unpacked and packed material and therefore, separate export price has been determined for the two form of the product. The Authority has considered that the imported product was packed in GI drums. With regard to comments made by the interested parties post disclosure, it is noted that 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 and Korea RP. The net export price has been determined at ex-factory level.

DUMPING MARGIN

33. Considering the normal value and export price for subject goods packed as loose/bulk, and drums as determined above, the dumping margin for the subject goods as a whole has been determined as follows. It is seen that the dumping margin for the subject goods is more than de-minimus and significant.

<u>Dumping Margin</u>		Unit in US\$/Kg			
Particular	Unit	EU		USA	Korea RP
		M/s. Akzo Nobel Industrial Chemicals B.V, Netherlands.	Other Producers and Exporters	All producers and exporters	All producers and exporters
<u>Loose/Bulk</u>					
Normal Value	US\$/kg	***	***	***	***
Net Export Price	US\$/kg	***	***	***	***
Dumping Margin	US\$/kg	***	***	***	***
Dumping Margin %	%	***	***	***	***
Dumping Margin %	% Range	220-230%	250-260%	300-310%	60-70%
<u>Packed/Drum</u>					
Normal Value	US\$/kg	-	***	***	***
Net Export Price	US\$/kg	-	***	***	***
Dumping Margin	US\$/kg	-	***	***	***
Dumping Margin %	%		***	***	***
Dumping Margin %	% Range		170-180%	190-200%	70-80%
<u>Product under consideration as a whole</u>					
Normal Value	US\$/kg	***	***	***	***
Net Export Price	US\$/kg	***	***	***	***
Dumping Margin	US\$/kg	***	***	***	***
Dumping Margin %	%	***	***	***	***
Dumping Margin %	% Range	220-230%	230-240%	300-310%	60-70%

E. Injury Determination

Views of the Domestic Industry

34. The submissions made by domestic industry with regard to injury and casual link are as follows:
- i. Imports of the product under consideration have shown significant increase over the years with a significant increase in POI;
 - ii. Imports have increased in relation to production and consumption in India;
 - iii. Market share of the subject countries in demand has remained significant. Market share of the domestic industry has also increased. The same is however due to significant addition to the capacities;
 - iv. With reduction in the prices either by the foreign producers or by these traders, either the Indian producers must realign their prices with the changes in the import prices or traders' resale prices, or the petitioners must loose orders;
 - v. Domestic industry prices reflect the combined effect of the prices which have been reported in the trade journals and the prices that are being offered by the traders;
 - vi. Imported goods have been undercutting the prices of the domestic industry in both loose and packed form. Price undercutting in respect of the product under consideration as a whole is quite significant;
 - vii. The domestic industry has been forced to reduce the prices too steeply and too frequently;
 - viii. The domestic industry was able to achieve good capacity utilization in the period 2010-11, but the same declined thereafter;
 - ix. Inventories with the domestic industry decreased slightly in 2010-11, but, have thereafter shown increase throughout the injury period;
 - x. Performance of the domestic industry has steeply deteriorated in terms of profits, return on investments and cash profits to a very significant extent;
 - xi. The decline in profitability of the domestic industry was due to reduction in the import prices without any justifiable reasons. Further, the decline in price and consequently profit was not inconsequential. It was too significant, too steep and too sudden;
 - xii. A leading market reporter stated that European producers conceded that the prices fell below the assessed range of the Journal, with India being one of the lower-priced destinations for methylene chloride exports.
 - xiii. As regards the contention that injury is on account of performance of PTFE, the domestic industry submits that even if it is assumed that PTFE sales volumes suffered during the period, it could in worse situation imply reduction in Chloroform production and consequently MDC production. However, on facts MDC and Chloroform production have increased over the period.
 - xiv. As regards the contention that cyclical effects of the market in terms of decline in demand of chloroform and then decline in demand of MDC has caused injury, the domestic industry submits that consumption and consequently production of Chloroform has also increased over the period. In any case, decline in demand for

- Chloroform would have implied lower production of Chloroform and in turn lower production of MDC, given that MDC and Chloroform are co-produced.
- xv. As regards the contention that wrong capacity has been considered for subject goods and allocation of fixed costs on such capacity have led to wrong calculations, the domestic industry submits that the cost allocation/apportionments have not been on the basis of capacity. Therefore, whatever is the capacity considered, the same in any case does not vitiate the allocation/apportionment of expenses charged to MDC. Conversion costs per unit of production have in fact, declined significantly over the period. Thus, losses suffered by the domestic industry, in any case, could not have been due to higher allocation of expense to the product.
 - xvi. As regards the contention that there is no volume injury, the domestic industry submits that there has been steep decline in the import price of the product. So long as the domestic industry is offering the prices comparable to the import price, the domestic industry is able to sell the volumes it can produce. However, even when domestic industry is able to produce to the full extent and sell the volumes, the low price realizations received by the domestic industry is a result of dumping of the product in the country. These prices were materially below the cost of production and caused significant decline in profits, cash profits and return on investment. The domestic industry suffered significant financial losses.
 - xvii. As regards the contention that GFL with efficient technology has reduced prices and has caused injury, the domestic industry submits that there was no reason for GFL to reduce prices, given that the Indian demand for the product were far higher than the expanded capacities in the country. If GFL was responsible for the price decline, the prices would not have improved in 2013 and particularly after imposition of anti dumping duty.
 - xviii. As regards the contention that Telangana Strike might have been responsible for adversely impacting the production of consumers' products, the domestic industry submits that this might have been the reason for the slight decline in demand for the subject goods. However, the reduced demand were still significantly higher than the capacities with the domestic industry and therefore decline in consumption of the product could not have been a factor responsible for the injury to the domestic industry.
 - xix. As regard the contention that domestic industry is forcing the exporters to sell the goods at low prices, the domestic industry submits that the decline in prices to the customers is a result of dumping of the product in the country. So long as the petitioner is offering the prices comparable to the import price, the petitioner is able to sell the volumes it can produce

View of the Importers/consumers and other interested parties

35. The submissions made by the interested parties with regard to injury and casual link are as follows:

- i. Authority should not accept the petitioner's argument that production, domestic sales and inventories must be considered irrelevant for the purpose of assessing injury. These factors are most relevant and should be carefully reviewed.
- ii. Production, domestic sales, market share, employment, wages and productivity all increased during POI, therefore there is no case of material injury.
- iii. Performance improved in all the volume parameters during the POI and accordingly there cannot be any injury to domestic industry on volume parameters.
- iv. As regards, profitability careful investigation should be made of whether this alleged injury is on account of dumped imports or not. Enhancement of capacities may be the reason for the financial losses.
- v. Careful analysis should be done of the MDC market as decline in profitability may be a global phenomenon.
- vi. The rates of major common raw materials have remained the same in injury period and POI. Foreign exchange earnings have declined on account of PTFE market conditions. There is no bifurcation of each of the co products from chloromethane hence the injury can't be attributed to Methylene Chloride.
- vii. Domestic industry is basically engaged in production of refrigeration gases and PTFE whose performance has declined. This fact has not been examined.
- viii. M/s SRF Ltd is supporting the request for imposition of ADD but is however, not willing to provide the information for determining the injury parameters. SRF has a new plant and technology and therefore low cost of production, which is keeping the sales price low causing others to lower the price.
- ix. M/s Gujarat Alkalies & Chemicals Ltd., another Domestic Producer, a Central Government Undertaking has shown indifference to the entire investigation therefore a strong presumption is to be made that they are not suffering any injury due to imports of the subject goods.
- x. It is clear from the data provided by domestic industry that imports did not increase in absolute terms, but in fact declined. Imports did not increase in relation to production or consumption in India of the subject goods.
- xi. Information with regard to capacities must be rejected due to two reasons: (i) factual inaccuracies in the data submitted by domestic industry (ii) incorrect earmarking of capacities having an impact on the analysis of other injury parameters. Domestic industry has submitted different plant capacities before different authorities. Incorrect higher capacity for MDC has led to unduly high allocation of depreciation cost to MDC.
- xii. Incorrect higher capacity for MDC has led to unduly high allocation of depreciation cost to MDC and lesser allocation to other products; unduly high allocation of other fixed costs to MDC and lesser allocation of other fixed costs to other products; higher the costs projected, more will be the loss that will be reflected and incorrect allocation of return on capital employed.
- xiii. Price pressure felt by domestic industry is due to cyclical effects of the market and not because of the imports of the subject good.
- xiv. Domestic industry has reported improved performance in all volume parameters

- during the POI and thus no injury on account of volume parameters.
- xv. GFL kept reducing prices to utilize its expanded capacity. Further, GFL must be incurring some extra-ordinary costs as the teething problem. Because of such a decline in domestic price and increase in costs, it showed injury to domestic industry in terms of price depression and price suppression during the POI.
 - xvi. Fixing of the duty rate in US Dollars has resulted in sharp increase of the injury margin. Only because of depreciation of the Indian Rupee, injury margin turned out to be Rs. 22.32/kg that is more than 15% higher than actual. ADD is required to be fixed in Indian Rupee only.
 - xvii. In late 2011 as a result of the Telangana movement demanding the creation of a new state, entire Andhra Pradesh state was crippled, especially with regard to the generation of power. Dire shortage of power continued into the early months of 2012 as well. Any injury that the domestic industry may have suffered during this period is attributable to the acute shortage of power and not due to import of subject goods.
 - xviii. The domestic industry in India reduced its price to such an extent that any exporter, who wanted to export the subject goods to India had to lower its export price. Since India is strong emerging as the pharmaceutical hub, no major pharma feeder industry can afford to ignore India. Thus, in a bid to compete with domestic industry at lower prices set by it, producers in EU and USA had to lower their margins and export to India.
 - xix. During FY 2012-13 applicants's operating revenues declined from Rs. 2069 crores to Rs 1596 crores registering a decline of Rs 473 crores. During the same period foreign exchange earnings declined from Rs 1460 crores to Rs 797 crores registering a decline of Rs 623 crores only on account of PTFE market conditions (chloroform based) and not due to subject goods.
 - xx. Surplus capacity and production, which along with supply constraints faced by major pharmaceutical companies located in Andhra Pradesh due to state-wise strikes concerning Telangana issue and resultant lower demand, forced domestic industry to reduce its prices so to dispose off its excess production at throw-away prices.
 - xxi. As regards the contention that weak domestic demand in subject countries caused dumping into India, interested party submits that weak domestic demand would have led to cheap exports to other countries as well at a lower price and not selectively for one country, such as for India, alone.
 - xxii. Domestic industry during the entire POI did not align its prices according to the import prices. Whether import prices increased steeply or came down, domestic industry chose to change its prices to a maximum of +/- 3%. Thus, whenever exporters tried increasing their prices, domestic industry intentionally kept its prices low and made exporters to align their prices in subsequent months and bring their prices down.

xxiii. Despite the demand supply gap, domestic industry as well as other domestic producers have about 64% of total market share whereas subject imports hold half of total Indian domestic producer's share. How is possible that a small player is able to control the prices of a major player.

Examination by the Authority

36. The Authority has taken note of various submissions of the interested parties on injury to the domestic industry and has analyzed injury to the domestic industry considering the facts available on record and applicable law as follows. The submissions made by the interested parties have been considered to the extent found relevant and have been examined as follows and in the relevant sections of these findings:
- i. With regards the contention that volume parameters must be carefully reviewed and that these parameters shows improvement and therefore there is no case of material injury, the Authority notes that even though the performance of the domestic industry has improved in respect of production, capacity utilization, domestic sales, market share, the performance deteriorated in respect of profit, cash flow, return on investment, and inventories. The decline in profits, return on investment and cash flows is quite significant and material.
 - ii. With regards the contention that enhancement of capacities may be the reason for the financial losses, the Authority notes that the low priced imports have caused injury to the domestic industry. The domestic industry could sell its product only when the same was done at the price comparable to that of import price.
 - iii. With regard to the argument that the domestic industry is basically engaged in production of refrigeration gases and PTFE whose performance has declined, the Authority notes that the subject investigation concerns the imports of Methylene Chloride and the injury caused to the domestically produced Methylene Chloride in view of dumped imports of the same from subject countries. Other products are outside the purview of this investigation. Therefore performance of the domestic industry in respect of PTFE is immaterial.
 - iv. With regard to the contention that M/s SRF Ltd has not submitted data and GACL has shown indifference to the investigation which shows that they are not suffering injury, the Authority notes that (a) the petitioners constitute domestic industry within the meaning of the Rules and (b) the Authority is required to determine injury to the domestic industry. In any case, interested parties have not submitted any evidence to establish that SRF or GACL has not suffered injury. It is further noted that AD Rules require the Authority to determine injury to the domestic industry. Rule 2(b) provides that in a situation where all the producers have not provided injury information, the Designated Authority shall consider whether production of the domestic producers providing injury information constitutes a major proportion in the Indian production. The production of the petitioner companies is a major proportion in the instant case and therefore petitioner companies constitute domestic industry within the meaning of the Rules.
 - v. With regard to the contention that domestic industry has earmarked the capacity

incorrectly and has submitted different plant capacities before different authorities, the Authority notes that injury analysis by the Authority contains information on Chloromethane capacity, production and capacity utilization in view of the fact that the three products are co-produced. Further, elements of costs are not based on capacities. The same are based on parameters linked to production of the product under consideration. Production of the domestic industry has been verified from records. Therefore, possible difference in capacities has not impacted the finding of injury to the Domestic Industry.

- vi. As regards the argument that none of the approaches as provided under costing methodologies have been followed, the Authority notes that well established methodology for determination of cost of production has been adopted which is the same as mentioned by the interested party itself, i.e., production value ratio.
- vii. With regards the contention that the price pressure has been felt by the domestic industry due to cyclical effect of the market, the Authority notes that the facts of the case have not established the product under consideration has cyclical nature. Nor have the interested parties established that the performance of the domestic industry has deteriorated due to cyclical effects of the market. On the contrary, the data shows that the performance of the domestic industry has materially deteriorated in the present POI with the significant decline in the import prices as a result of dumping.
- viii. With regards the contention that GFL has reduced prices and the same has caused injury, the Authority notes that the import prices declined significantly and the same led to decline in prices by the domestic industry. The authority also notes that the demand for the product is higher than the capacities with the Indian producers and under such situation, there was no necessity for any of the constituent of the domestic industry to resort to such aggressive price reduction. The domestic industry was forced to reduce the prices only because of the prices reduced by the foreign producers.
- ix. With regards the currency of the anti dumping duty, the Authority notes that the decision to recommend interim anti dumping duty in US\$ was consistent with the practice of the Authority in this regard.
- x. With regard to the argument that Telangana Strikes affected the generation of coal which affected the power plants in the state, it is noted that the said factor might have been responsible for adversely impacting the production of consumers' products and this might have been a reason for some decline in demand for the subject goods. However, the said factor could not have significantly impacted production of the subject goods by the domestic industry. Further, the demand for the subject goods in investigation period was significantly higher than the capacities and production by the domestic industry and therefore changes in consumption of the product could not have been a factor responsible for the injury to the domestic industry.
- xi. As regards the contention that domestic industry reduced its price which forced the exporters to exports at low prices it is noted that that monthly movement of import price and selling price of the domestic industry shows that import prices started declining which forced the domestic industry to lower their prices. The domestic industry was forced to reduce the prices only because of the prices reduced by the foreign producers.
- xii. With regard to the argument concerning reasons for decline in operating revenues in 2012-13, it is noted that the revenue and profits relating to product under consideration

- alone have been considered. The decline or increase in revenues of other products or changes due to foreign exchange gains or losses in other products are not material in this investigation.
- xiii. With regard to the argument that lower demand of the product because of Telangana issue in Andhra Pradesh forced the domestic industry to reduce its prices to dispose off its excess production at throughway prices, it is noted that the reduced demand for the product under consideration was significantly higher than the production and capacity of the Indian industry. Further, imports of the product increased significantly despite such lower demand. Thus, it is the dumping of the product under consideration in the country which has forced the domestic industry to reduce its prices.
- xiv. With regard to the argument that the domestic industry did not change its prices in proportion to increase or reduction in import prices whenever import prices increased steeply or declined steeply, the Authority notes that what is relevant under the rules is whether the imports have forced the domestic industry to reduce the prices or whether imports have resulted in suppression/depression of prices in the market.
- xv. With regard to the argument that weak domestic demand in subject countries would have led to exports from subject countries to third countries as well at lower price, the Authority considers that the domestic price of the product under consideration in subject countries and export price of the same to India during POI alone are relevant for the purpose of determination of dumping margin.
- xvi. With regard to the argument that Indian producers command 64% share in market and imports command a share of 36% and therefore imports cannot control the prices of domestic industry, the Authority observes that the product is freely importable into the country. The prices at which goods have been imported into the country have direct impact on the prices that the domestic industry can fetch in the market. Given significant volume of imports into the market, the imports impact the prices at which domestic industry can sell the product. Further, the data verified by the Authority clearly shows a significant decline in the import prices and consequent decline in prices of the domestic industry during the period of investigation which indicates that the domestic industry has been forced to reduce the prices because of dumping of the product in the country.
37. 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.
38. 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.

39. 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.”

40. 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.

Cumulative Assessment

41. Annexure II (iii) of the Anti Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that: -
- a) the margin of dumping established in relation to the imports from each country/territory is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;
 - b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

In the present case,

- a) the margin of dumping from each of the subject countries is more than the limits

- prescribed above;
- b) the volume of imports from each of the subject countries is more than the limits prescribed;
 - c) cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market. It is noted that there is no submission made by any interested party disputing cumulative assessment in the present case.

42. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of imports.

Demand and market share

43. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of domestic industry and other Indian producers have been added to the total imports into India and the same has been summarized below:

Particulars	Units	2009-10	2010-11	2011-12	POI
Sales of Domestic Industry and Supporter	MT	51,345	58,050	75,200	89,305
Sales of Other Producers	MT	19,024	19,134	19,712	19,037
Subject countries-Imports	MT	42,033	55,847	60,975	51,952
Other Countries-Imports	MT	13,787	10,111	23,469	5,866
Total demand/consumption	MT	126,189	143,142	179,356	166,160

44. It is noted that the demand has shown a positive trend throughout the injury period till 2011-12, but the same has declined during the POI. Overall, demand of the subject goods has increased during the injury period.

F. Volume Effects of Dumped Imports

Import Volume and Market Share

45. 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. The volume of imports of the subject good from the subject countries have been analyzed as under:

Particulars	Units	2009-10	2010-11	2011-12	POI
Subject Countries	MT	42,033	55,847	60,975	51,952
EU	MT	31,878	32,762	42,418	38,002
USA	MT	9,359	22,499	14,283	11,886
Korea RP	MT	796	586	4,274	2,064

Other Countries	MT	13,787	10,111	23,469	5,866
Total Imports Volume	MT	55,820	65,958	84,444	57,818
Market share in Imports					
Subject Countries	%	75.30	84.67	72.21	89.85
Other Countries	%	24.70	15.33	27.79	10.15
Market share in demand					
Subject Countries	%	33.31	39.01	34.00	31.27
Other Countries	%	10.93	7.06	13.09	3.53
Domestic industry & Supporter	%	40.69	40.55	41.93	53.75
Other Indian producers	%	15.08	13.37	10.99	11.46
Indian industry as a whole	%	55.76	53.92	52.92	65.20
Total Imports in relation to production of domestic industry	%	76.21	77.08	67.80	41.69

46. It is noted from the above table that imports of the subject goods from subject countries have increased in absolute terms from the base year till 2011-12, but the same has declined during the POI. Overall, the volume of the imports of subject goods have marginally increased during the POI as compared to the base year. Further, the share of the subject countries in total imports into India has increased whereas the share of other countries has declined. It is noted that one of the domestic producer (who is part of the present domestic industry) enhanced capacities significantly, which has led to significant increase in availability of domestic product. This could have resulted in some decline in the imports of the subject goods in the POI as compared to previous years. Further, the imports from subject countries as well as total imports of subject goods have declined in relation to consumption in India, which may be the reflective of additions of capacities by the domestic industry.

G. Price effect of imports

47. 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.

Evolution of prices over the period

48. In the injury period, average CIF prices of the imports originated in subject countries have been as under:

Subject Country	Import price	Landed Price
	Rs./kg	Rs./kg
2009-10	23.04	25.05
2010-11	36.15	39.31
2011-12	36.30	39.46
Jan'12-Dec'12 (POI)	25.16	27.35

49. It is seen from the above table that the CIF import price of subject goods declined from Rs. 36.30 Per/Kg. in 2011-12 to Rs. 25.16 in POI though the injury period, there was a marginal increase in the import price from the base year to POI..

Price undercutting

50. 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.

Particulars	Unit	2009-10	2010-11	2011-12	POI
EU					
Landed price of imports	Rs./Kg	26.46	39.80	38.39	27.98
Net Sales Realisation	Rs./Kg	***	***	***	***
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	% Range	10-20	5-15	0-10	0-10
USA					
Landed price of imports	Rs./Kg	19.35	38.55	41.64	24.70
Net Sales Realisation	Rs./Kg	***	***	***	***
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	% Range	35-45	10-20	Negative	10-20
Korea RP					
Landed price of imports	Rs./Kg	35.56	41.18	42.82	31.06
Net Sales Realisation	Rs./Kg	***	***	***	***
Price Undercutting	Rs./Kg	***	***	***	***

Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	% Range	Negative	5-15	Negative	Negative
Subject Countries as a whole					
Landed price of imports	Rs./Kg	25.05	39.31	39.46	27.35
Net Sales Realisation	Rs./Kg	***	***	***	***
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	% Range	15-25	10-20	0-10	5-15

51. The Authority notes that the landed prices of the subject goods were below the selling price of the domestic industry showing significant price undercutting being caused by the dumped imports from subject countries except Korea RP.

Price-underselling

52. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject countries, as follows:

Country/exporter	Unit	EU	USA	Korea RP
Non Injurious Price	Rs./kg	***	***	***
Landed Price	Rs./kg	***	***	***
Price underselling	Rs./kg	***	***	***
Price underselling %	%	***	***	***
Price underselling %	% Range	45-55	65-75	30-40

53. It is noted from the above table that the domestic industry has suffered significant price underselling during the investigation period on account of imports of the subject goods from the subject countries.

Price suppression and depression

54. 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 considered the changes in the costs and prices over the injury period. Authority has considered the average price of loose and packed material for the purpose of this analysis. Table below shows the factual position:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./Kg	25.05	39.31	39.46	27.35
Cost of Sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>99</i>	<i>111</i>	<i>116</i>
Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>139</i>	<i>125</i>	<i>90</i>

55. The selling prices of the subject good in the domestic market have declined during the injury period. Thus, the domestic industry has suffered a price depression.

56. It is also noted from the table above that the cost of sales has increased the injury period except that it marginally declined in 2010-11. The selling price increased till 2010-11 but started declining thereafter and has declined significantly in the POI. It is also noted that the landed price shows a sharp decline in the POI as compared to the previous year but the same has marginally increased as compared to the base year.

57. Overall, it is noted that cost of sales have increased significantly during the injury period, however, the selling price of the domestic like product declined during the same period. Though there is a marginal increase in landed value of the subject goods from subject countries, it is noted that the dumped imports of subject goods from subject countries have suppressed the domestic industry prices.

H. Economic parameters of the domestic industry

58. Annexure II to the Anti-dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

59. The various injury parameters relating to the domestic industry are discussed herein below:

Production, capacity and capacity utilization of the Domestic Industry

60. The production, domestic sales, capacity & capacity utilization of the domestic industry has been stated as follows:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Plant Capacity	MT	75,750	75,750	117,000	117,000
Plant Production	MT	73,245	85,566	124,548	138,689
Plant Capacity Utilization	%	96.69%	112.96%	106.45%	118.54%
Production-PUC	MT	35,324	42,422	62,788	73,966
Sales volume					
Domestic	MT	35,191	42,361	60,286	71,338
Exports	MT	189	60	2094	2638
Total Sales	MT	35,380	42,421	62,380	73,976

61. The Authority notes that the product under consideration is jointly produced with Chloroform and Carbon Tetrachloride comes out as a byproduct. Since the production facilities are common and the products are coproduced, capacity utilization has been examined by considering combined production of Methylene chloride and chloroform.

62. It is noted that one of the petitioner companies has enhanced capacity within the present injury period. The domestic industry has submitted that the capacity enhancement in the product was made in view of the demand-supply gap in the Country and the investment involved significant capital expenditure by the company. Since the domestic industry enhanced capacities, the domestic industry submitted that the increase in production and domestic sales volumes was an inevitable and a result of such capacity enhancement.

63. It is noted from the above table that the domestic sales, production and capacity utilization of the domestic industry has increased during POI as compared to the base year as well as the previous year. The domestic industry has contended that a natural outcome of increase in capacities should have been higher profits to the company.

ii. Market share

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

Market Share in Demand	Unit	2009-10	2010-11	2011-12	POI
Sales of Domestic Industry & Supporter	%	40.69	40.55	41.93	53.75
Sales of Other Producers	%	15.08	13.37	10.99	11.46
Subject Countries – Imports	%	33.31	39.01	34.00	31.27
Other Countries - Imports	%	10.93	7.06	13.09	3.53
Total	%	100.00	100.00	100.00	100.00

65. It is noted that market share of the domestic industry has increased over the injury

period.

iii. Profits, return on investment and cash flow

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

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>99</i>	<i>111</i>	<i>116</i>
Selling price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>139</i>	<i>125</i>	<i>90</i>
Profit/Loss	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>1,103</i>	<i>463</i>	<i>(525)</i>
Profit/Loss	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>1,328</i>	<i>792</i>	<i>(1,065)</i>
PBIT	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>482</i>	<i>310</i>	<i>(248)</i>
Cash Profit	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>691</i>	<i>461</i>	<i>(413)</i>
ROI	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>410</i>	<i>228</i>	<i>(142)</i>

67. It is noted from the above table that the costs of sales have increased over the injury period, where as the selling price increased in 2010-11 and declined consistently thereafter with steep decline in the POI. Resultantly, the profits of the domestic industry increased up to 2010-2011 and started declining thereafter. Profitability declined to such an extent that the domestic industry suffered significant financial losses in the POI.

68. As a result of decline in profits, the return on investment and cash profits declined significantly during POI as compared to the base year as well as previous year. The profitability of domestic industry has declined significantly during the POI and it has suffered cash losses and negative return on investment in the POI.

iv. Inventories

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

Particulars	Unit	2009-10	2010-11	2011-12	POI
Opening stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Stock	MT	174	137	331	411
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>79</i>	<i>191</i>	<i>236</i>

70. It is noted from the above table that the average stock during POI has increased as compared to the base year as well as the previous year.

v. Employment and wages

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

Particulars	Unit	2009-10	2010-11	2011-12	POI
Number of employees	No.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>105</i>	<i>127</i>	<i>134</i>
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>96</i>	<i>126</i>	<i>149</i>

72. Since the domestic industry does not have dedicated employment for the product under consideration, situation of the domestic industry with regard to employment and wages paid by the domestic industry was examined by considering information for the company for all operations. It is seen that both employment and wages shows increase over the period.

vi. Productivity

73. Data relating to productivity shows as follows:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Productivity per day	No.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>120</i>	<i>177</i>	<i>209</i>
Productivity per Employee	No.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>114</i>	<i>140</i>	<i>156</i>

74. It is noted that productivity in terms of production per employee as well as production per day has increased in the POI over the injury period.

vii. Magnitude of Dumping

75. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined against the subject countries are above de minimis and significant.

Ability to raise capital investment

76. It is also noted that the petitioner companies are multi product companies and one of petitioner companies has enhanced capacities during the injury period. The domestic industry has invested significant amount during the current injury period. It is thus noted that dumping of the product under consideration has not adversely impacted the ability of the domestic industry to raise capital investment.

viii. Factors affecting domestic prices

77. Consideration the import prices from subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the landed value of imported material from subject countries are significantly below the selling price and non injurious price of the domestic industry, causing significant price undercutting and underselling in the Indian market. The domestic industry contended that benchmark for the domestic prices are the import prices from subject countries. The domestic industry also contended that despite the present capacity enhancement, there is still significant demand-supply gap in the Country and therefore imports are inevitable.. The domestic industry however contended that in a situation where the imports are inevitable, there is no reason for the foreign producers to depress the prices for the product in the Indian market, that too discriminately for the Indian market. The domestic industry further contended that there are large scale traders aggressively operating in the market and these traders are aggressively offering the imported product to the consumers and therefore, with reduction in the prices either by the foreign producers or by these traders, either the Indian producers must realign their prices with the changes in the import prices or traders' resale prices, or the petitioners must loose orders. The domestic industry further contended that it decides its prices based on prices being reported in the trade journals for exports to India, inventory of the material at Kandla port. Thus, the domestic industry prices reflect the combined effect of the prices which have been reported in the trade journals and the prices that are being offered by the traders. The matter has been examined and it is noted that there are no significant imports of the product under consideration from other countries and there is no viable substitute to this product. It is also noted that demand for the product was showing increase and could not have been a factor responsible for price depression faced by the domestic industry. It is thus evident that the only factors responsible for the domestic industry prices are the import prices of the product from subject countries and the cost of production of the domestic industry. As the information shows, whereas the cost of production increased, the import prices much lower than the costs of the domestic industry depressed the prices of the subject goods produced by the domestic industry. Thus, the landed price of the subject goods from subject countries are

major factors affecting the domestic industry prices.

ix. Growth

78. There was positive growth of the domestic industry in terms of sales and production. However, growth of the domestic industry in respect of profits, cash profit, and return on investment was significantly negative in the POI despite significant increase in demand. The domestic industry contended that with increase in capacity, the domestic industry had expected robust growth in profits, cash flow and increase in return on investments. However, the domestic industry was not able to achieve the same due to the presence of the dumped imports.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Production	%	-	20.09	48.01	17.80
Domestic Sales Volume	%	-	20.37	42.32	18.33
Cost of Sales	%	-	(***)	***	***
Selling Price	%	-	***	(***)	(***)
Profit/ Loss per unit	%	-	***	(***)	(***)
Return on Capital Employed	%	-	***	(***)	(***)

J. Other Known Factors & Causal Link

79. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting, underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry.

(a) Volume and prices of imports from third countries

80. It is noted that imports of product under consideration from other countries are at higher price or are negligible in terms of volume. As regards imports from China PR as shown in the table, it is noted that the import price from China was much higher than import price from subject countries. Further, the volume of imports from China PR has shown declining trend, whereas volume of imports from each of the subject countries has shown rising trend.

Particulars	Units	2009-10	2010-11	2011-12	POI
Import Volume	MT	55,820	65,958	84,444	57,818
Subject Countries	MT	42,033	55,847	60,975	51,952
China	MT	10,561	5,384	16,084	2,631
Other Countries	MT	3,226	4,727	7,386	3,235
Share in Import Volume	%	100	100	100	100
Subject Countries	%	75.30	84.67	72.21	89.85
China	%	18.92	8.16	19.05	4.55
Other Countries	%	5.78	7.17	8.75	5.59
Import Price	Rs/Kg	24.25	36.67	37.90	25.65
Subject Countries	Rs/Kg	23.04	36.15	36.30	25.16
China	Rs/Kg	28.07	39.10	43.92	36.71
Other Countries	Rs/Kg	27.47	39.94	38.07	24.59

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

81. There has been a constant rise in demand of the product concerned throughout the injury period. Possible decline in demand is not as a possible reason of injury to the Domestic Industry.

(c) Developments in technology:

82. Technology for production of the product concerned has not undergone any change. Thus, development in technology is not a factor causing injury to the domestic injury.

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

83. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.

(e) Export performance of the domestic industry

84. The exports of the domestic industry constitute an insignificant share in their total sales. However, it is added that the injury information examined by the Authority is for domestic operations and therefore possible decline in exports volume have not caused injury to the Domestic Industry.

(f) Productivity of the Domestic Industry

85. It is noted that the productivity of the domestic industry in terms of production per employee as well as production per day has increased over the period.

86. It is thus noted that listed known other factors do not show that the domestic

industry could have suffered injury due to these other factors. The Authority examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that injury to the domestic industry has been caused by dumped imports:

- a. The imports of subject goods from subject countries were significantly undercutting the prices of the domestic industry in the market. Resultantly, the domestic industry was forced to reduce its prices significantly. The price depression and price suppression suffered by the domestic industry is primarily because of dumping of the product in the Country.
- b. The domestic industry was forced to reduce its prices even below cost of production causing financial losses. The price depression caused by the imports thus resulted in significant deterioration in profits of the domestic industry to such an extent that the domestic industry suffered significant financial losses.
- c. Performance of the domestic industry with regard to profits, cash flow and return on investments deteriorated as a result of price depression. Thus, dumping of the product has led to deterioration in performance of the domestic industry in terms of profits, cash flow and return on investments.

87. It is therefore, concluded that the domestic industry suffered material injury due to dumped imports.

K. Magnitude of Injury Margin

Injury Margin

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

Injury Margin

Unit in US\$ per Kg

Country/exporter	Unit	EU		USA	Korea RP	
		M/s. Nobel Industrial Chemicals B.V., Netherlands	Akzo	Other Producers and Exporters	All producers and exporters	All producers and exporters

<u>Loose</u>					
Non Injurious Price	US\$/kg	***	***	***	***
Landed Price	US\$/kg	***	***	***	***
Injury Margin	US\$/kg	***	***	***	***
Injury Margin %	%	***	***	***	***
Injury margin %	% Range	60-70%	85-95%	65-75%	30-40%
<u>Packed</u>					
Non Injurious Price	US\$/kg		***	***	***
Landed Price	US\$/kg		***	***	***
Injury Margin	US\$/kg		***	***	***
Injury Margin %	%		***	***	***
Injury margin %	% Range		70-80%	30-40%	40-50%
<u>Product under consideration as a whole</u>					
Non Injurious Price	US\$/kg	***	***	***	***
Landed Price	US\$/kg	***	***	***	***
Injury Margin	US\$/kg	***	***	***	***
Injury Margin %	%	***	***	***	***
Injury margin %	% Range	60-70%	80-90%	70-80%	30-40%

L. Indian industry's interest & other issues:

89. With regard to the contention of the interested parties that imposition of anti dumping duty will have serious implications on the availability and affordability of essential drugs, and contention of domestic industry that the product under consideration does not form a major element of cost in production of any of the downstream products and therefore it cannot be said that imposition of anti dumping duty shall have significant adverse impact on the cost and price of the product in the Country, the Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. With regard to earlier imposition of anti dumping duty, it is noted that anti dumping duties were earlier imposed twice on the product and the same remained in force. It is noted that imposition of anti-dumping measures would not restrict imports from the

subject countries in any way, and, therefore, would not affect the availability of the products to the consumers. The Authority recognizes that imposition of anti-dumping duties might affect the price level 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 advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or even more sources of supply.

M. Recommendation

90. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:

- b. The product under consideration has been exported to India from the subject countries below normal values.
- c. The domestic industry has suffered material injury on account of subject imports from subject countries.
- d. The material injury has been caused by the dumped imports of subject goods from the subject countries.

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

92. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty equal to the amount indicated in Column-8 of the

table below is recommended to be imposed on all imports of subject goods originating in or exported from the subject countries.

Duty Table

1	2	3	4	5	6	7	8	9	10
S N	Head ing / Sub-	Descriptio n of goods	Country of origin	Country of export	Producer	Exporter	Amou nt	Unit	Cu rre ncy
1	2903 12	Dichloro- methane (Methylen e Chloride)	Europea n Union	Europea n Union	M/s. Akzo Nobel Industrial Chemicals B.V, Netherlands	M/s. Akzo Nobel Industrial Chemicals B.V, Netherlan ds.	0.32	Per Kg	US \$
2	- do -	- do -	Europea n Union	Europea n Union	Any other than combination at Sl. No. 1		0.36	Per Kg	US \$
3	- do -	- do -	Any other than subject countrie s	Europea n Union	Any	Any	0.36	Per Kg	US \$
4	- do -	- do -	Europea n Union	Any other than subject countries	Any	Any	0.36	Per Kg	US \$
5	- do -	- do -	United States of Americ a	United States of America	Any	Any	0.33	Per Kg	US \$
6	- do -	- do -	Any	United	Any	Any	0.33	Per	US

			other than subject countries	States of America				Kg	\$
7	- do -	- do -	United States of America	Any other than subject countries	Any	Any	0.33	Per Kg	US \$
8	- do -	- do -	Korea RP	Korea RP	Any	Any	0.21	Per Kg	US \$
9	- do -	- do -	Any other than subject countries	Korea RP	Any	Any	0.21	Per Kg	US \$
10	- do -	- do -	Korea RP	Any other than subject countries	Any	Any	0.21	Per Kg	US \$

93. Subject to the above, the Authority confirms the preliminary findings dated 6th September, 2013.

94. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(J S Deepak)
Designated Authority