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**FILE NO. 7/26/2018-DGAD
GOVERNMENT OF INDIA
DEPARTMENT OF COMMERCE
MINISTRY OF COMMERCE & INDUSTRY
DIRECTORATE GENERAL OF TRADE REMEDIES
4TH FLOOR, JEEVAN TARA BUILDING,
5, PARLIAMENT STREET, NEW DELHI – 110001**

Dated the 5th March, 2019

FINAL FINDING NOTIFICATION

Case No. SSR 14/2018

Subject: Final finding in the second Sunset review of anti-dumping investigation concerning imports of Acetone originating in or exported from European Union, Singapore, South Africa and United States of America.

File No. 7/26/2018-DGAD: Having regard to the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter also referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred as the Anti-Dumping Rules or Rules), the Director General (hereinafter also referred to as the Authority) had initiated 2nd sunset review of anti-dumping investigation concerning imports of ‘Acetone’ (hereinafter also referred to as the subject goods), originating in or exported from European Union, Singapore, South Africa and United States of America (hereinafter referred to as the subject countries).

A. BACKGROUND

1. Whereas, the original investigation concerning imports of the subject goods originating in or exported from Chinese Taipei, European Union, Singapore, South Africa and USA was initiated by the Authority on 7th September, 2006. The Authority, vide Preliminary Findings dated 25th April, 2007 recommended imposition of Provisional duty, which was imposed by Notification No. 77/2007-Customs dated 19th June, 2007. The Final Findings No. 14/4/2006-DGAD, dated 4th January, 2008, recommended imposition of anti-dumping duty on the import of the subject goods, originating in or exported from Chinese Taipei, European Union, Singapore, South Africa and USA, which was given effect to vide Notification No. 33/2008-Customs dated 11th March, 2008.
2. Whereas, the Designated Authority conducted a midterm review investigation against imports of subject goods from Taiwan and recommended withdrawal of anti-dumping duty from subject goods originating in or exported from Taiwan vide Notification dated 10th

April, 2012, which was given effect to vide Notification No. 29 /2012-Customs (ADD) dated 29th May, 2012.

3. Whereas upon expiry of applicable duties at five years, the Authority initiated a sunset review and vide Final Finding Notification No. 15/1/2012-DGAD dated 13th December, 2013 recommended continuation of duty on import of the subject goods originating in or exported from European Union, Singapore, South Africa and USA. Accordingly, customs Authority issued a Notification No. 10/2014 Customs (ADD) dated 11th March 2014 for imposition of duty.
4. Whereas in terms of Section 9A(5) the Act, the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
5. Whereas in terms of Section 9A(5) the Act, the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
6. Whereas SI Group India Private Limited and M/s Deepak Phenolics Ltd (hereinafter also referred to as the petitioners) along with support letter from M/s Hindustan Organic Chemicals Limited (HOCL), filed an application requesting initiation of sunset review of the anti-dumping duties earlier imposed and seeking continuation of duties against imports from the European Union, Singapore, South Africa and United States of America. The request was based on the grounds that the expiry of the measure was likely to result in continuation of dumping of the subject goods and consequent injury to the domestic industry.
7. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated the 2nd sunset review investigation vide Notification No. 7/26/2018-DGAD dated 6th July, 2018 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from European Union, Singapore, South Africa and United States of America, and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
8. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject countries.

B. PROCEDURE

9. The procedure described herein below has been followed by the Authority with regard to the subject investigation;
 - i. The Director General, under the Anti-Dumping Rules, received a written application from the petitioners on behalf of the domestic industry, requesting for continuation of anti-dumping duties against the imports of subject goods from European Union, Singapore, South Africa and United States of America.
 - ii. On receipt of a duly substantiated application, the Authority issued Initiation Notification No. No. 7/26/2018-DGAD dated 6th July, 2018, published in the Gazette of India, Extraordinary, initiating second sunset review of anti-dumping duty imposed on imports of the subject goods originating in or exported from European Union, Singapore, South Africa and United States of America.
 - iii. The Embassy of the subject countries in New Delhi were informed about the initiation of the sunset review investigations in accordance with Rule 6(2) along with the copy of the initiation notification and non-confidential version of the petition.
 - iv. The Authority forwarded copies of the Notification to the following known producers / exporters in the subject countries (whose names and addresses were made available to the Authority by the petitioners) and provided opportunity to make their views known in writing within 40 days from the date of the letter in accordance with the Rule 6(2) and Rule 6(4) of the Anti-Dumping Rules.
 - a. Stonemill AB, Sweden
 - b. BOC Sciences, USA
 - c. EMCO Chemical Distributors Inc, USA
 - d. ICC Chemical Corporation, USA
 - e. BKM Resources Inc., USA
 - f. Miles Chemical Company Inc., USA
 - g. Hubbard-Hall, USA
 - h. Ecolink, USA
 - i. Seidler Chemical Co, Inc, USA
 - j. ADD Resins and Chemicals (Pty) Ltd, South Africa
 - k. Protea Chemicals, South Africa
 - l. Sasol Solvents, South Africa
 - m. Amka Products (Pty) Ltd. , South Africa
 - n. Rolfes Holdings Limited, South Africa
 - o. Yog Trading Pte. Ltd., Singapore
 - p. Vigor Sphere Pte. Ltd. , Singapore
 - q. Advance Pinnacle Technologies, Singapore
 - r. Polymer Technologies Pte. Ltd. , Singapore
 - s. Haresh Petrochem Singapore Pte Ltd., Singapore
 - v. There is no response from EU, South Africa and USA. The following producer and exporter from Singapore have filed a response to the exporter questionnaire
 - a. Mitsui & Co. (Asia Pacific) Pte. Ltd.
 - b. Mitsui Phenols Singapore Pte. Ltd.

- vi. The Authority forwarded copy of Notification to the following known importers/ consumers of subject goods in India (whose names and addresses were made available to the authority by the applicants) and advised them to make their views known in writing within forty days from the date of issue of the letter, in accordance with the Rule 6(4):
- a) M/s. C.J. Shah and Company
 - b) M/s. PCL Oil & Industries
 - c) M/s Kantilal Manilal & Co. Pvt. Ltd
 - d) M/s Sonkamal Enterprises
 - e) M/s. Khetan Brothers
 - f) M/s. Shubham Dyes & Chemicals Limited
 - g) M/s Acron Enterprises
 - h) M/s. Naiknavare Chemicals Limited
 - i) M/s. Paras Dyes & Chemicals
 - j) M/s. Torrent Pharmaceuticals Limited,
 - k) M/s. United Phosphorus Ltd.
 - l) M/s. Resins & Plastic Ltd.
 - m) M/s. Kailash Polymers
 - n) M/s Centrum Metalics Pvt. Ltd.
 - o) M/s. Wonder Laminates Pvt. Ltd.
 - p) M/s. Meghdev Enterprises
 - q) M/s. Satguru International
 - r) M/s. High Polymer Labs Ltd.
 - s) M/s. Rainbow Colours & Chemicals
 - t) M/s Haresh Kumar & Co.
 - u) M/s Bleach Marketing Pvt. Ltd.
 - v) M/s Karmen International (P) Ltd.
 - w) M/s Krishna Antioxidants Pvt. Ltd.
 - x) M/s NGP Industries Ltd.
 - y) M/s Farmson Pharmaceutical Gujarat Ltd.
 - z) M/s India Glycols Ltd.
 - aa) M/s Singh Plasticisers and Resins (I) Pvt.
 - bb) M/s National Plywood Industries Ltd.
 - cc) Kundan Rice Mills Ltd.
- vii. Whereas none of the importers/ consumers responded to the importer questionnaire sent.
- viii. The period of investigation (POI) for the purpose of the present review is 1st April 2017 to 31st March 2018 (12 months). However, injury analysis period covers 2014-15, 2015-16, 2016-17 and the period of investigation.
- ix. Transaction-wise imports data for the period of investigation and preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). The Authority has, relied upon the DGCI&S data and the data

- of co-operative producer exporter for calculating the volume and value of imports of the subject goods in India.
- x. The Authority made available non-confidential version of the evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
 - xi. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods.
 - xii. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority also provided opportunity to the interested parties to present their views orally in an oral hearing held on 18th September, 2018. The parties were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
 - xiii. The submissions made by the interested parties, arguments raised and information provided by various interested parties during the course of investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in this Final Finding.
 - xiv. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this Final Finding to the extent possible and verified the data / documents given by the domestic industry and producer exporter to the extent considered relevant and necessary.
 - xv. A Disclosure Statement was issued on 22.02.2019 containing essential facts under consideration of the Designated Authority, giving time up to 01.03.2019 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
 - xvi. Information provided by the interested parties on confidential basis were examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - xvii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded this Final Finding on the basis of the facts available.
 - xviii. *** in this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
 - xix. The exchange rate adopted by the Authority for the subject investigation is 1US\$= ₹65.33

C. SCOPE OF PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE

Views of domestic industry

10. The domestic industry has made the following submissions with regard to the scope of the product under consideration and like article:
 - a. The product under consideration for the purpose of the present investigation is the same as in the earlier investigations, i.e., Acetone.
 - b. The PUC is an organic chemical also known as Dimethyl Ketone and used for manufacturing bulk pharmaceuticals, agro chemicals, dye stuffs, certain explosives and downstream chemicals.
 - c. Since the present investigation is a sunset review investigation, product under consideration remains the same as defined in the previously conducted investigation, no significant developments have taken place over the period. Therefore the domestic industry refers to and relies upon the previous investigation with regard to product under consideration.

Views of the opposing interested parties

11. No submissions were made by the other interested parties with regard to the scope of product under consideration or like article.

Examination by the Authority

12. The product under consideration in the present sunset review investigation is Acetone. Acetone is organic chemical also known as Dimethyl Ketone.
13. The present investigation being a sunset review investigation, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigations. The product under consideration defined in the previous investigations is as follows:

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

7. It is a basic organic chemical produced in single grade. It is a colourless liquid with an agreeable ether-like odour. It is used in numerous organic synthesis either as solvent or as an intermediate. It is used in manufacture of bulk pharmaceuticals, agrochemicals, dyestuffs, certain explosives and downstream chemicals. Acetone is specifically used in manufacture of Isophorone, Diacetone, Alcohol, Methyl

Methacrylate and Bishphenol A. Besides this, it is used in manufacture of certain rubber chemicals or Oxy Acethylene Cellulose Acetate.”

14. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject countries and the product being produced by the Indian industry. The subject product produced by the domestic industry is comparable to the Product under consideration in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
15. The Authority holds that the product produced by the applicant domestic industry is like article to the Product under consideration as mentioned in the paragraphs above, in accordance with the Anti-Dumping Rules. The subject goods produced by the petitioner companies are being treated by the Authority as like article to the subject goods imported from the subject countries, within the meaning of Rule 2(d) of the Anti-Dumping Rules.

D. DOMESTIC INDUSTRY AND STANDING

Views of the domestic industry

16. The domestic industry made the following submissions with regard to eligibility of the domestic industry and standing:
 - i. The application was filed by M/s SI Group India Private Limited and M/s Deepak Phenolics Ltd along with support from M/s Hindustan Organic Chemicals Limited (HOCL).
 - ii. Deepak Phenolics has not imported the subject goods from the subject countries whereas SI Group has imported some quantity of the product under consideration which is only 1% of the total imports and 1% of the demand, from the subject countries. The petitioner imported the product under consideration under the advance license and is hence eligible to be considered as Domestic Industry.
 - iii. Petitioners are not related to any exporter or importer of the subject goods in the subject countries and importers in India either directly or indirectly.
 - iv. The Petitioners account for “a major proportion” of Indian production. Petitioners satisfy the requirement of standing to file the present petition and constitute “Domestic Industry” within the meaning of AD rules. This is without prejudice to the legal position that standing is not required to be examined at the stage of sunset reviews.
 - v. In compliance with the Initiation notification, the updated information for the period of investigation was filed by the petitioners considering HOCL as a part of the domestic industry.
 - vi. Petitioners have not claimed that Deepak Phenolics is an existing established Domestic Industry. Deepak Phenolics in part of the application only as a supporter.

- vii. Deepak Phenolic is directly relevant for likelihood of injury having made a significant investment of Rs. 1400 Crores and will commence the commercial production of the subject goods catering to the significant demand in India.
- viii. The applicants account for 100% of the domestic production. Therefore, the applicant companies constitute eligible domestic industry, as defined in Rule 2(b) of the Anti-Dumping Rules.

Views of the opposing interested parties

17. The opposing interested parties have made the following submissions with regard to eligibility of the domestic industry and standing:
- a. Deepak Phenolics cannot be considered as DI, since they have not begun production during the POI.
 - b. SI Group has imported Acetone throughout, the reasons for the same have neither been disclosed nor have been analysed. Therefore, the imports made by SI Group under Advance License should be re-assessed by the Authority.
 - c. Deepak Phenolics has not started production yet; in fact the plant is yet to be commissioned. Hence the parameters as proposed by the Article 3 amendment are not applicable to Petitioners – (1) Capacity Utilization, (2) Delay in start of reasonable commercial production, (3) Domestic Production compared to domestic market.
 - d. HOCL is included in the determination as per the Designated Authority. However, it is not clear if HOCL is included in the scope of DI or not. Clarification on the same with reasoning is required.

Examination by the Authority

18. The petition has been filed by M/s SI Group India Private Limited and M/s Deepak Phenolics Ltd alongwith support letter from M/s Hindustan Organic Chemicals Limited (HOCL). Later, the Authority directed the petitioners to file relevant data for M/s HOCL. The relevant data was filed by the petitioners as directed.
19. It is noted that M/s Deepak Phenolics has not started the production yet and HOCL has not manufactured the product under consideration throughout the year. The SI group along with supporters accounts for 100% of the total Indian production. The petitioners have certified that they are not related to any exporter or importer in India.
20. SI group has imported small quantity of the PUC from the subject countries during the period of investigation. The imports were made under duty free authorization scheme. After examination it was noted that imports are in insignificant quantity as compared to total imports of the goods or the production of the goods by the producer.
21. In view of the above and after due examination, the Authority holds that the applicants satisfy the standing requirements for the subject goods and constitute domestic industry under Rule 2(b) and Rule 5(3) of the AD Rules.

E. ISSUES RELATING TO CONFIDENTIALITY

Views of the domestic Industry

22. The domestic industry made the following submissions with regard to confidentiality
- a. The responding exporters have resorted to excessive confidentiality claims which have completely prevented the Petitioners from offering their comments.
 - b. Injury statements filed by the domestic industry are invariably either on actual basis or on indexed basis. The comparison of the non-confidential version of the injury parameters by the domestic industry and by the responding exporters will clearly show the extend of excessive confidentiality claimed by the responding exporters.
 - c. The domestic industry has provided indexed figures of each parameters showing the trend of injury parameters, the exporters opted to provide range of the Indexed figures. The non-confidential version provided by the responding exporters is again an attempt to curtail the right of the petitioner to defend its interest.
 - d. The exporter has claimed information like product list, channel of distribution, production process, production flowchart, name of raw material, information regarding exports to India, sales of goods of the company, sales price structure, statement showing installed capacity, information related to cost of production, information related to subsidiary, information with regard to exports to third countries etc. Non-confidential version of the questionnaire response is grossly inadequate. The interested parties have not disclosed all such information that they are obliged to disclose under the Rules. Even information that is publicly available has not been disclosed in the non-confidential version
 - e. The petitioners have filed revised non confidential version of the information as per the recent Trade Notice No 10/2018 dated 7th September, 2018.

Views of the other interested parties

23. The opposing interested parties have made the following submissions with regard to confidentiality:
- a. Evidence used for various costs to Construct Normal Value has been claimed as confidential. The claim is arbitrary in nature and directly hurts the interest of the Exporters.

Examination by the Authority

24. Submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not

disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

F. MISCELLANEOUS SUBMISSIONS

Views of the domestic industry

25. The domestic industry made the following submissions:

- a. There are plethora of cases wherein the Designated Authority has included imports under advance license for examination of dumping and injury, while it is considering that these imports have occurred for export production. There is neither any legal nor any factual basis of exclusion of imports under advance license from determination of injury.
- b. Authority has in other cases also held that the fact that the imports were made under advance license does not mean that the same does not cause injury to the domestic industry.

Views of the opposing interested parties

26. The opposing interested parties have made the following submissions:

- a. As per market intelligence, a large portion of the imports have been made during the injury period as well as the POI under advance license scheme. Since the schemes are made to incentivize export oriented production and are exempted from levy of trade remedial levy, they should be excluded from the import volumes for injury analysis.
- b. Practice and Policies between different limbs of the Government should be consistent as per the Madras HC Judgment. Imports under Advance License are exempted from any anti-dumping duties to boost exports, whereas duties are being imposed now using the import volumes including such imports. According to CESTAT in Thai Acrylic Fibre v. DA, imports under Advance License do not enter Indian Market and compete with domestic sales.
- c. Imports under Advance License are beyond the scope of SSR. To examine if the cessation of duties will lead to continuation or recurrence of dumping and injury, examining imports that never affected by these duties is absurd. Only imports that were affected by the duty and were injuring the DI should be examined. Advance License imports will not be affected irrespective of the fact that there is a duty or not.

Examination by the Authority

27. The specific submissions made by the opposing parties and considered relevant, are addressed by the Authority as below:
- a. The Authority notes that the law clearly envisages that the anti-dumping duty can be extended further from time to time, if it is found that dumping and consequent injury to the domestic industry is likely to recur in the event of cessation of anti-dumping duty. The Authority recommends anti-dumping duty only after following the requirements prescribed under the laws.
 - b. The argument that imports made under advance license should be excluded from the total imports was examined. The Authority notes that imports/exports made under advance license cannot be considered to have not affected the domestic industry or the price in the domestic market. An Advance license/authorization holder has a choice either to import the inputs on a duty free basis or procure the same from indigenous sources by using the mechanism of Advance Release Order. The purpose of injury analysis is to examine and capture the effect of dumped imports on the domestic industry. Therefore, it would not be reasonable to exclude the duty free imports from the injury analysis. Further, import under advance license is a benchmark for the price at which goods can be imported by a consumer without payment of taxes and duties. It would not be appropriate to consider that imports made under advance license do not cause injury to the domestic industry. In fact exporters and importers should not worry if their claim is that imports take place only under duty free scheme because in that case imposition of duty will not impact them at all.

G. METHODOLOGY AND DETERMINATION OF NORMAL VALUE, EXPORT PRICE & DUMPING MARGIN

28. According to Section 9A (1) (c) of the Act, 'Normal Value' in relation to an article means:
- “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*
- 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*

The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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

Views of the domestic industry

29. The domestic industry has made the following submissions with regard to the determination of normal value, export price and dumping margin:
- a. There is no evidence publicly available with regard to actual transaction price of the producers. In view of this, the normal values for subject countries have been determined on the basis of estimates of cost of production
 - b. To calculate the net export price, ocean freight, marine insurance, commission, bank charges, port expenses and inland freight should be adjusted.
 - c. The dumping margin is not only positive, but also significant.
 - d. There is continued dumping of the subject goods from the subject countries despite imposition of anti-dumping duties.
 - e. Since the responding exporter/producer has not filed the necessary information within reasonable time, Authority is requested to reject the incomplete questionnaire response filed by the responding party and treat them as non-cooperating, in compliance with Rule 6(8) and Initiation notification.
 - f. Neither the responding exporter/producer nor their representatives are new to these investigations and therefore they cannot claim that they were not aware of the existence of sunset review questionnaire Part 2. This is a clear case of intentional omission.

Views of the opposing interested parties

30. Authority should assess responses of exporters to determine if there has been a continuation of dumping at all.

Examination by Authority

31. At the stage of initiation, the Authority proceeded as per the information given by the petitioner. Upon initiation, the Authority advised the producers/ exporters in the subject countries to respond to the notice of initiation and provide information relevant to determination of their normal value and export price. Responses were received only from the exporters of Singapore i.e. Mitsui & Co. (Asia Pacific) Pte. Ltd. and Mitsui Phenols Singapore Pte. Ltd.

I. NORMAL VALUE

SINGAPORE: M/s Mitsui Phenol Singapore Pte. Ltd. & M/s Mitsui & Co. (Asia Pacific) Pte. Ltd.

32. The responding producer has submitted details of the sales of the subject goods in their home markets, the information so provided has been relied upon to determine the Normal value for the subject goods after carrying out the ordinary course of trade test and sufficiency test. They have sold the goods directly and through their related company namely M/s Mitsui & Co. (Asia Pacific) Pte. Ltd., The adjustments as claimed in respect of storage cost, bank charges, credit costs and other adjustments were accepted after verification to arrive at ex-factory normal value. The ex-factory cost was determined based on the books of accounts of the company and the same was compared with the ex-factory selling price of the goods sold in the domestic market. It was found that 100% sales are profitable. The Normal Value so determined is as mentioned in the dumping margin table below.

EU, SOUTH AFRICA AND USA.

33. The Authority notes that no other exporter/producer from other subject countries has responded to the exporter's questionnaire. Therefore, the Authority decides to construct the Normal Value for EU, S. Africa & USA based on best available facts in terms of second proviso of Para 7 of Annexure 1 to the AD Rules. Accordingly, the Normal Value of the product under consideration is to be determined based on constructed costs of production duly adjusted to include selling, general & administrative costs and profits. The constructed normal value is as mentioned in the dumping margin table below.

II. EXPORT PRICE

SINGAPORE: M/s Mitsui Phenol Singapore Pte. Ltd. & M/s Mitsui & Co. (Asia Pacific) Pte. Ltd.

34. The M/s Mitsui Phenol Singapore Pte. Ltd. has produced and exported goods to India through their related exporter M/s Mitsui & Co. (Asia Pacific) Pte. Ltd. They have furnished complete information relating to exports to India. The adjustments have been claimed on account of storage cost, Bank Charges and Credit Cost, the same were accepted after verification. The net export price so determined is as mentioned in the dumping margin table below.

EU, SOUTH AFRICA AND USA.

35. The Authority notes that none of the exporters from other subject countries have participated in the present case. In view thereof, the Authority decides to construct the net

export price (with applicable adjustments) for all those exporters, who have not filed response, from DGCI&S import data.

H. DUMPING MARGIN

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

SN	Particulars	NV/CNV	NEP	Dumping Margin		
		USD/MT	USD/MT	USD/MT	%	Range
1	Mitsui Phenols Singapore Pte. Ltd. &	***	***	***	***	5 - 15
2	EU	***	612.03	***	***	35-45
3	South Africa	***	601.75	***	***	35-45
4	USA	***	671.59	***	***	35-45

37. It is seen that the dumping margin is positive and above *de-minimis* levels.

I. DETERMINATION OF INJURY AND CAUSAL LINK

Views of the domestic industry

38. The domestic industry has submitted as follows with regard to injury and causal link:
- Demand for the PUC has increased during the injury period. It has increased by 17% in the Period of investigation since the base year.
 - Imports from the subject countries have decreased in absolute terms during the injury period. The share of imports from subject countries constituted about 8% of total imports in India during the POI.
 - Imports from other countries have increased, however the Domestic Industry has filed a separate petition with regards to the dumped imports of the PUC from third countries.
 - There has been a significant price undercutting by the dumped imports from each of the subject countries.
 - Prices of Domestic Industry are suffering from Price suppression as decline in selling price is more than decline in cost of production.
 - Landed price of imports is much below the non-injurious price calculated because of which the domestic industry has been forced to sell at prices below the fair selling or non-injurious price despite existence of Anti-dumping duties.
 - Production and capacity utilization decreased in 2015-16 and then increased in 2016-17 and the POI. The sales of the domestic industry decreased in till 2016-17, but increased in the POI.

- h. Despite the increase in Demand and market share of the Domestic Industry, the profitability has suffered and the Domestic Industry is in losses throughout the injury period.
- i. Inventories have increased over the injury period and are significant during the POI.
- j. The Domestic Industry has been suffering on profitability. The DI has remained in losses throughout the injury period, with the losses increasing in 2014-15 and 2016-17 with a minor improvement in the POI.
- k. The Return on Capital Employed has followed a similar trend while remaining negative throughout the injury period, with only a minor improvement coming in the POI.
- l. Imports from the third countries have increased. Petitioner has filed a separate petition for the same since the current investigation is a sunset review and new countries could not have been added.
- m. Demand for the product has increased and hence cannot be the cause for injury.
- n. Other known factors have been analysed are not the cause of injury to the Domestic Industry.
- o. The petitioners are claiming adverse price effect in the product under consideration and not adverse volume effects.
- p. Domestic Industry is forced to align its prices with the dumped imports to sell the PUC in the market.
- q. Since HOCL is a central government owned PSU, many macro-economic aspects of the company are managed by the government. Therefore, the macro economic issues that are being raised about HOCL cannot be treated as inefficiency on the part of working management of the company.
- r. Petitioners have submitted evidences which show HOCL has the lowest consumption factor and therefore is an efficient company as far as production of the product under consideration is concerned.
- s. The fact that import prices have not been aligned to raw material costs itself establishes the discriminatory pricing resorted by the foreign producers.

Views of the opposing parties

39. The submissions made by the opposing interested parties with regard to injury are as follows:
- a. Injury analysis is only to be done after assessment of standing of DI. Volume injury must consider imports made under Advance License.
 - b. There is no volume injury as base year v. POI. Imports have significantly declined. The base year v. POI Imports in relation to production and demand/consumption have declined.
 - c. Despite the alleged undercutting, the Petitioners are performing well.
 - d. There is higher growth in profits in periods when there was higher undercutting. Thus, other factors are affecting the performance of the Petitioners and not the subject imports.

- e. Alleged undercutting has not affected the pricing of petitioners, since the costs have been aligned to the raw material pricing. Hence there is no suppression/depression.
- f. It has been admitted in the petition that economic parameters like production and sales volume have shown a positive trend. Hence, there is no injury on economic parameters.
- g. Even if continued dumping is established, there is no continued injury and hence causal link has broken.

Examination by Authority

- 40. The injury analysis made by the Authority hereunder addresses the various submissions made by the other interested parties.
- 41. Rule 11 of the Anti-Dumping Rules read with its Annexure – II thereto 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.
- 42. Rule 23 of the Rules provide that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
- 43. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries. For this purpose, 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 and the magnitude and margin of dumping in accordance with Annexure – II of the Rules.

III. ASSESSMENT OF DEMAND

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

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Sales of domestic industry	MT	19,937	22,401	21,620	22,341
2	Sales of Supporter	MT	6,167	2,648	4,722	10,609
3	Imports from subject countries	MT	20,701	24,080	10,167	14,539
4	Imports from Countries attracting duty	MT	104,082	94,173	56,869	42,257
5	Imports from other countries	MT	1,989	20,096	68,801	89,811
6	Total demand	MT	152,876	163,399	162,180	179,556
6a	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>106</i>	<i>117</i>

45. It is noted that the demand for the subject goods has increased throughout the injury period including POI except for the year 2016-17.

IV. VOLUME EFFECTS OF DUMPED IMPORTS

i. Import volumes and market share of imports

46. 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 transaction wise import data procured from DGCI&S.

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Imports from subject countries	MT	20,701	24,080	10,167	14,539
2	Imports from Countries attracting duty	MT	104,082	94,173	56,869	42,257
3	Imports from other countries	MT	1,989	20,096	68,801	89,811
4	Total imports	MT	126,772	138,350	135,838	146,606
Subject Countries Imports in relation to						
5	Indian production	%	79.67	96.48	38.09	44.23
6	Demand	%	13.54	14.74	6.27	8.10

47. It is seen that:

- The Imports from the subject countries have decreased in the POI as compared to base year but have increased in POI in comparison to the previous year.
- Imports from subject countries in relation to Indian production increased in 2015-16, thereafter declined.
- Imports in relation to total demand have shown the same trend as the imports in relation to production.

V. PRICE EFFECT OF DUMPED IMPORTS

48. With regard to the effect of the dumped imports on prices, lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub rule (2) of rule 18 the Director General shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a, significant degree."

49. In terms of Annexure II (ii) of the Rules, the Director General is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price underselling, price suppression and price depression, if any.

i. Price Undercutting

50. In order to determine whether the imports are undercutting the prices, the domestic industry has given information for comparison between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The DI further stated that price of bulk and drum packing is different and have given details for both separately. Accordingly, the domestic prices and margin of undercutting for all four subject countries is shown as per the table below:

EU

SN	Particulars	Unit	POI	Bulk	Packed
1	Domestic Sales Realization (NSR)	Rs/MT	***	***	***
2	Landed Value of imports	Rs/MT	50,956	50,917	53,579
3	Price undercutting	Rs/MT	***	***	***
3a	Price undercutting	%	***	***	***
3b	Price undercutting	Range	5-15	5-15	10-20

Singapore

SN	Particulars	Unit	POI	Bulk	Packed
1	Domestic Sales Realization (NSR)	Rs/MT	***	***	***
2	Landed Value of imports	Rs/MT	50,803	50,765	64,640
3	Price undercutting	Rs/MT	***	***	***
3a	Price undercutting	%	***	***	***
3b	Price undercutting	Range	5-15	5-15	0-10

South Africa

SN	Particulars	Unit	POI	Bulk	Packed
1	Domestic Sales Realization (NSR)	Rs/MT	***	***	***
2	Landed Value of imports	Rs/MT	51,612	49,589	67,859
3	Price undercutting	Rs/MT	***	***	***
3a	Price undercutting	%	***	***	***
3b	Price undercutting		5-15	5-15	(negative)

USA

SN	Particulars	Unit	POI	Bulk	Packed
1	Domestic Sales Realization (NSR)	Rs/MT	-	-	***
2	Landed Value of imports	Rs/MT	-	-	56,864
3	Price undercutting	Rs/MT	-	-	***
3a	Price undercutting	%	-	-	***
3b	Price undercutting	Range	-	-	10-20

51. It is seen that the price undercutting, taken as a whole for the differently packed goods, is positive from European Union, Singapore and South Africa in the period of investigation whereas it is negative for United States. As regards United States, there are imports of only packed acetone from United States which are undercutting the prices of the domestic industry.

ii. Price Suppression and Depression

52. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the domestic industry has given information for the changes in the costs and prices over the injury period as below:

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Landed price of Imports -EU	Rs/MT	73,459	44,936	88,144	50,956
1a	<i>Trend</i>	<i>Indexed</i>	100	61	120	69
2	Landed price of Imports - Singapore	Rs/MT	66,331	36,814	44,881	50,803
2a	<i>Trend</i>	<i>Indexed</i>	100	56	68	77
3	Landed price of Imports -South Africa	Rs/MT	80,507	53,452	50,997	51,612
3a	<i>Trend</i>	<i>Indexed</i>	100	66	63	64
4	Landed price of Imports -USA	Rs/MT	51,450	-	-	56,864
4a	<i>Trend</i>	<i>Indexed</i>	100	-	-	111
5	Landed price of Imports - Subject countries	Rs/MT	69,829	42,327	45,065	50,904
5a	<i>Trend</i>	<i>Indexed</i>	100	61	65	73
6	Cost of sales of domestic industry	Rs/MT	***	***	***	***
6a	<i>Trend</i>	<i>Indexed</i>	100	65	69	76
7	Selling price of domestic industry	Rs/MT	***	***	***	***
7a	<i>Trend</i>	<i>Indexed</i>	100	63	74	76

53. It is seen that the landed value has declined in POI as compared to base year. The Cost of sales and selling price has also declined during the injury period as compared to base year. But the landed value of imports is below the cost price and selling price of the Domestic Industry throughout the injury period including POI (except for base year when Landed Value was higher than the cost and selling price). Further, it is noted that selling price is lower than cost of sales which is due to presence of low prices imports in the market.

Therefore, it is seen that the imports are having a suppressing and depressing effect on the domestic prices.

iii. Price Underselling

54. The price underselling has been evaluated by comparing the non-injurious price with the landed value of the subject goods to arrive at the extent of price underselling.

SN	Particulars	UOM	EU	Singapore	South Africa	USA
1	Import Volume	MT	6,996	7,184	338	20
2	Landed value of Imports	Rs/MT	50,956	50,803	51,612	56,864
3	Non-Injurious Price*	Rs/MT	***	***	***	***
4	Price Underselling	Rs/MT	***	***	***	***
4a	Price Underselling	%	***	***	***	***
4b	Price Underselling	Range	5-15	5-15	5-15	5-15

*(*Countrywise NIP has been determined separately bulk and packed goods and weighted average is taken on the basis of imports quantity)*

55. From a comparison of the landed value (without adding anti-dumping duties) with the non-injurious price, it is noted that the price underselling is positive.

VI. ECONOMIC PARAMETERS OF DOMESTIC INDUSTRY

56. Annexure II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of alleged 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. The various injury parameters relating to the domestic industry are discussed herein below:

i. Production, Capacity, Capacity Utilization and Sales Volumes

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

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Capacity	MT	22,500	22,500	22,500	22,500

2	Production	MT	19,816	22,311	21,974	22,263
3	Capacity Utilization	%	88.07	99.16	97.66	98.95
4	Domestic Sales	MT	19,937	22,401	21,620	22,341

58. It is seen that the capacity of the domestic industry has remained constant throughout the injury period. The production, capacity utilization and sales of the domestic industry has increased during the POI when compared to base year.

ii. Market Share in Demand

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

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Subject Countries' imports	%	13.54	14.74	6.27	8.10
2	Countries Already Attracting Duty	%	68.08	57.63	35.07	23.53
3	Other Countries	%	1.30	12.30	42.42	50.02
4	DI Domestic Sales	%	13.04	13.71	13.33	12.44
5	Supporters	%	4.03	1.62	2.91	5.91
6	Total	%	100.00	100.00	100.00	100.00

60. It is seen that the market share of the subject countries have declined throughout the injury period whereas, market share of the domestic sales have also declined. The market share of other countries has increased. It has been the claim of the petitioner that dumped imports keep shifting from country to country as and when the duties are imposed and they cease to exist.

iii. Inventories

61. The data relating to inventory of the subject goods as shown in the following table indicates an increasing trend:

UOM	2014-15	2015-16	2016-17	POI
MT	***	***	***	***
Trend	100	57	110	167

iv. Profit or Loss, Cash Profits and Return on Investment

62. The profit/loss, cash profits and return on investment of the domestic industry is as follows:

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Profit/(Loss) - Domestic	₹ / MT	***	***	***	***
1a	<i>Trend</i>	<i>Index</i>	<i>(100)</i>	<i>(159)</i>	<i>146</i>	<i>(42)</i>
2	Profit/(Loss) – Domestic	₹ Lacs	***	***	***	***
2a	<i>Trend</i>	<i>Index</i>	<i>(100)</i>	<i>(141)</i>	<i>135</i>	<i>(38)</i>

3	Cash Profit	₹ Lacs	***	***	***	***
3a	<i>Trend</i>	<i>Index</i>	<i>(100)</i>	<i>(172)</i>	<i>194</i>	<i>(25)</i>
4	Return on Capital Employed	%	***	***	***	***
4a	<i>Trend</i>	<i>Index</i>	<i>(100)</i>	<i>(200)</i>	<i>263</i>	<i>(84)</i>

63. It is noted that the domestic industry is suffering losses throughout the injury period except 2016-17. The domestic industry has claimed that these losses are due to continuous presence of dumped imports. The losses to the domestic industry have declined during period of investigation as compared to base year. The company is faced with cash losses and negative return on investments during POI.

v. Employment, Wages and Productivity

64. The employment and wages are below:

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	Wages per Unit	₹ / MT	***	***	***	***
1a	<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>74</i>	<i>88</i>	<i>93</i>
2	No of Employees	Nos	***	***	***	***
2a	<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>99</i>	<i>110</i>	<i>113</i>
3	Productivity /Employee	MT	***	***	***	***
3a	<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>114</i>	<i>101</i>	<i>99</i>
4	Productivity /day	MT	57	64	63	64
4a	<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>113</i>	<i>111</i>	<i>112</i>

65. It is seen that the number of employees has increased over the injury period. The wages per unit has declined over the injury period. Productivity per employee has declined marginally in the period of investigation whereas productivity per day has increased in the period of investigation.

vi. Magnitude of Dumping

66. It is noted that the dumping margin is positive and above de-minimis.

vii. Injury Margin

67. The Injury margin has been calculated for the cooperative responding producer exporter from Singapore by comparing the non-injurious price with the landed value of the subject goods as verified and for others from import data.

SN	Particulars	LV	NIP	Injury Margin		
		Rs /MT	Rs/MT	Rs /MT	%	Range
1	Mitsui Phenols Singapore Pte. Ltd.	***	***	***	***	5 - 15
2	EU	50,956	***	***	***	5 - 15

3	South Africa	51,612	***	***	***	5 - 15
4	USA	56,864	***	***	***	5 - 15

(*Countrywise NIP has been determined based on weighted avg of imports in bulk and packed)

J. CONCLUSION ON INJURY

68. It is thus seen that the Imports from the subject countries have decreased in the POI as compared to base year but have increased in POI in comparison to the previous year. Imports have increased significantly in post POI period. The dumped imports are undercutting the prices of the domestic industry in the market. Dumped imports have had an adverse price effect in terms of price depression and price suppression. The domestic industry is also suffering significant price underselling. The dumping margins determined are significant. With regard to consequent impact of dumped imports on the domestic industry, it is noted that dumped imports from subject countries have adversely impacted the performance of the domestic industry in respect of profits, cash profits and return on investment. The inventories with the domestic have also increased. The Authority concludes that the domestic industry has suffered continued injury.

K. LIKELIHOOD OF CONTINUATION / RECURRENCE OF DUMPING & INJURY

Views of the domestic industry

69. The submissions made by the Domestic industry with regard to the likelihood of continuation or recurrence of dumping and injury are as follows:

- a. Producers in subject countries maintain huge capacities to produce subject goods.
- b. Producers in subject countries are having freely disposable production capacities.
- c. The exporters from subject countries have very high export orientation worldwide as can be clearly seen from the increase in total exports.
- d. The landed price of imports is below the cost and selling price of the domestic industry, hence the imports are likely to suppress the prices of domestic industry.
- e. Despite existing anti-dumping duty, the exporters from China have continued exports to India at dumped prices. Thus, it is very likely that in the absence of such a duty, the dumping of the subject goods in India will continue.
- f. Dumping margin from each of the subject countries is positive and above de minimus levels. The subject countries have continued to export the product under consideration at dumped prices throughout the injury period. In the event of cessation of anti-dumping duty, the imports in all likelihood will continue at dumped prices causing injury to the domestic industry.
- g. Designated Authority has by now decided a number of midterm and sunset review investigations. Determination of injury in midterm and sunset review is the same or similar. The Designated Authority has in the past recommended extension of anti-dumping duties in similarly placed situations. Further, a number of decisions of the

Hon'ble Tribunal are directly applicable in the facts & circumstances of the present case.

- h. There are number of countries in the world that have extended anti dumping duties even beyond 20-20 years. The domestic industry has placed on record the list of such cases and countries that have extended duties beyond 20-30 years.
- i. India is attracting anti-dumping duties on its exports of jute bags to Brazil since 1992. Though there is no known export of jute bags to Brazil, yet these duties have been extended in successive sunset reviews in this case.
- j. Despite the anti-dumping duties in force, the domestic industry has not been able to earn a reasonable return on the capital employed. Any further decline in profitability will hit the domestic industry hard.
- k. It is evident that if the duty was to be ceased, the imports are likely to enter the market at dumped prices. Thereafter, the domestic industry would not be in a position to maintain its market share, unless it is willing to sell at less than profitable prices and vice versa.
- l. The total profits of the domestic industry would fall and its return on investment would reduce further. Therefore, it can be concluded that the subject imports are likely to cause injury to the domestic industry in the event of cessation of duty.
- m. Trade Notice No. 02/2017 does not mention filing of post POI data as a mandatory criterion for filing sunset review, failing which the investigation would be terminated. Regardless, the Post POI data is not required in the current case to establish merits.
- n. All evidences have been provided for the likelihood parameters such as excess capacity, freely disposable capacities and export orientation.
- o. Domestic Industry is suffering injury. Likelihood is also to be considered in case a determination is made that the domestic industry is not suffering from injury.
- p. Freely disposable capacity is calculated as the capacity which is unutilized by the exporters, which capacity minus capacity and evidences have been provided for the same. Producers/Exporters were not able to refute the same with any evidence.
- q. Mitsui group has not filed response to part 2 of the exporter questionnaire response, which seeks information from the exporter on their capacities, capacity expansion, transaction wise third countries exports, domestic sales, inventories etc. which is indicative of their likelihood behaviour.
- r. Global exports to China are decreasing gradually due to the recent capacity expansions carried out in China. Due to the self-sufficiency, China has removed the need for imports and therefore, India remains to be a highly lucrative market.

Views of the opposing parties

70. The submissions of the other interested parties, with regard to the likelihood of continuation or recurrence of dumping and injury are summarized hereunder:

- a. Post-POI data has not been provided; hence likelihood determination is not possible. DA is requested to reject data and terminate the investigation.

- b. Petitioners have tried to shift Burden of Proof on the exporters to establish no likelihood, whereas the averment has no legal basis.
- c. No post POI data has been provided; hence it cannot be assessed if subject goods are being currently dumped or not.
- d. No evidences have been provided for alleged large capacities in subject countries. If there is any, the capacities in Singapore are getting absorbed by third countries. Also, since there is no capacity expansion in the countries, there is no likelihood involved.
- e. Freely disposable capacity is calculated by a mere subtraction of demand in subject countries from alleged capacities. Hence, the calculation is not validated.
- f. There is no evidence at all for alleged high export orientation of the exporters.
- g. Singapore export prices to third countries are comparable with Indian prices even after addition of ADD. Should there be attractiveness, there would have been an increase in volume of imports. Duties have no effect, since the price difference is not significant.
- h. No post-POI data with respect to inventory levels in the Subject Countries has been provided, nor is there any other evidence for the same.
- i. China is a net-importer of the subject goods, with a similar pricing as India and hence is much more attractive destination for the Exporters.

Examination by Authority

71. The Authority has examined the likelihood of continuation or recurrence of dumping and injury in case of cessation of anti-dumping duty, in terms of Annexure II (vii) of the Rules. Clause (vii) of Annexure II to the rules provides, inter alia for four factors which are required to be taken into consideration, viz.:
- a. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
 - b. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
 - c. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
 - d. Inventories of the article being investigated.

Further, the Authority has also examined any other relevant factor having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry.

72. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the

event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry and other interested parties, in order to evaluate the likelihood of continuation or recurrence of dumping or injury. The examination of the parameters of likelihood is as follows:

i. Post POI imports

73. For examining the Post POI period imports into India, we have obtained data from DGCI&S and from that it can be seen that imports during Post POI have further increased when compared to POI.

SN	Import Volume	UOM	POI	Post POI (Apr'18-Dec'18)	Post POI annualised
1	Subject countries	MT	14,539	30,098	40,131
2	EU	MT	6,996	6,169	8,225
3	Singapore	MT	7,184	15,638	20,851
4	South Africa	MT	338	666	888
5	USA	MT	20	7,625	10,167

74. Further it is noted that the prices from subject countries in post POI has declined as compared to POI despite increase in raw material prices. In the event of cessation of anti-dumping duties, the imports are likely to enter the Indian market at dumped prices.

ii. Excess Surplus Production Capacities

75. The Domestic Industry has given information regarding Excessive production capacities in subject countries:

Sr. No	Exporter	Countries	Capacity in MT
1	INEOS	Germany	415000
2	INEOS	Belgium	395000
3	Borealis	EU	120000
4	Versalis	EU	185000
5	Novapex	EU	108000
6	CESPA	EU	370000
7	Others	EU	158000
9	Shell	USA	360000
10	INEOS	USA	330000
11	Honeywell	USA	310000
12	DOW	USA	180000
13	SABIC	USA	208000
14	Haverhill	USA	173000
15	Axiall	USA	140000
16	DOW	USA	77000
19	Mitsui Phenol	Singapore	180000

Sr. No	Exporter	Countries	Capacity in MT
20	Sasol solvents	South Africa	175000
21	Others		36740
22	Total		3920740

Source: ICIS reports

76. Summarized position can be seen as below –

SN	Particulars	EU	USA	Singapore	South Africa	Total
1	Capacities	18,41,000	18,14,740	1,80,000	1,75,000	40,10,740
2	Demand	17,00,000	14,00,000	2854	65,200	31,65,200
3	Surplus	1,41,000	4,14,740	1,77,146	1,09,800	8,45,540

77. Domestic industry has stated that the huge production capacities in the subject countries in excess of the demand in their respective market indicates the likelihood of diversion of surplus quantities.
78. The exporters have stated that “Excess capacity” in a country per se does not mean likelihood of dumping. The production in the subject countries as on date is already tied to demands in different countries. The produced quantities is not lying idle that it would be immediately diverted to India as apprehended by the domestic industry.
79. It is however noted that the exporters have not provided any information in the prescribed format to show that the capacities with the exporters are already tied up to the demands in different countries. In fact, it is seen that there is significant increase in imports from Singapore in the post POI (imports were almost three times the levels of POI). Further, the information provided by the petitioner on the basis of customs data shows that the weighted average export price from Singapore to third countries is lower than export price to India and there are significant exports to a number of countries at prices below export price to India. On the basis of evidence on record, it is noted that there exist excess production capacities in the subject countries and there is a possibility of diversion of the excess quantities to Indian market, in the event of cessation of anti-dumping duties.

iii. High export orientation of the foreign producers

80. The domestic Industry has furnished details of exports made by the subject countries during investigation period as given below:

SN	Subject countries	UOM	2014-15	2015-16	2016-17	2017-18
1	EU	MT	692,778	708,625	705,406	826,805
2	USA	MT	162,863	173,173	124,501	117,989
3	Singapore	MT	165,764	138,242	170,237	127,887
4	South Africa	MT	69,376	74,645	75,038	73,327
5	Total	MT	1,090,782	1,094,686	1,075,182	1,146,008

81. It is noted that the exports by the subject countries have been increasing over the years, indicating their high export orientation. The exporter from Singapore have contested that high export orientation worldwide is not indicative of any likelihood of increased dumping into India. It is however noted that exports to third countries are at a price lower than exports to India, imports from Singapore in post POI are almost three times the imports in POI and there are significant exports to a number of countries at a price lower than export price to India.

iv. Attractiveness of India as a market

SN	Particulars	UOM	EU	USA	Singapore	South Africa
1	Landed Value of imports	₹ /MT	50,956	56,864	50,803	51,612
2	Net selling price of Domestic Industry	₹ /MT	***	***	***	***
3	Cost of sales of the domestic industry	₹ /MT	***	***	***	***

82. It can be seen that the Landed value of imports is below the Cost of sales & the Net selling price of the Domestic Industry. The exporters have strongly contested the price attractive of Indian market as the prices at which subject goods are exported to third countries are comparable to India. The Authority has further examined the price of exports from subject countries to third countries, and it is found that the exporters of subject countries are exporting the product under consideration to a number of countries at prices lower than Indian prices, thereby clearly showing price attractiveness of Indian market. In the event of cessation of anti-dumping, the exporters in subject countries are likely to export the product in India at dumped pricing causing injury to the domestic industry.

Conclusion on Likelihood

83. In view of the above facts and evidence on record, it is noted that there is a likelihood of dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duties.

L. CAUSAL LINK

Views of domestic industry

84. The submissions of the domestic industries, with regard to causal link are summarized hereunder:

- a. Price Undercutting is positive from all the countries, infact the landed price is even below the cost of sales.
- b. The prices of the Domestic Industry are being suppressed by the dumped imports.
- c. Domestic Industry is forced to align its prices to that of imports, and is consequently suffering heavy price injury.

- d. Dumping has continued despite existence of Anti-dumping duties.
- e. The period for which duty has been in force is no relevant consideration to determine whether antidumping duty is required to be extended further.
- f. The GOI has approved a restructuring plan for HOCL, which will carry out a structured closure of non-viable units and will raise revenue for the effective plant of Acetone. During the 1st quarter of 2018-19, the plant was running at 98% capacity utilization.
- g. The Petitioners have filed a separate petition for anti-dumping investigation against dumped imports from other countries. However, since the landed price of the subject countries without ADD is very much comparable to the landed price from other countries shows that there is a huge likelihood of injury from the subject countries on cessation of ADD.
- h. Sickness of HOCL was due to the underperforming Rasayani plant. Under the new restructuring planned passed by the GOI, the Rasayani plant will be sold with proceeds from the sale going to the PUC producing Kochi plant.
- i. Separate statements showing profits of Kochi and Rasayani plants have been submitted. It established that the Kochi plant is efficient.

Views of the opposing parties

85. The submissions of the other interested parties, with regard to causal link are summarized hereunder:

- a. Period of duty is irrelevant, as asserted in the petition and the petitioners will perform at sub-optimal levels no matter how long the duty goes.
- b. HOCL injury is self-inflicted in nature and due to their own inefficiencies.
- c. Price of imports from Japan and Thailand is similar to other countries. After expiry of duty, imports from Thailand count for 42% of total imports and the prices are in line with other countries. Hence, the effect of continuation of duties is not significant.
- d. HOCL is operating with a buffer of ADD to soften its inefficiency for over 10 years. Exaggerated plans to expand and reduce costs were provided during Safeguards investigation, but the capacity has been the same since 1999. This shows inability to overcome its infectivity.
- e. Scrutiny is required of HOCL's prolonged poor performance. Despite comfort of ADD, they have been termed as Sick Company till 2015-16.
- f. There is huge demand supply gap in the country during the POI and this is main reason for the imports.

Examination by Authority

86. The examination reveals that there is positive significant dumping margin and injury margin during the POI. The likelihood analysis also clearly points to the situation that dumping and consequent injury to the DI will intensify in case Anti dumping duty ceases

to exist. The concern regarding demand and supply gap is likely to be addressed by entry of other Indian producer, who is supporting this petition. Moreover, this cannot be the reason for exporting countries to enter into unfair trade practices like dumping.

M. POST DISCLOSURE COMMENTS

87. The post disclosure submissions have been received from the domestic industry and the exporter from Singapore. No other foreign producer/exporter or other interested party has filed any comments. The issues raised by these interested parties are largely repetitive. The issues raised therein had been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions by the interested parties are being examined as below:

Views of the domestic industry

88. Submissions made by the domestic industry post issuance of disclosure statement are summarized as under:

- a. Disclosure statement does not constitute sufficient disclosure of essential facts. It is silent on the likelihood of continuation of dumping. Domestic Industry has made submissions with regards to likelihood based on actual facts and evidences. The same has not been considered in the Disclosure.
- b. Vital arguments raised by domestic industry with detailed submissions, that have not been considered in the Disclosure Statement, for example (1) non filing of Part 2 of the sunset review questionnaire by Mitsui (2) excessive confidentiality claimed by the exporters (3) submissions on likelihood of dumping and injury.
- c. The Authority has not treated HOCL as the domestic industry. The fact that HOCL has intermittently not manufactured the product under consideration cannot be a ground for excluding HOCL as domestic industry.
- d. The responding producer has exported the PUC through related entity. Therefore, export price is required to be adjusted for SGA & Profit of related trader. The export price determined is over stated. The exporter has reported no adjustments on account of ocean freight, marine insurance, inland freight, inland insurance, port and handling charges etc.
- e. Since the Singapore producer has supplied both bulk and packed material, it is not clear whether the normal value and export price have been separately compared for bulk and packed product. If not so, treatment of difference in cost and price of packed and bulk material becomes important.
- f. As per WTO report, there is no requirement of causal link in a sunset review investigation. Notwithstanding there exist a causal link between dumping and injury in the present investigation.
- g. The petitioner understands that normation has been done for Cumene for determination of NIP. If so, this is clearly beyond Annexure III provisions which require consideration of the cost of production of the captive input and not normated cost of production.

- h. The disclosure of NIP shows that the Authority has in fact applied suppressing effect of prices in period of investigation rather than merely limiting to inefficiencies in raw material consumption. This has led to lower NIP to suppressed prices. Authority is requested to kindly revise the NIP calculation and consequently the injury margin.
- i. The Authority is requested to extend the same duty in US\$ terms.

Views of the other interested parties

89. Submissions made by the domestic industry post issuance of disclosure statement are summarized below:

- a. The disclosure statement is not clear about the composition of domestic industry as the composition of domestic industry kept changing throughout the investigation period. The data relied on by the Authority in the disclosure statement matches the data of the first petition filed by the petitioner which was filed by SI Group, Deepak Phenolic.
- b. The exporters believe from the disclosure statement that the Authority has considered SI Group, Deepak Phenolic and HOCL as domestic industry and the exporters object to that because a non-producing member can not be considered as the member of domestic industry. Deepak Phenolics has not begun its production hence cannot be considered as domestic industry.
- c. There is an increase in demand but imports from the subject countries have decreased in the POI and the sales of the domestic industry have increased, hence there is no impact of imports from the subject countries on the domestic industry as well as the supporter HOCL.
- d. The price undercutting is positive for Singapore for packed as well as bulk. The Authority has not given price undercutting for the previous year.
- e. The domestic industry has been able to change their prices in line with the cost of sales. Landed price from Singapore is more than the cost of sales of the domestic industry. Hence, there is no suppression or depression.
- f. There is no material injury to the domestic industry and the annual report of SI Group and HOCL suggest the same.
- g. Post POI data has not been provided to the interested parties and has been used in the disclosure statement as and when suited to the domestic industry. No data is made available on whether this import is on dumped prices and it is also not clear how the ROCE, profitability and other key performance parameters look during the post POI.
- h. Even if there is continued dumping there is an absence of continued or recurrence of injury. There is an absence of causal link between the imports and the performance of the domestic industry. If at all there is an injury that is on account of HOCL.
- i. Freely disposable capacities to be examined after taking into account the availability of other exports market to absorb any additional exports. Domestic industry has not provided any evidence if the other markets have the ability to absorb the additional exports.

- j. Data shows that Singapore's prices to third countries are comparable to prices in India. Prices to India and China are comparable. In fact China is more of an attractive market for Singapore because of the quantity of exports.
- k. Any new fact considered by the Authority while analyzing causal link should be known to the exporters because the Authority has not disclosed various facts in the disclosure statement with regard to HOCL and its performance. Causal link is an important factor for analyzing whether to continue or rescind the duty in force.
- l. The Authority should also examine if injury to the domestic industry is due to SI groups imports from the non subject countries.

Examination by Authority

90. The Authority notes that post-disclosure comments/submission made by the interested parties are mostly reiterations of earlier submissions, which have already been examined suitably and adequately and properly addressed in the disclosure statement or relevant paras of the present finding. The authority further considers as follows with regard to issues raised by the interested parties:

- a. It is noted that only one producer from Singapore has responded to the Authority. None of the producers from other subject countries have cooperated with the Authority. The responding producer & exporter from Singapore has not provided prescribed information with regard to its exports to various third countries.
- b. As regards composition of domestic industry, the disclosure statement clearly stated the composition and it is further clarified that that the application was filed by M/s SI Group India Private Limited and M/s Deepak Phenolics Ltd along with support letter from M/s Hindustan Organic Chemicals Limited (HOCL). Since M/s Deepak Phenolics had not started the production during POI and HOCL has not continuously produced during POI, only SI group has been considered as a domestic industry for the purpose of present investigation. There is no confusion in the disclosure statement with regard to composition of domestic industry.
- c. As regards difference in the data between petition and disclosure statement, while the exporter itself has stated that there is no difference in the data if SI Group is considered. In any case, the Authority has considered verified data for the present purposes.
- d. In relation to facts pertaining to likelihood of dumping and injury submitted by the interested parties, it is noted that the same has been examined appropriately, in the relevant paragraphs recorded in the final findings.
- e. As regards the submission made by the interested parties that the Authority has not disclosed all essential facts, it is noted that the disclosure statement issued by the Authority contained all essential facts in terms of Rule 16.

- f. As regards argument of the domestic industry with regard to NIP calculations, relevant calculations have been provided to the petitioner which are on the basis of information and records provided by the petitioner. The Company had furnished audited Cost Audit Report for the year 2014-15, 2015-16, 2016-17 and 2017-18. As per the Cost Audit Report the company is consistently declaring Cost of Production and Cost of Sales of Cumene, Phenol, Acetone etc to Ministry of Corporate Affairs as per the statutory requirements. Cumene is a finished product and the company is selling it in the open Market. Cumene is manufactured from Benzene and Propylene and is also captively used for manufacture of Phenol and Acetone. For the determination of NIP, Cumene consumption to produce Acetone is taken from the audited cost audit report of the company. Normation of Cumene is done as per Annexure III. In view of the same, NIP determined by the Authority is appropriate.
- g. As regards the export price calculation for the cooperating producer and exporter from Singapore, the Authority has determined the export price based on the information filed and verified. The expenses borne by the exporter (including shipping expenses, commission, bank charges and credit cost) were duly reported, verified and duly adjusted for relevant SG&A expenses & profit margin of the exporter and post-factory expenses reported by the producer. In view of the same, ex-factory price determined by the Authority is appropriate.
- h. As regards computation for bulk and packed sales separately, it has already been clarified in the disclosure statement that the Authority has determined the margin for dumping and injury separately for bulk and packed sales, and appropriate adjustments have been made to enable the comparison wherever necessary.
- i. As regards decline in imports, it is noted that the volume of imports has significantly increased in post-POI period. The domestic industry even contended that the dumping margin and injury margin in post POI has increased further.
- j. As regards price undercutting over the injury period, it is noted that the price undercutting is required to be determined only for the investigation period.
- k. As regards absence of suppression/depression, as noted hereinabove, the prices of the domestic industry in the POI were clearly suppressed, leading to a situation where the domestic industry once again started suffering financial losses from a situation of profits in preceding year.
- l. As regards non disclosure of price underselling separately for different forms, the Authority considers that it is not necessary to show these separately for different forms in the disclosure statement. The Authority has done separate comparison and weighted average of the same has been appropriately reflected in the disclosure statement and these findings.
- m. As regards disclosure of post POI data, the Authority has considered publicly available data with regard to imports in post POI. Further, these have been appropriately disclosed in the disclosure statement itself.

- n. As regards consideration of freely disposable capacities after taking into account the availability of other export markets to absorb any additional exports, the Authority notes that the exporter has not established absence of freely disposable capacities after showing firm commitments in third countries. In fact, the data shows significant increase in imports from Singapore and subject countries as a whole, which clearly shows absence of any firm commitments in third countries market.

N. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

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

O. CONCLUSION

92. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis, the Authority concludes that:
 - a. The product under consideration continues to be imported at the dumped prices from the subject countries;
 - b. The domestic industry has suffered continued injury on account of dumped imports;
 - c. The continued injury to the domestic industry is on account of dumped imports and is likely to continue if the anti dumping duties from subject countries are ceased;
 - d. The information on record clearly shows likelihood of continuation of dumping and injury in case the ADD in force is allowed to cease at this stage;
 - e. One producer exporter has cooperated from Singapore during the review investigation. M/s Mitsui Phenols Singapore Pte. Ltd has exported to India below the normal value and dumped imports are causing the material injury to the DI;
 - f. None of the producers exporters from European Union, South Africa and United States of America have co-operated in the present review investigation. The data available indicates that exports from these countries have been made at prices below the normal value.

P. RECOMMENDATIONS

93. Having concluded that there is positive evidence on the aspect of dumping, injury and causal links, likelihood of dumping and injury, if the existing anti-dumping duties are allowed to cease, the Authority is of the view that continuation of duty is required against all the subject countries.
94. Having regard to the lesser duty rule, 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 in case of the co-operative responding producer exporter from Singapore and extend the earlier duty in respect of all other non responding entities. Accordingly, the Authority recommends imposition of definitive anti-dumping duties on the import of the subject goods, originating in or exported from European Union, Singapore, South Africa and United States of America, as indicated in Col 6 of the duty table below, for a period of 5 years from the date of notification to be issued in this regard by the Central Government:

DUTY TABLE

Sr. No	Tariff Item*	Description of Goods	Country of Origin and/or Export	Producer	Duty Amount	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	2914 1100	Acetone	Singapore	M/s Mitsui Phenols Singapore Pte. Ltd	56.91	USD/MT
2.			Singapore	Any other	121.04	USD/MT
3.			European Union	Any	277.85	USD/MT
4.			South Africa	Any	179.65	USD/MT
5.			USA	Any	213.76	USD/MT

* Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC. The PUC mentioned above should be subject to above ADD even when it is imported under any other HS code.

95. The duty rates as recommended above are applicable for exports of subject goods manufactured by specified producer mentioned in column (5) above. The Customs should verify the name of the producer at the time of clearance of subject goods.
96. The landed value of imports for this purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

97. The applicant domestic industry and the responding producers are required to inform the Authority regarding any change in constitution/ ownership of the manufacturing facility, along with relevant documents substantiating the said change, for the subject goods against which Anti-Dumping Measures are being recommended. The information should reach the Authority within 60 days of the said change, if any.
98. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Director General