

**TO BE PUBLISHED IN PART 1 SECTION-1 OF
THE GAZETTE OF INDIA- EXTRAORDINARY**

Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Jeevan Tara Building, 5, Parliament Street
New Delhi 110001

Date: 19th February, 2016

FINAL FINDINGS

Sub: Anti-dumping investigation concerning imports of Normal Butanol or “N-Butyl Alcohol” originating in or exported from European Union (EU), Malaysia, Singapore, South Africa and United States of America (USA).

No. 14/4/2013-DGAD:-Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

A. PROCEDURE

1. The procedure described below has been followed:

- a. The Designated Authority (hereinafter referred to as the “Authority”), under the above Rules, received a written application from The Andhra Petrochemicals Ltd. (‘APL’) (hereinafter referred to as the “petitioner”) as domestic industry of the subject goods, alleging dumping of Normal Butanol or “N-Butyl Alcohol” (hereinafter also referred to as “subject goods” or “NBA”) originating in or exported from European Union (EU), Malaysia, Singapore, South Africa and United States of America (USA) (hereinafter referred to as the “subject countries”) and resultant injury to domestic industry and requesting recommendations for imposition of anti dumping duty on imports of the product under consideration from the subject countries.
- b. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petitioner filed an updated petition, which was

considered by the Authority for initiation of investigations. The application was, therefore, considered as duly documented.

c. The Authority, on the basis of sufficient evidence submitted by the petitioner to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries.

d. The Authority notified the Embassies of the subject countries in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.

e. The Authority issued a public notice dated 20th November, 2014 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods from the subject countries.

f. The Authority forwarded a copy of the public notice to all known exporters (whose details were made available by the Petitioner) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.

g. The Authority forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.

h. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassies of the subject countries in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.

i. The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

Sasol Middle East FZCO 1 Sturdee Avenue Rosebank PO. Box : 5486 Johannesburg South Africa - 2000	Oxeno-Degussa Huls Group Degussa Huls Group Oxeno Olefinchemie Gmbh D 45764 Mari Paul Baumann Strabe 1, Germany
Dow Europe GMBH	Oxea Gmbh

The Dow Chemical Co. Texas City, Texas, USA	1505, West LBJ Freeway Suite 400R Dallas Tx US 75234
EIF Atochem S.A 4, Cours Michelet 92091 Paris La Defence Cedex, France	Solvents Documentation Syntheses S.A B.P. 4, 13124 Peypin
ZAK Zaklely Azotowe Keozieryzn S.A Skr. Poizwota 163 47220 Kedzieegyn Kozle Poland	Eastman Chemical Texas City Operations PO Box 471 Texas City, TX 77592 USA
ICC Chemical Corporation 460, Park Avenue New York – 10022, USA	Perstorp Oxo AB Stenungsund Sanden 44495, Odsmal, Sweden
Eastman Chemical Asia Pacific Private Limited, Regional Office 9 North Buona Vista Drive #05-01 The Metropolis Tower 1 Singapore 138588	Eastman Chemical Singapore Private Limited, Manufacturing Site 50 Sakra Avenue Jurong Island Singapore 627891
Arkema Headquarters 420 Rue Estienne D'Orves 92705 Colombes, Cedex, France	

j. In response to the initiation notification, the following exporters/producers from the subject countries have responded:

- i. PETRONAS Chemicals Derivatives SdnBhd, Malaysia or “PCD”
- ii. PETRONAS Chemicals Marketing SdnBhd, Malaysia or “PCM”
- iii. PCM Chemicals India Pvt. Ltd.
- iv. BASF PETRONAS Chemicals SDN Bhd, Malaysia OR “BASF”

- v. Oxea GmbH , EU
- vi. Petrochem Middle East FZE, Dubai
- vii. ICC Chemical Corporation, USA
- viii. Oxea Corporation, USA
- k. All the above producers/ exporters filed questionnaire response except M/s Oxea Corporation, USA whose submissions are mentioned later.
- l. Questionnaire was sent to the following known importers/users/associations of subject goods in India calling for necessary information in accordance with Rule6(4)of the AD Rules:

K L J Group of Cos. H/O: KLJ House, 63, Rama Marg, Najafgarh Road New - Delhi- 110 015	PCL Group 703, 7th Floor, DLF Tower - B, District Centre Jasola, New Delhi - 110044
API Inds. Corporation NK Polymers & additives Mfg Co. 36/2 Ringanwada, Near Somnath Indl. Estate Daman - 396201 (UT)	Rachna Plasticizers Plot No: 116 & 117, Piparia Indl. Estate UT of D & NH, Silvassa, Vapi - Gujarat
Visen Industries Ltd. 102/A, Virwani Industrial Estate Goregaon (E) Mumbai- 4000 063	Micro Inks Ltd. Plot No: 2801/3A & 3, 2082/B, 2083/2, 2084 &2085-25, Survey No: 285/1, GIDC 3rd Phase, Vapi, Valsad, Gujarat
Alkyl Amines Chemicals Ltd. Plot No. 67, MIDC Patal Ganga Indl- Area Village : Kaire, Tal : Khalapur Dist - Raigad	Lalitha Chem Inds. Pvt. Ltd. Unit No: 2, Plot No: 32B, Nanji Indl. Area, Survey No:200/1/2, Village : Kharadi, Pune
Deepak Nitrite Ltd. Enterprise Centre, 301, III Floor Besides Hotel Orchid, Vileparle (E) Mumbai- 4000099	PayalPolyplastPvt. Ltd. E-24, Netaji Subhash Marg Darya Gunj New Delhi - 110002

DorfKetal Speciality Pvt. Ltd. Intec. Polymer - Division 1 Dorf Ketal Tower, D'Monte Lane, Orlm Malad (W), Mumbai- 400 064	Anushakti Chemical & Drugs Ltd. 71, Udyog Kshetra, 2nd Floor Mulund Goregaon Link Road, Mulund (W), Mumbai- 400080
C J Shah & Co. 105, Bajaj Bhavan, 10th Floor, Nariman Point, Mumbai- 400021	Ramniklal S. Gosalia & Co. National House, 608, B.J. Marg, Jacob Circle, Mumbai- 400011
Haresh Petrochem Pvt. Ltd. 404/405, Acme Plaza, Andheri Kurla Road, Opp: Sangam Theatre, Andheri (E), Mumbai-400059	Hazel Mercantile Ltd. 3/10, Kapadia Chambers 599, J.S.S. Road, Marine Lines Mumbai- 4000 02
Kundan Rice Mills Ltd. D-16, City Chambers, Prashant Vihar, Delhi - 110085	Hazel Mercantile Ltd. 3/10, Kapadia Chambers 599, J.S.S. Road, Marine Lines Mumbai- 4000 02
Asian Solvochem Pvt. Ltd. Windsor, 2nd Floor, CST Road, Kalina, Santacruz (E), Mumbai- 400098	KLJ Resources Ltd. 76, Juhu Shopping centre, 2nd Floor Gulmohar Cross, 9th Road, Juhu Scheme Mumbai- 400049
Petrochem Middle East (India) Pvt. Ltd. 201, Business Square, B-Wing, Andheri Kurla Road, Opp: Apple- Heritage, Andheri (E), Mumbai- 400093	Pon Pure Chem (P) Ltd. No: 32, H- Block, 15th Main Road, Anna Nagar, Chennai- 600 040
Yog International Pvt. Ltd. Khasra No. 36/8 Mundka Village Delhi- 110041	Daga Global Chemicals Ltd. 302, Sakar -III, Opp old high court Navrangapura, Ahmedabad- 380009

Apra Enterprises Plot No:176, 2nd Floor Dr. Keni House Sion (W), Mumbai- 400022	Overseas Polymer Pvt. Ltd. Vinmar House, A-41 MIDC Road No.2 Andheri (E), Mumbai- 400 093
Ketul Chem Pvt. Ltd. Western Edge-1, Kanakia Spaces, Unit No:403, Above Metro shopping Mall, Borivali (E), Mumbai- 400 066	Balmukund Chemicals Pvt. Ltd. Plot No: 4765, GIDC Estate Nr Ficom char Rasta, Ankleshwar -393002
Paras Dyes & Chemicals B-82, Defence Colony, New Delhi-110024	Jagriti Plastics Ltd 107,M.G. House , Community Centre, Wazirpur Indl. Area, Delhi-110052
Surabhi Enterprises Pvt Ltd Head Office 4/1 Camac Street, Ground Floor, Kolkata - 700 016	Sanjay Chemicals (India) Pvt. Ltd. 5th Floor, Kanmoor House 281/287 Narshi Natha Street Masjid, Mumbai - 400 009 (Maharashtra)
Supreme India International C-11, Jeevan Jyot, 18/20, Cawasji Patel Street, Fort, Mumbai - 400 001	Buneesha Chem Pvt. Ltd. 203 / 204, Shiv Chambers, Plot No.21, A-Wing Sector - 11, Next to MTNL Bldg. CBD Belapur (E), Navi Mumbai
Ankita Chemical Corporation No. 7, Sarwan Bhawan, Nai Gaum Cross Road, Dadar East Mumbai - 400 014	Ketul Chem Pvt. Ltd. 403, WESTERN EDGE, METRO STORE, BORIVALI (E), Mumbai – 400092
Nutan Chemicals J - 37, M. I. D. C., Bhosari, Pune - 411026, Maharashtra, India	Triveni Aromatics And Perfumery Private Limited 136, Pancharatna Char Rasta, G. I. D. C., Vapi - 386195, Gujarat

A.B. Enterprises 202, Shradanand Building 272/ 274, Samuel Street, Mumbai - 400 003	Plastichem Inds. Corporation A - 2001, Runwal Pride, 20th Floor, L. B. S. Road, Mulund West, Mumbai - 400 080
Tulsi Chemicals 3, Old No.2, Raja Annamalai Road 1st Floor, Puraswalkam Chennai - 600 084	Dev Chemicals 1-89, Adhyapak Nagar Nangloi Delhi - 110 041
Indian Plasticizers Manufacturers Association KLJ House, 63, Rama Marg, Nazafgarh Road, New Delhi 110015	

m. Following importers/consumers filed questionnaire responses.

- i. PCM Chemicals India Pvt. Ltd.,
- ii. Payal Petrochem Pvt. Ltd.,
- iii. Rachna Plasticizers,
- iv. KLJ Plasticizers Ltd.,
- v. KLJ Resources Ltd.,
- vi. Payal Polyplast Pvt. Ltd.

Further a number of other interested parties have offered comments and submission with regard to the present investigation, which have been appropriately taken into account. The said interested parties are as follows:

- i. Evonik Industries
- ii. Lubrizol India Pvt. Ltd.
- iii. Barkur Surfactants Pvt. Ltd., Mumbai
- iv. Unitop Chemicals Pvt. Ltd., Mumbai
- v. Advanced Microdevices Pvt. Ltd.
- vi. Sri Krishna Pharmaceuticals Ltd.

- n. 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 all interested parties. The public file was inspected by a number of interested parties a number of times. Interested parties, who requested inspection and copies of the documents from the public file, were provided with the same.
- o. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. The Authority 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 were directed to provide sufficient non confidential version of the information filed on confidential basis, which was made available through public file.
- p. Further information was sought from the petitioner and other interested parties to the extent deemed necessary. Verification of domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- q. On the request of the Authority, the Central Government extended the time for completion of the Investigation up to 19th February, 2016, in terms of Rule 17 of the AD Rules.
- r. A spot verification was also conducted at the premises of the following exporters:
- PETRONAS Chemicals Derivatives SdnBhd, Malaysia or PCD (on 8th December, 2015)
 - PETRONAS Chemicals Marketing SdnBhd, Malaysia or PCM (on 9th December, 2015)
 - BASF PETRONAS Chemicals SDN Bhd, Malaysia (on 7th December, 2015)
 - Oxea GmbH , EU (on 2nd - 3rd November, 2015)
- s. The above exporters were issued a report of the verification conducted. Comments offered by the exporters have further been taken into account in this Findings.
- t. The Non-injurious Price (hereinafter referred to as 'NIP') considering the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- u. Investigation was carried out for the period starting from 1st April 2013 to 30th June 2014 (15 months) (hereinafter referred to as the 'period of investigation' or the 'POI').The

examination of trends, in the context of injury analysis covered the period from 2010-11, 2011-12, 2012-13 and the POI.

v. In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 6th November 2015. The parties, who presented their views in oral hearing were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.

w. Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs.60.77 as per customs data.

x. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed by the Authority on 8th February, 2016 to the known interested parties and comments received on the same, to the extent considered relevant by the Authority, has been considered in this final finding.

y. In this Final Findings, “***” represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

2. The product under consideration in the present investigation is “Normal Butanol” or “N-Butyl Alcohol”.

Views of Exporters, Importers, Consumers and other Interested Parties

3. The Designated Authority should examine the petitioner’s assertions that the goods produced by it and the product under consideration are like and technically and commercially substitutable.

Views of the Domestic Industry

4. The domestic industry has made the following submissions with regard to the product under consideration: -

a) The product under consideration in the present petition is n-Butanol also known as n-butyl alcohol or normal butanol. Normal butanol is a primary alcohol with a 4-carbon structure and molecular formula C₄H₉OH. It is a clear, mobile, neutral liquid with a characteristic odor. It is miscible with all common solvents but it is only sparingly soluble in water. NBA occurs

naturally as a minor product of the fermentation of sugars and other carbohydrates, and is present in many foods and beverages.

b) Normal butanol is an excellent solvent for acid-curable lacquers and baking finishes derived from urea, melamine or phenolic resins. A large part of N-Butanol is converted into derivatives for use as solvents in coating industries.

Examination by the Authority

5. The product under consideration in the present investigation is “Normal Butanol”. Normal Butanol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. Normal Butanol is a primary alcohol with a 4-carbon structure and molecular formula C_4H_9OH .

6. Normal Butanol is an excellent solvent for acid-curable lacquers and baking finishes derived from urea, melamine or phenolic resins. A large part of Normal Butanol is converted into derivatives for use as solvent in coating industries and printing inks. Normal Butanol also finds application as extractant in production of drugs and natural substances, additive in polishes and cleaners, solubilizer in the textile industry, additive in deicing fluids, anti-icing additive in gasoline, humectant for cellulose nitrate, feedstock in the production of glycol ethers and flotation aids (Butyl Xanthate) and as starting material for the production of Butyl mono Carboxylates, Butyl Acetate, Butyl butyrate.

7. The product is classified under Customs Tariff heading No. 29051300. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.

8. Rule 2(d) relating to the definition of "like article" specifies that "like article" means an article which is identical or alike in all respects to the article under investigation, or in the absence of such an article, another article having characteristics closely resembling those of the article under investigation.

9. The petitioner has claimed that the subject goods, which are exported from subject countries into India, are identical to the goods produced by the domestic industry. Normal Butanol produced by the domestic industry and imported from subject countries are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the

goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable and hence, should be treated as 'like article' under the AD Rules. No specific instances of differences in technical characteristics which affect substitutability of domestic and imported subject goods have been substantiated which warrants a detailed examination. The issue of form of packaging has been dealt at appropriate places. Therefore, for the purpose of the present investigation, the subject goods produced by the petitioner in India are treated as 'Like Article' to the subject goods being imported from the subject countries.

10. The Authority notes that the Petitioner is producing NBA, EHA and IBA. EHA and NBA are produced in two different plants since 2011.

11. The Authority therefore holds that the product manufactured by the petitioner constitutes like article to the subject goods being imported into India from the subject countries.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

12. Rule 2 (b) of the AD rules defines domestic industry as under:

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

Views of Exporters, Importers, Consumers and other Interested Parties

13. M/s PCD, PCM and PCM Chemicals India Pvt. Ltd. have contended that there are many other producers of like article namely, M/s Galaxy Chemicals, M/s Hemanshu Chemicals and Meru Chem Pvt. Ltd. The applicant has not mentioned the names of these producers at all.

14. The petitioner should not be considered as 'domestic industry' to impose anti dumping duties on PUC as the petitioner has never been a regular producer of subject goods.

Views of the Domestic Industry

15. The domestic industry has made the following submissions with regard to the product under consideration: -

- a) The petition has been filed by M/s The Andhra Petrochemicals Limited as domestic industry.
- b) The Petitioner is the sole producer of the subject goods in India.
- c) As regards the contention of other parties, the petitioner has collected information and submitted the same to the Authority showing that these companies are not manufacturing product under consideration.
- d) Petitioner has neither imported the subject goods nor is related (either directly or indirectly) to any exporter or importer of product under consideration in the subject countries.
- e) The petitioner is eligible to constitute domestic industry as per Rule 2(b).

Examination by the Authority

16. The Authority notes that the application was filed by M/s The Andhra Petrochemicals Limited as domestic industry. The Petitioner is the sole producer of the subject goods in India. Petitioner has not imported the subject goods during the POI. Further, petitioner is not related (either directly or indirectly) to any exporter or importer of product under consideration in the subject countries.

17. As regards the contention that M/s Galaxy Chemicals, M/s Hemanshu Chemicals and Meru Chem Pvt. Ltd. are also producers of the product under consideration, the Authority notes that any evidence establishing that these parties are engaged in production of the product under consideration has not been provided. The clarificatory information provided by the Petitioner showed a written communication from these parties to the Petitioner stating therein as follows:

- i. Meru Chem Pvt. Ltd. stated that they are only trader and supplier of chemicals and solvent; they do not produce NBA or any other chemicals or solvent;
- ii. Hemanshu Chemicals stated that they are not producing the product, but are trading in the product;
- iii. Galaxy Chemicals stated they are not a user of the product and are trading in NBA and other solvent.

18. It is also noted that production of the product under consideration involves significant capital investment and therefore, the petitioner would certainly not have been aware of the existence of another producer in the Country. The communications from the parties clarifies that they are traders and not domestic producers of the product under consideration (PUC).

19. In view of the information on record, after due examination and considering the legal provisions, the Authority holds that the petitioner satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules, i.e. the requirement of standing under the Rules. The petitioner is therefore held to be constituting domestic industry within the meaning of Rule 2(b).

D. DUMPING MARGIN

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

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely 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

21. The following are the submissions made by the petitioner in respect of normal value:

(a) The following can form the basis for determination of normal value in the exporting countries:

(i) The price of the like article in the domestic market of the exporting country in the ordinary course of trade,

(ii) Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country,

(iii) The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling & general costs and for profits.

(b) Efforts were made to get information/evidence of price of subject goods in the domestic market of each of the subject countries. Efforts were also made to get price lists or quotations of producers of subject goods in the country. However, the petitioner has not been able to get any reliable information of prices prevailing in the domestic market of any of the subject countries.

(c) The petitioner has claimed determination of normal value using constructed value approach. The petitioner has adopted power prices prevailing in the subject countries to construct the cost of intermediates – Syngas and Butraldehyde and the final product – Normal Butanol. The petitioner has claimed their consumption factors for raw material and utility to be adopted.

Views of Exporters, Importers, Consumers and other Interested Parties

22. The exporters, importers, consumers and other interested parties made the following submissions:

- The petitioner's approach of constructing Normal Value is erroneous and based on doubtful resources and should therefore be rejected.
- The petitioner has calculated normal value on the basis of inflated cost and has wrongly claimed confidentiality over the constructed normal value. In this regard, *Birla Ericsson Opticals vs Designated Authority* 2004(167) E.L.T. 163 (Tri. - Del.) was cited.
- The Authority should disregard constructed normal value for Malaysia as determined by Petitioner and determine normal value based on Respondents- exporter's data.

- There is no dumping of the subject goods from Malaysia, as Respondents' prices are benchmarked based on ICIS prices. The import prices had in fact increased during the injury analysis period.

Examination by the Authority

23. The Authority sent questionnaires to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. The following parties have filed exporter questionnaire responses:

- PETRONAS Chemicals Derivatives SdnBhd, Malaysia or PCD
- PETRONAS Chemicals Marketing SdnBhd, Malaysia or PCM
- BASF PETRONAS Chemicals SDN Bhd, Malaysia or BASF
- Oxea GmbH , EU
- Petrochem Middle East FZE, Dubai
- ICC Chemical Corporation, USA
- Oxea Corporation, USA (made only submissions of no exports during POI).

I. MALAYSIA

a. Cooperative producers/ exporters

M/s PETRONAS Chemicals Derivatives SdnBhd, Malaysia or PCD

24. M/s PCD, the producer of the subject goods, has provided questionnaire response as a producer. Its related exporter i.e. M/s PCM and related importer i.e. M/s PCM Chemicals India Pvt. Ltd., have also filed questionnaire responses. The submissions are as under:

- PCD is a wholly-owned subsidiary of PETRONAS Chemicals Group Berhad (PCGB). PCGB is 64.4% owned by Petroliaam Nasional Berhad (PETRONAS) and 35.6% owned by public and other investors.
- The key raw materials for manufacturing the product are propylene and syngas/ oxogas.
- PCD procures both the raw materials from its related company at market price.
- By product generated during the process is Butanol off gas. The amount realized from the sales of Butanol off gas is taken as a credit while determining the production cost of the product concerned.

- e) Normal value is claimed based on sales in home market.

25. The Authority notes that the domestic sales of the subject goods in POI made by M/s PCD is ***MT. The Authority verified the questionnaire response filed by the producer and also its associated exporter, i.e. M/s PCM. The ordinary course of trade (80:20) test conducted on the domestic sales of M/s PCD indicates that **%, i.e. ** MT appropriately of the domestic sales are in the ordinary course of trade. The Normal Value of the subject goods in POI is therefore determined by referencing the transactions in the ordinary course of trade and allowing adjustments on pipeline charges (** \$/MT), inland transport (** \$/MT), credit cost (** \$/MT), packing (** \$/MT), with a total of ** \$/MT. The weighted average Normal Value is thus considered as ** \$/MT. The domestic sales of M/s PCD have been made through M/s PCM, a related entity of M/s PCD. The Authority further verified that M/s PCM has sold the goods procured from M/s PCD to unrelated users in the domestic market with a further markup thus establishing an arm's length sales in ordinary course of trade.

M/s PETRONAS Chemicals Marketing SdnBhd, Malaysia or PCM

26. The exporter has submitted, inter-alia, as follows:

- a) PCM is a wholly-owned subsidiary of PETRONAS Chemicals Group Berhad (PCGB).
- b) Sales to India are made from purchases made from PETRONAS Chemical Derivatives SdnBhd (wholly owned subsidiary of PCGB)
- c) In exceptional cases, sales to India were also from purchases made from BASF PETRONAS Chemicals SdnBhd (joint venture between BASF and PCGB)
- d) PCM Chemicals India Pvt. Ltd. is the related importer and trader in India.
- e) Sales to India are made to PCM Chemicals India and other unrelated customers.
- f) Normal value is claimed based on sales in home market.

27. The Authority notes that M/s PCM has sold the subject goods during POI to India with M/s PCM Chemicals India Pvt. Ltd. facilitating customer identification. The Authority has also correlated the export price of M/s PCM of goods produced by M/s PCD with the sales price of M/s PCD to M/s PCM. The weighted average CIF price is determined as ** \$/MT. The Authority allows adjustments on ocean freight, credit cost and handling to an extent of **

\$/MT, *** \$/MT and *** \$/MT respectively, coming to a total of *** \$/MT. The ex-factory export price is thus determined as *** \$/MT. The dumping margin is thus determined as *** \$/MT (10-15 %).

28. The weighted average landed value of imports has further been determined on the basis of the verified weighted average CIF prices of subject goods produced by M/s PCD and exported by M/s PCM to India by adding 1% landing charges and applicable customs duties i.e. basic custom duty and cess.

M/s PCM Chemicals India Pvt. Ltd.

29. The above related importer of the subject goods has filed questionnaire response completing the value chain and has submitted as under:

- a) PCM Chemicals India was acting as an importer and trader of the subject goods in the POI. However, PCM Chemicals India is an inactive company now.
- b) PCM Chemicals India was previously known as MITCO Labuan (India) Private Limited.
- c) MITCO Labuan Co. Ltd. and PETRONAS Chemicals Marketing Sdn Bhd. are the two shareholders of PCM Chemicals India. MITCO Labuan Co. Ltd. in turn is wholly owned by Petroliaam Nasional Berhad (“PETRONAS”).
- d) The Authority notes that the two transactions sold by M/s PCM to M/s PCM Chemicals India Pvt. Ltd. as high sea sales were further sold to end users with a mark up of *** %.

BASF PETRONAS

30. Normal Value: M/s BASF had made domestic sales to M/s PCM of *** MT at the rate of *** \$/MT. There are determined in the ordinary course of trade when compared with the weighted average ex-factory cost of production as verified on site. Adjustments on domestic sales are allowed on handling, others and credit cost to an extent of *** \$/MT, *** \$/MT and *** \$/MT, coming to a total of *** \$/MT. The weighted average **normal value** for M/s BASF is thus considered as *** \$/MT.

31. Export Price: M/s BASF exported a total of *** MT of the subject goods to India in POI directly at a weighted average CIF of *** \$/MT. Based on the on- site exporter verification, the

Authority considers adjustments on commissions (***\$/MT), handling (***\$/MT), overseas freight (***\$/MT), overseas insurance (***\$/MT), others (***\$/MT) and credit cost(***\$/MT), with a total of ***\$/MT. The ex- factory export price is thus considered as ***\$/MT. The dumping margin for M/s BASF is therefore determined to be as***\$/MT (0-5 %). The landed value has further been determined by adding 1% landing charges to CIF and applicable customs duties.

b. Non cooperative producers/ exporters:

32. For all the non- cooperating producers and exporters in Malaysia, the highest normal value of the cooperative exporters is considered as their Normal Value. For ex- factory export price, the lowest export price of cooperative exporters with adjustments as adopted in the case of cooperative exporters is taken into consideration. For the ex- factory export price thus, the CIF price of *** \$/MT with adjustments to an extent of ***\$/MT has been taken into consideration. Accordingly, the normal value and the ex- factory export price for non-cooperative producers/ exporters from Malaysia are evaluated as *** \$/MT and ***\$/MT respectively. The dumping margin is thus determined as *** \$/MT (15-20%).

33. The **landed value** for non- cooperative producers/ exporters from Malaysia has been adopted on the basis of the lowest export price (CIF), with 1% landing charges and applicable customs duty i.e. basic custom duty and cess.

Dumping margin

Sr. No.	Producer	Exporter	NV (USD/MT)	Ex-factory EP (USD/MT)	DM (USD/MT)	DM%	DM Range (%)
1)	PCD	PCM	***	***	***	***	10-15
2)	BASF PETRONAS	BASF PETRONAS	***	***	***	***	0-5
3)	Non cooperative producers/exporters and any combinations other than 1) and		***	***	***	***	15-20

	2) above.					
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II. EUROPEAN UNION

a. Cooperative producers/ exporters

OXEA GmbH, Germany, EU

34. The above producer has submitted, inter-alia, as follows

- a) The raw materials used in manufacture of n-butanol are n-Butyraldehyde and hydrogen.
- b) The normal value has been claimed based on its sales in EU.
- c) The adjustments have been claimed on inland freight, inland insurance handling, credit and interest.
- d) The exports to India in POI have been made through M/s Petrochem Middle East, Dubai and M/s ICC Chemicals, USA.

35. The Authority notes that M/s Oxea GmbH, a producer of the subject goods in EU sold a total of ***MT of the subject goods in their domestic market. The ordinary course of trade (80:20) test on the domestic sales referencing the verified ex-factory cost of production in POI indicates that more than 99% of the domestic sales of M/s Oxea GmbH were in the ordinary course of trade. Therefore the normal value of the producer is computed as per the weighted average domestic sales price with adjustments on inland freight (***/MT), inland insurance (***/MT), handling (***/MT), credit & interest (***/MT) [total of ***/MT]. The weighted average normal value is thus determined as ***/MT.

36. Further, the producer has exported a total of ***MT of the subject goods to India in POI through M/s Petrochem Middle East, Dubai (***MT) and M/s ICC Chemicals, USA (***MT). The weighted average export price (CIF) of the quantity exported to India is computed as ***/MT. The Authority on the above export price, has allowed adjustments on inland freight (***/MT), insurance (***/MT), handling (***/MT), overseas freight (***/MT), overseas insurance (***/MT), shipping charges (***/MT) and others (***/MT), coming to a total of ***/MT. The ex-factory export price for M/s Oxea GmbH, producer is thus held to be as ***/MT with the dumping margin determined as ***/MT (15-20 %).

37. **M/s Petrochem Middle East FZE, Dubai**, the exporter has submitted, that their company is only a trading company which, procures the subject goods from producers/ exporters based in EU and resells them to India.***MT of subject goods in POI has been exported by them to India. The weighted average CIF is determined as***\$/MT.

38. **ICC Chemical Corporation, USA**, the exporter has submitted, that their company is only an exporter of the subject goods ***MT of subject goods in POI has been exported by them to India, at a weighted average CIF of ***\$/MT.

39. Further, the landed value for M/s Oxea GmbH has been determined by adding 1% landing charges to CIF and applicable customs duties, i.e. basic custom duty and cess.

b. NON COOPERATIVE PRODUCERS/ EXPORTERS FROM EU

40. For all other non- cooperating producers and exporters from EU, the highest domestic selling price of cooperative exporters without any adjustment is taken into consideration for the computation of NV. For the determination of ex- factory export price, the lowest export price of cooperative exporters with adjustments as noted in case of cooperative exporters is taken into consideration. The CIF price for residual exporters/ producers from EU is determined as ***\$/MT. Accordingly, the NV and the ex- factory export price are determined as ***MT and ***\$/MT respectively. The dumping margin is thus considered as ***\$/MT (30-35 %).

41. The **landed value** for non cooperative producers/ exporters from EU has been computed on the basis of the lowest export price/ CIF, with 1% landing charges and applicable customs duty i.e. basic custom duty and cess.

Dumping Margin

Sr. No.	Producer	Exporter	NV (USD/MT)	EP (USD/MT)	DM (USD/MT)	DM %	DM Range
1)	Oxea GmbH	Petrochem Middle East	***	***	***	***	15-20
2)	Oxea	ICC	***	***	***	***	15-20

	GmbH	Chemicals , USA					
3)	Non cooperative producers/exporters and any producer/exporter other than 1) & 2) above.		***	***	***	***	30-35

III. PRODUCERS/ EXPORTERS FROM USA, SINGAPORE AND SOUTH AFRICA

Oxea Corporation, USA

42. The exporter has submitted, that their company did not export the subject goods to India in the POI and, therefore, does not have a basis to participate in the instant investigation or respond to the Exporter Questionnaire. Should the anti-dumping duty be imposed, the company reserves the right to apply for a New Shipper Review.

43. The Authority notes the submissions made by M/s Oxea Corporation, USA and holds that the new shipper review request would be dealt appropriately as per the relevant ADD Rules.

44. The Authority further notes that none of the producers/ exporters from USA, Singapore and South Africa have filed questionnaire response. Thus, in the absence of any response, the Authority has constructed normal value for all the producers/ exporters from these three countries on the basis of estimates of cost of production in accordance with Section 9A(1)c read with Rule 6(8) supra.

45. The normal value has been constructed by adopting consumption norms for major raw materials including Naphtha and their prices, prevailing power price and known estimates for conversion cost during the relevant period as per best available information. Selling, general & administrative costs and reasonable profit margin has been added to the cost of production so determined so as to arrive at a constructed normal value. A number of interested parties have contended that the cost of production of the domestic industry is significantly higher due to lower production in the present POI and higher price of raw material being paid by them. It is

clarified that the Authority has adopted raw material and utility cost at best consumption norms, and conversion cost of POI has been normated at highest achieved capacity utilisation during injury period. The normal value for all non- cooperative producers/exporters in each of the abovementioned three subject countries, is considered as***\$/MT.

46. Further, the Authority as per its consistent practice, adopts the weighted average export price for all the producers/exporters of the above three countries based on transaction wise DGCI&S data for POI considering adjustments on a reasonable ocean freight as evidenced (** US\$ for USA and *** US\$ for Singapore and South Africa each), marine insurance (***% of CIF), commission (***% of FOB), bank charges (***% of FOB), port expenses (***% of FOB) and handling (***% of FOB) for each of the three countries. The **ex- factory export prices for USA, Singapore and South Africa** are thus referenced as *** \$/MT, ***\$/MT and ***\$/MT respectively.

47. Further, the transaction wise DGCI&S data has been sorted on the product under consideration and non-product under consideration for all the injury period year including POI. The non PUC entries to an extent of about 6% in POI have been filtered for the purpose of evaluating the weighted average CIF for non-cooperating producers/ exporters from above mentioned three subject countries i.e. USA, Singapore and South Africa.

48. The **Landed Value** of the subject goods in POI has been determined on the basis of the transaction wise DGCI&S data after adding 1% landing charges on CIF, basic customs duty with cess.

Dumping margin

Country	Producer	Exporter	NV (USD/MT)	EP (USD/MT)	DM (USD/MT)	DM%	DM Range
USA	Any	Any	***	***	***	***	20-25
Singapore	Any	Any	***	***	***	***	10-15
South Africa	Any	Any	***	***	***	***	10-15

E. INJURY

Submissions made by Domestic Industry

49. The domestic industry has submitted that:

- a. Demand for the product under consideration has remained positive throughout the injury period.
- b. Imports from the subject countries have shown significant increase over the period in absolute terms as well as in relation to consumption and production of the product under consideration in India. Further, imports from the subject countries constitute almost the entire volume of imports into India.
- c. Weighted average import prices (after including basic customs duties) have been significantly below the selling prices of the domestic industry, thus resulting in significant price undercutting.
- d. The injury margin is significant.
- e. The landed price of imports is significantly below the cost of production of the domestic industry throughout the injury period. Imports have had significant suppressing effect on the prices of the domestic industry in the market. Whereas the cost of sales increased significantly over the injury period, the selling price could not increase to such an extent due to presence of dumped imports, thereby suffering huge losses.
- f. The domestic industry enhanced capacities in the year 2011-12 in response to increase in demand. The production of the domestic industry improved in 2011-12 and then declined. The decline in production is significant in the POI when compared to the previous year.
- g. The domestic industry was able to achieve good capacity utilization in the period 2011-12, but the same has declined significantly thereafter in 2012-13 and the POI.
- h. Loss in production in the POI is due to other factors as well. The production in the POI declined to 5,388 MT on account of non-remunerative prices for some time and shortage in the supply of raw material. Considering that the loss of production in this period is due to other factors, the petitioner has reported its performance, as it would have been, had there been no loss of production due to shortage of raw materials. For this purpose, the petitioner has excluded the idle time cost from the total cost incurred for the production of product under consideration for the purpose of working out injury caused by dumped imports. It would be seen that even if the petitioner had achieved normal production in the POI, the selling price would still have been

below cost of production. The petitioner has also claimed profitability after adjusting for idle time.

i. Domestic sales have seen a similar trend. Whereas the demand for the product has increased by 18% between 2010-11 and the POI; the sales have declined by 68% and imports from the subject countries have increased by 125% in the same period. This clearly indicates that the imports have increasingly captured the market of the domestic industry.

j. The profits of the domestic industry have declined throughout the injury period since 2010-11. The domestic industry has been suffering losses since 2012-13, which have intensified considerably in the POI. Profitability, cash profits, profit before interest and tax and return on investment have shown a similar trend.

k. The petitioner has segregated cost incurred on account of idle time from the total cost to assess the injury caused by dumped imports. It would be seen that even if the petitioner had been able to achieve normal production in the POI, the profitability would have severely declined as a result of intense dumping from the subject countries.

l. Market share of the domestic industry has declined throughout the injury period whereas the market share of the dumped imports has significantly increased throughout the injury period.

m. Domestic industry has lost substantial orders during the injury period.

n. The employment level increased in 2012-13 and declined thereafter. Wages paid have increased up to 2011-12 and then declined over the injury period.

o. Productivity of the domestic industry has moved in the same direction as production.

p. There is a threat of further material injury due to significant increase in volume of imports, significant price undercutting and price suppression, increasing inventories with the domestic industry and market share of dumped imports.

Submissions made by importers, exporters, users and user associations

50. The importers, exporters, users and user associations and other interested parties have submitted as follows:

a. There is complete absence of causal link between the alleged injury to the domestic industry and the imports of subject goods from subject countries in the present case, as can be shown below:

➤ Volume effect: Raw material shortage, fire accident, cyclone Hudhud → plant shutdown → reduced production → reduced sales → reduced market share

➤ Price effect: Negative price undercutting → domestic industry did not adequately increase its price in response to the increasing cost even until the POI → decline in profitability factors due to plant shutdown

b. Plant shutdown is an important factor in a causal link analysis. On this point, *Hematite Pig Iron* case [1990 O.J. (L135) 7] and *AGFA Gevaert AG vs. Designated Authority* were cited.

c. Petitioner has attempted to lower the landed value by deducting notional credit cost for 90 days and inflate the non-injurious price by taking into account notional credit cost for 270 days.

d. The sole reason of injury to Petitioner is suspension of production leading to plant closure for 212 days (almost 7 months) during the POI on account of non-availability of raw materials. Injury due to such factors cannot be attributed to imports. Petitioner's annual reports also stated this aspect. The Hon'ble CESTAT in the case of *Andhra Petrochemicals Ltd. v. Designated Authority*, 2006 (201) ELT 481 (Tri.-Del.) had also relied on the annual report of the domestic industry in that case to set aside the final findings by the Authority in that case.

e. Petitioner has reported its performance as it would have been, had there been no loss of production. This is not permitted under law. The Authority may compare the level of imports during the period when Petitioner was operational and the level of imports when Petitioner was non-operational. Also, it is not clear what is raw material price considered for determining the performance. The domestic industry has to be taken "as is" to determine injury. On this point, the cases of *Caustic Soda originating in or exported from Chinese Taipei, Indonesia and EU (excluding France) - Final Findings* dated October 1, 2003 and the Appellate Body Report of the *Thailand – H Beams* were cited.

f. The petitioner has calculated normal value on the basis of inflated cost and has wrongly claimed confidentiality over the constructed normal value. In this regard, *Birla Ericsson Optical vs Designated Authority* 2004(167) E.L.T. 163 (Tri. - Del.) was cited.

- g. Even during the period when the petitioner was producing, its production was not optimum. Therefore, imports during the POI were necessitated due to lack of production by the domestic industry.
- h. Price undercutting and price underselling are actually negative, which implies absence of causal link.
- i. Adjustments for credit cost and freight cost are not permissible under Indian law. Further, customs duty should be added to assessable value and not CIF price for calculating landed value.
- i. The reason for decline in Petitioner's profitability and increase in cost are intrinsic factors, such as non-availability of raw material to the petitioner.
- j. In light of the decline in inventories during the POI in comparison to 2011-12 and 2012-13, there is no injury to the domestic industry.
- k. The Government of Malaysia's submissions on non-injurious price and injury margin made during the public hearing should be considered. During a public hearing all interested parties including governments of concerned countries have a right to raise concerns about issues that arise in an AD investigation.
- l. The contention of the petitioner that excise duty and sales tax should be added to NIP for determination of injury margin, and that CVD should also be added to import price, should be rejected as per the Authority's consistent practice.
- m. Test of cumulative examination may not be even relevant in the present case as the present case warrants termination on grounds of causal link breach of a terminal magnitude.
- n. The lower volumes of petitioner are not on account of imports, but on account of idle time caused by short supply of raw material.
- o. If AD duty is levied based on its erratic and distraught performance on account of raw material supply issue, the position of user industry would become vulnerable and uncompetitive.
- p. The submission of the petitioner that there is no concept like NIP anywhere globally is incorrect.
- q. The Authority should reject various claims of the petitioner with regard to NIP such as inclusion of taxes etc and NIP should be determined as per Annexure III to the rules.
- r. The petitioner produces three products namely -EH, N-Butanol (n-BOL) and I-Butanol (i-BOL) in a single plant. Therefore, before any assessment of injury can be tied to imports it should be examined whether the petitioner harmed himself by reducing the output on n-BOL but increasing the output of 2-EH and i-BOL.

s. The disruption in the Propylene supply in May-June 2013 by HPCL and a shutdown of the PRU unit necessary for the production of Propylene at HPCL in August 2013 should be evaluated. In this regard, the petitioner's 30th Annual Report 2013, Director report and the rating report should also be noted and assessed.

t. All the numbers and trends showing the (lower) performance of the Petitioner like "production", "sales volume" etc. would have to be linked and adjusted to those numbers and trends related to the lack of raw material for production of the product concerned for 212 days of the financial year 2013-14.

u. The material injury analysis is a prospective and not a retrospective analysis.

v. Cumulating all subject countries in the present investigation would be inappropriate due to the conditions of competition between the subject countries *inter se*. In this regard, the following investigations of DGAD were cited:

* *Anti-dumping investigation concerning imports of Melamine originating in or exported from European Union, Iran, Indonesia and Japan*, dated June 1, 2012;

* *Final Findings – Anti-dumping investigations involving imports of Acetone originating in or exported from European Union, Chinese Taipei, Singapore, South Africa & USA*, dated January 4, 2008

* *Final Findings – Anti-dumping investigation concerning import of Flexible Slabstock Polyol of Molecular weight 3000 to 4000 from China PR, Republic of Korea, Taiwan and Brazil*, dated November 11, 2004

* *Final Findings – Anti-dumping investigation concerning imports of Ball Bearings (up to 50 mm bore dia) from China PR, Poland, Russia and Romania* dated March 19, 2004.

w. By virtue of AIFTA and the India-Malaysia CECA, the applicable basic customs duty for the same subject goods is different for imports from Malaysia and Singapore on the one hand and the other target countries (EU, US, and South Africa) on the other hand.

x. The Authority should de-cumulate the EU imports and terminate the investigation against these imports. On this point, the EU cases of *Certain tube and pipe fittings, of iron or steel, from China, Croatia and Thailand* and *Ammonium nitrate from Russia*.

y. The landed import price from subject countries increased over the injury period, which was more than the increase in price by the Petitioner over the injury period, which clearly indicates that the suppression was not caused by imports.

z. Dumping must not be the sole but the substantial cause of injury. On this point, the Authority's *Final Findings – Anti-Dumping Investigations concerning imports of Cathode Ray Colour Television Picture Tubes originating in or exported from Malaysia, Thailand, China PR and Korea RP* dated February 17, 2009 and *Final Findings – Sunset review of Anti-Dumping Duty imposed in respect of imports of Acetone originating in or exported from European Union, South Africa, Singapore and USA* dated December 13, 2013, were cited.

aa. The POI cannot be extended to 15 months at this stage of the investigation. The Authority's *Final Findings – Anti-dumping investigation concerning imports of Ball Bearings (up to 50 mm bore dia) from China PR, Poland, Russia and Romania* dated March 19, 2004 was cited.

bb. The petitioner has failed to provide DGCI&S transaction-wise import data for the period April-June 2014 and has provided only summary of the said data. The accuracy of such summarised is doubted.

cc. The Authority is requested to examine the reasons why imports from Malaysia have occurred during the injury analysis period in light of India-Malaysia CECA, Notification No. 56/2013 dated 31 December 2013.

dd. The petitioner did not sell the subject goods during the entire POI. In light of this, the methodology adopted for comparison should be disclosed, and a public hearing should also be granted.

ee. The Petitioner's profits decline when it is unable to procure raw material. Further, if Petitioner could have diversified its procurement of raw material, it could have easily avoided suspension of production during the POI.

ff. The European Commission case referred by the petitioner deals only with the question of dumping margin and not injury margin. Further, the petitioner has not provided the name of the aforementioned case.

gg. The domestic industry pays higher price for raw material because of shortage of raw material.

hh. The petitioner's contention that it is producing the subject goods and EHA in different plants and production of one product is not dependent on another, should be rejected.

ii. The petitioner's contention that it has invested in technology but still its performance deteriorated should be rejected.

- jj. Fire in HPCL plant is not force majeure, petitioner could source raw material from alternative sources and the petitioner should consider importing raw materials.
- kk. The petitioner's claim on non- remunerative prices on account of dumping is untenable and attempt to misuse the remedies available under the anti-dumping scheme.
- ll. Major refiners use propylene, which is the major raw material for NBA, captively to manufacture Poly Propylene. Thus, source of raw material for NBA in India will be unavailable or less available, making it essential to import the subject goods.
- mm. The Authority is requested to review and reject the Petitioner's claim regarding downward adjustment on account of freight costs to the landed price.
- nn. The Authority must not adjust the landed price for differences in credit costs between exporting producers and its exporters and the domestic industry.
- oo. The Petitioner increased capacities, production and sales significantly between 2010/11 and 2011/12, before the raw material shortages started.
- pp. Capacity utilisation has been misleadingly understated by the petitioner because the capacity should be adjusted to reflect the fact that the plant was only running for 153 days or lesser, during the 12-month period.
- qq. The Petitioner's claims that it made investments to optimise the production process and its performance deterioration is due to the competition from allegedly dumped imports, is wrong.
- rr. M/s. Lubrizol has stated that the conditions of sale of the product by the petitioner evidently prove that the petitioner is operating under monopolistic condition and dictating the term of sale.
- ss. The petitioner may not have interest in supplying blended product with said goods which may force the user to find alternate source of supply of high end blended products.
- tt. The petitioner being the sole manufacturer of said product does not inspire any confidence in its valued customer. Non- availability of the product due to shut down of their plant either due to technical or financial reasons can put the domestic users to a greater hardship and would allow the trader to dictate the price of the product to their advantage. Such situation neither benefits the petitioner nor the end user.
- rr. For security and continuous supply of product, no anti-dumping duty should be imposed, as this will penalize the user and also impact the potential export made by them.

- ss. Levy of Anti-Dumping Duty on goods which are important to Industry is contradictory step of government against make in India policy.
- tt. After June 2014, when M/s Andhra Petrochemicals stopped supplying, the party was forced to procure the material at more than 1.5 times the cost from a reseller.
- uu. After including the duties and taxes, the cost of imported material becomes more than the cost of buying from Andhra Petrochemicals.
- vv. M/s. Advanced Microdevices (Pvt.) Ltd. have stated that Anti-dumping duty should be applied to protect Indian Industry, however, the protection should not be such that the Indian Industry becomes lax and stops working on its efficiency and productivity and competitiveness.
- ww. M/s. European Commission has stated that their Domestic industry increase production and sales by around 15%. Why profits declined in this favorable market situation when the capacity utilization also increased is questionable.
- xx. Without the adjustment for interest rates for Indian bank loans, there would be no price undercutting.
- yy. M/s. Barkur Surfactants Pvt. Ltd. and M/s. UNITOP chemicals Pvt. Ltd. have stated that they strongly protest for Anti-dumping duty on “Normal Butanol / N-Butyl Alcohol” till they have alternate manufacturer in India or are in a position to manufacture atleast 60000MT/ year, as the demand of NBA is growing because agro industry is growing in India. The Andhra Petrochemical Ltd. is a very small manufacturer compared to our growing demand.
- zz. M/s. UNITOP chemicals Pvt. Ltd. has also stated that Andhra Petrochemicals Ltd. is the only manufacturer and their total production capacity is 30000 MT/ year, out of this Andhra Petrochemicals makes only 20000 MT to 22000MT/ year as its plant is very old, always under maintenance and shutdown so they never utilize fully and total requirement of this product in India is more than 70000MT/ year. So there is a gap of almost 50000MT/ year which is imported.
- aaa. M/s. Sri Krishna Pharmaceuticals has stated that they imported the product Normal Butanol or N-Butyl Alcohol Originating in or exported from European Union (EU), Malaysia, Singapore, South Africa and United States of America (USA) during the period April-2010 to March 2011, April-2011 to March 2012 & April-2012 to March 2013.

Cumulative Assessment

51. 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.

52. In the present case, the margin of dumping from each of the subject countries have been found to be more than the de minimis limit prescribed; the volume of dumped imports from each of the subject countries is more than the limits prescribed; and the exports from the subject countries directly compete inter se and with the like goods offered by the domestic industry in the Indian market. Cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product. The therefore Authority considers it appropriate to cumulatively assess the effect of dumped imports.

Examination by the Authority

53. The Authority has taken note of submissions made by the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.

54. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to

the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to 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 increases which otherwise would have occurred to a significant degree.

55. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure-II of Anti-dumping Rules states as under:

“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 the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

56. It is not necessary that all parameters of injury need to show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not ?

57. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.

Assessment of Demand

58. The demand of subject goods has been determined by summing the domestic sales of domestic like product with imports of subject goods from all countries. For the purpose of present injury analysis, the Authority has relied on the transaction-wise import data procured

from DGCI&S. The Authority notes that demand of subject goods increased significantly over the injury period as depicted in the table below.

Demand	Unit	2010-11	2011-12	2012-13	POI	POI*
Sales of Domestic Industry	MT	19,321	21,612	14,472	7,651	6,121
Subject Countries	MT	19,297	23,949	31,929	53,195	42,556
Other Countries	MT	3,918	5,192	205	750	600
Demand	MT	42,536	50,753	46,606	61,596	49,277
<i>Trend</i>		<i>100</i>	<i>119</i>	<i>110</i>	<i>116</i>	<i>116</i>

**POI is annualized (April 2013 to June 2014)*

59. It is seen from the above table that the demand of the product in the country has increased in 2011-12, declined in 2012-13 and then increased again in the POI. However, the demand for the product has shown a significant increase in the POI as compared to base year.

Volume Effect of Dumped Imports and Impact on Domestic Industry

Import Volumes and Share of Subject Country

60. 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. The volume of imports of the subject goods from the subject countries are as under:

Volume of Imports	Unit	2010-11	2011-12	2012-13	POI	POI*
EU	MT	3,546	8,758	6,738	7,021	5,617
Malaysia	MT	4,423	5,804	16,454	22,459	17,967
South Africa	MT	6,247	4,936	6,698	7,129	5,703
USA	MT	5,081	3,977	1,835	3,014	2,411
Singapore	MT	-	475	204	13,573	10,858
Subject Countries	MT	19,297	23,949	31,929	53,195	42,556
Other Countries	MT	3,918	5,192	205	750	600
Total Imports	MT	23,215	29,142	32,134	53,945	43,156
Subject imports in relation		83%	82%	99%	99%	99%

to Total Imports						
Indian Production	MT	19,407	22,184	14,409	6,735	5,388
Subject imports in relation to Indian Production	%	99%	108%	222%	790%	790%
Demand	MT	42,536	50,753	46,606	61,596	49,277
Subject imports in relation to Demand	%	45%	47%	69%	86%	86%

61. The analysis of the above indicates the following:

- a. Imports from the subject countries have increased significantly in absolute terms. The increase in imports during POI is quite significant.
- b. Imports from the subject countries cumulatively constitute 99% of total imports during POI.
- c. Whereas imports from subject countries increased, imports from third countries have been negligible. Imports thus increased in relation to total imports of the product in India.
- d. Imports from the subject countries in relation to production have increased from 99% during 2010-11 to 790% in the POI on cumulative basis.
- e. Imports from the subject countries in relation to total demand have increased from 45% in 2010-11 to 87% in the POI on cumulative basis.
- f. Imports from the subject countries have increased in relation to production & consumption in India consistently throughout the injury period.

It has been contended by the interested parties that the imports of the product under consideration have happened when the domestic industry has not produced the product. Table below shows a comparison of imports and production by the domestic industry in the 15 months of POI.

POI	Actual		Indexed	
	Production	Imports	Production	Imports
	MT	MT		
April, 2013	***	***	100	100
May, 2013	***	***	30	88

June, 2013	-	***	-	147
July, 2013	***	***	196	96
August, 2013	***	***	334	226
September, 2013	-	***	-	67
October, 2013	***	***	193	133
November, 2013	***	***	193	267
December, 2013	-	***	-	106
January, 2014	-	***	-	184
February, 2014	-	***	-	86
March, 2014	-	***	-	71
April, 2014	***	***	132	169
May, 2014	***	***	107	111
June, 2014	-	***	-	187

62. It is seen that imports declined in May, 2013 when production declined; imports increased in June, 2013 when production declined; imports declined in July, 2013 when production increased; imports increased significantly in Aug., 2013 (more than double of April, 2013) when production was significant (double of April 2013) in July and further increased in Aug. (more than three times of April, 2013). Similar situations were found thereafter in Oct. and Nov., 2013. It is also found that despite no production by the domestic industry during Dec, 2013 and March, 2014, import volumes were not only low but declined.

63. The Authority has in view of fluctuating behaviour determined the statistical correlation coefficient between production and imports from subject countries, which comes to 0.5 which is a positive moderate coefficient indicating that both the parameters have more or less moved in the same direction, contrary to the claim of the interested parties that the imports and production have moved in opposite direction.

64. It is thus noted that imports from the subject countries have increased both in absolute terms and in relation to production and consumption in India. It is also noted that even though the domestic industry had suspended production during the POI and while the imports might have been triggered for that reason, it is also a fact that the import volumes were higher when the

domestic industry production was higher, thus showing that whenever the domestic industry was in a position to supply subject-goods, it faced competition with significant imports.

Price Effect of the Dumped Imports on the Domestic Industry

65. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules 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 Designated Authority 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.”

66. It has been examined whether there has been a significant price undercutting by the dumped imports of the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

Price Undercutting

67. 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. In this regard, a comparison has been made between the landed value of the product from each of the subject countries and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at ex-factory level. This comparison shows that during the period of investigation, the subject goods originating in the subject countries were imported into the Indian market at prices which were lower than the selling prices of the domestic industry. It is noted that since the domestic industry did not produce the product throughout the POI, the domestic industry practically had no sales few months of the POI. The table below shows the level of price undercutting from each of the subject countries:

Price Undercutting	Unit	2010-11	2011-12	2012-13	POI
Net Sales Realization	Rs./Kg	***	***	***	***
Index		100	103	106	117
EU					
Landed Price	Rs./Kg	***	***	***	***
Index		100	104	101	110
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	(0-10)%	(0-10)%	(0-10)%	(0-10)%
Malaysia					
Landed Price	Rs./Kg	***	***	***	***
Index		100	95	102	109
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	(0-10)%	0-10%	(0-10)%	0-10%
South Africa					
Landed Price	Rs./Kg	***	***	***	***
Index		100	111	109	112
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	(0-10)%	(5-15)%	(0-10)%	(0-10)%
USA					
Landed Price	Rs./Kg	***	***	***	***
Index		100	120	101	122

Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	0-10%	(5-15)%	0-10%	0-10%
Singapore					
Landed Price	Rs./Kg	No imports	***	***	***
Index		0	100	103	112
Price Undercutting	Rs./Kg	-	***	***	***
Price Undercutting	%	-	***	***	***
Price Undercutting	% Range	-	(0-10%)	(0-10)%	0-10%
Subject Countries as a whole	Rs./Kg	-5 to 0	-10 to -5	-5 to 0	0 to 5

68. It is seen that price undercutting in case of imports from EU and South Africa is marginally negative, whereas from other countries is marginally positive. Overall price undercutting from dumped imports is positive though low.

69. The petitioner has contended that since imports of the product under consideration constitutes majority share in the market, the domestic industry has no option but to follow the import price. While the petitioner is the sole domestic supplier, there are limited number of consumers of the product in the market and therefore the consumers are very well aware of the prices that are being offered by the foreign producers. Under these circumstances, the domestic industry cannot get a price higher than the landed price of imports. The petitioner has further contended that the importers are getting two kinds of credits when buying from foreign suppliers – (a) interest free credit for 90 days and (b) interest bearing credit for 270 days at interest cost substantially lower than the cost of funds in India. Considering the interest rate offered by the banks in India, importers are getting credit at a much lower rate. As against this credit, the banks are giving loans at a rate of 13-15%, thus making imports significantly cheaper as compared to domestic industry prices and is one of the reasons for preference of imports. The petitioner has claimed

adjustment to the net sales realization of domestic industry and landed price of imports on this account.

70. The Authority notes the submissions of the domestic industry regarding adjustment of the credit cost benefit extended by the exporters in the landed value. The Authority in this regard also notes that besides the credit cost there could even be factors like freight, preferential custom duty or even commission paid to agents by exporters which could be argued for a similar adjustment in event of differences in the business models of the exporters and the domestic industry. So far the above adjustments are appropriately accounted for while calculating the Ex-factory export price for dumping margin determination as per Authority's consistent practice. The Authority in this regard further notes that certain interested parties have argued for differential basis custom duties on Imports from different countries to be taken into account for injury analysis since the domestic industry matches the landed value which triggers the price setting. The preferential custom duty extended by the importing country on a particular import source/sources may also impact the landed value in an AD investigation which while examination of factors other than dumping needs to be carried out for an objective assessment of causal link. Therefore the landed value if altered by factoring credit cost may perhaps require factoring in of basic custom duty at a MFN rate rather than the preferential custom duties on one or a few import sources. The Authority therefore adheres to the consistent established practice of evaluating the landed value as done in its earlier investigations.

Price Underselling

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

European Union

- **M/s Oxea GmbH through Petrochem Middle East, Dubai and ICC Chemicals, USA:**

The landed value for M/s Oxea GmbH has been determined by adding 1% landing charges to CIF and applicable customs duties, i.e. basic custom duty and cess. The landed value is thus evaluated as *** \$/MT with injury margin as ***\$/MT (-5 to 0 %).

- **Non cooperative producers/ exporters:** The landed value for non cooperative producers/ exporters from EU has been computed on the basis of the lowest export price/ CIF, with 1% landing charges and applicable customs duty i.e. basic custom duty and cess. The landed value is thus referenced as***\$/MT. The injury margin is thus referenced as ***\$/MT (0-5 %).

Injury Table

Producer	Exporter	Landed price \$/MT	Non injurious Price \$/MT	Injury Margin \$/MT	Injury Margin (%) Range
OxeaGmbh	Petrochem Middle East, Dubai	***	***	(Negative) ***	*** (-5 to 0)
OxeaGmbh	ICC Chemicals, USA	***	***	(Negative) ***	*** (-5 to 0)
Non cooperative producer/exporters and combinations other than above two rows		***	***	***	*** (0-5)

Malaysia

- **M/s PCD through M/s PCM:** The weighted average landed value of imports has been determined on the basis of the verified weighted average CIF prices of subject goods produced by M/s PCD and exported by M/s PCM to India by adding 1% landing charges and

applicable customs duties i.e. basic custom duty and cess. The landed value is thus referenced as *** \$/MT. The injury margin for M/s PCD through M/s PCM is thus determined as*** \$/MT (0-5 %).

- **M/s BASF PETRONAS:** The landed value for M/s BASF PETRONAS has been determined by adding 1% landing charges to CIF and applicable customs duties. The landed value is thus evaluated as *** \$/MT with injury margin as ***\$/MT (0-5 %).

- **Non cooperative producers/ exporters:** The landed value for the non cooperative producers/ exporters from Malaysia has been computed on the basis of the lowest export price (CIF), with 1% landing charges and applicable customs duty i.e. basic custom duty and cess. The landed value and the injury margin are determined as ***\$/MT and ***\$/MT respectively (10-15%).

Injury Table

Producer	Exporter	Landed price \$/MT	Non injurious Price \$/MT	Injury Margin \$/MT	Injury Margin (%) Range
PCD	PCM	***	***	***	*** (0-5)
BASF PETRONAS	BASF PETRONAS	***	***	***	*** (0-5)
Non cooperative producer/exporters and combinations other than above two rows		***	***	***	*** (10-15)

South Africa, USA, Singapore

- The Landed Value of the subject goods from producers/ exporters from above mentioned three subject countries in POI has been computed on the basis of the transaction wise DGCI&S data after adding 1% landing charges on CIF, basic customs duty with cess. The

landed values for producers/ exporters of the subject goods from USA, Singapore and South Africa is thus considered as ***\$/MT, ***\$/MT and *** \$/MT respectively.

Injury Table

Subject country	Producer	Exporter	Landed price \$/MT	Non injurious Price \$/MT	Injury Margin \$/MT	Injury Margin (%) Range
South Africa	Any	Any	***	***	***	*** (0-5)
USA	Any	Any	***	***	***	*** (0-5)
Singapore	Any	Any	***	***	***	*** (0-5)

72. It is seen that the landed prices of the subject goods from the subject countries except for EU were lower than the NIP determined for the domestic industry, thus indicating price suppression phenomena.

Price Suppression/Depression

73. In order to determine whether the dumped imports are depressing the domestic prices or whether the effect of such imports is to suppress prices to a significant degree and 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. The position is shown as per the Table below:

Particulars	UOM	2010-11	2011-12	2012-13	POI
Cost of sales	Rs./KG	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>107</i>	<i>122</i>	<i>144</i>
Selling Price	Rs./KG	***	***	***	***

<i>Trend</i>		<i>100</i>	<i>103</i>	<i>107</i>	<i>117</i>
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74. It is seen that both costs as well as selling price of the domestic industry increased over the injury period. Whereas the costs have increased significantly; the domestic industry has not been able to increase its prices to that extent, thus, leading to financial losses in the POI. The petitioner has claimed that they have been unable to increase its selling price in proportion to increase in cost or even at the level of cost thereby suffering losses due to presence of dumped imports in the market. It is seen that the imports are suppressing the domestic prices. The petitioner has further claimed that the domestic industry could not achieve normal production in the POI due to non-remunerative prices and shortage of raw material. The petitioner has segregated cost incurred on account of idle time from the total cost to assess the injury caused by dumped imports. It has been further claimed by the petitioner that even if the domestic industry had been able to achieve normal production in the POI, the cost would have been significantly higher than the selling price.

75. Annual reports of the domestic industry for various period of injury were examined. It is seen that the company has identified a number of reasons for its performance, which includes non-availability of propylene from HPCL, increase in the prices of raw materials with no corresponding increase in sale prices of products, increased power cost, decline in gap between the prices of products and raw-materials after commencement of new capacities for oxo alcohols in China, depreciation of rupee, general inflation, and no corresponding increase in product prices, increase in propylene prices and lower market selling prices for the products, new capacities that have come up and further capacities coming up in the international scenario, poor product prices and consequently unit shut down for prolonged period and dumping of the product. The Authority notes in this regard that the factors affecting the domestic industry can be broadly divided into the following - (a) increase in cost of production due to increase in input prices or general inflation; (b) increase in cost of production due to lower production (because of increased incidence of overhead/fixed expenses getting loaded on lower production); (c) rupee depreciation/appreciation; (d) product prices not increasing.

76. While the cost of production of the domestic industry was increasing, its selling price of the products were not increasing proportionally. Further, these increases in the cost of production were on account of increase in raw material price increases, power rate increases or general inflation. The Authority notes that the domestic industry is expected to move its prices up or down in tandem with the increase or reduction in cost of production in a normal market situation. If the domestic industry has been faced with the increase in the cost of production on account of factors such as raw material price increases, power rate increases or general inflation, and if the domestic industry is unable to increase its prices in proportion to these increases, it could be that the domestic industry has been prevented from increasing its prices. While the domestic industry did identify other factors as also responsible for its inability to increase its selling price, the Authority notes that all these factors are intrinsically linked to imports also because the domestic industry has to price its product in competition to the imports. Since the consumers would want to buy the product at a price comparable to the imported product price, if the domestic industry has not increased its prices despite increase in cost of production, it is also due to availability of low priced imports. It is however appreciated that the increase in the cost of production due to lower production cannot be passed onto the consumers and business enterprises are not expected to charge higher prices merely because they want to maintain their profit levels and the production (and consequently) sales were lower due to other factors.

77. The domestic industry identified changes in exchange rate as one of the factors. The Authority however notes that this reference to exchange rate by the domestic industry is in the context of its ability to increase the prices of the product under consideration. If rupee depreciates, the landed price of imports increases and the domestic industry is in a position to charge better prices. Similarly, if rupee appreciates, the landed price of imports declines and the domestic industry is expected to reduce its prices. Thus, reference to exchange rate fluctuations in the annual reports refers to the ability or inability of the domestic industry to change its prices in the market.

78. The Authority thus notes that the annual report of the domestic industry does show two distinctly different factors of injury - (a) domestic industry being prevented from increasing its prices in proportion to the cost increases (which must clearly be seen a result of dumping) and

(b) inability of the domestic industry to produce the product to the extent it could have due to non-availability of raw materials. The Authority therefore holds that as far as changes in production, sales and market share are concerned, and the deterioration in the same could not be attributed to dumping of the product under consideration in India, but the dumped imports have led to price undercutting and price suppression.

Economic parameters of the domestic industry

79. Annexure II to the Anti-dumping Rules requires that determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth and the ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

Production, Capacity, Capacity Utilization and Sales

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

Particulars	Unit	2010-11	2011-12	2012-13	POI	POI*
Capacity	MT	20,625	22,500	22,500	28,125	22,500
Production	MT	19,407	22,184	14,409	6,735	5,388
Capacity Utilization	%	94.09%	98.60%	64.04%	23.95%	23.95%
Domestic Sales	MT	19,321	21,612	14,472	7,651	6,121
Demand	MT	42,536	50,753	46,606	61,596	49,277

**POI (figures are annualized)*

81. It is seen from the above table that:

- a) The domestic industry enhanced capacities in 2011-12 in view of higher demand in the Country.
- b) The demand for the product under consideration in the country has increased significantly over the injury period.
- c) Production of the domestic industry increased in 2011-12. However, the production declined significantly thereafter in 2012-13 and further in the POI. Production of the domestic industry in the POI was significantly low.
- d) Capacity utilization of the domestic industry has followed the same trend as that of production. The domestic industry was able to achieve good capacity utilization in the period 2011-12, but the same has declined significantly thereafter in 2012-13 and the POI. Whereas demand for the product under consideration increased by 16% over the period, capacity utilization declined to mere 24% in the POI. Capacity utilization increased in 2010-11 and thereafter declined significantly in 2012-13 and the POI.
- e) Sales of domestic industry increased in 2011-12 and declined thereafter. The domestic sales in POI on annualized basis, declined by 68% as compared to base year 2010-11.

82. It is thus concluded that production, domestic sales and capacity utilization of the domestic industry deteriorated significantly despite increase in demand for the product in the Country. The Authority notes that the production of the domestic industry has declined significantly in the period of investigation as compared to base year as well as previous year 2012-13. The petitioner has admitted that the domestic industry has suffered loss in production due to unavailability of raw materials as far as decline in production in 2012-13 and beginning of 2013-14 is concerned. The domestic industry suffered production loss from Aug., 2013 again due to fire in HPCL plant (who supplies them raw materials). At the same time, the annual reports also make it evident that the Petitioner had also curtailed production due to unremunerative price of its products. It is not a situation where entirety of the production loss was due to raw materials unavailability. In any case, the Authority does not consider deterioration in volume parameters (such as production, capacity utilization, sales volumes and market share) in concluding whether that the domestic industry has suffered material injury.

Profits, profitability, return on investment and cash profits

83. The cost of sales, selling price, profit/loss, cash profits and return on investment of the domestic industry has been analyzed as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI*
Cost of sales	Rs./KG	***	***	***	***
Index		100	107	122	144
Selling price	Rs./KG	***	***	***	***
Index		100	103	107	117
Profit/loss	Rs./KG	***	***	***	***
Index		100	68	-36	-125
Profit/loss	Rs. Lacs	***	***	***	***
Index		100	76	-27	-39
Cash Profit	Rs./KG	***	***	***	***
Index		100	72	-21	-100
Cash Profit	Rs. Lacs	***	***	***	***
Index		100	80	-15	-32
Profit before Interest	Rs./KG	***	***	***	***
Index		100	63	-13	-64
Profit before Interest	Rs. Lacs	***	***	***	***
Index		100	70	-19	-20
Return on Capital Employed (Range)	%	15-20	10-15	0 to -5	-5 to -10

**POI (figures are annualized and in accordance with the cost audit report)*

84. The Authority notes that:

- a) Both, the cost of sales and the selling price, increased over the injury period. However, the increase in selling price was lower than the increase in cost, thus, leading to decline in profitability.
- b) The domestic industry had earned profit in the base year, 2010-11. The profitability however deteriorated in 2011-12. The decline in profitability in 2011-12 was despite increase in production in this year. The profitability of the domestic industry deteriorated significantly thereafter and the domestic industry suffered financial losses in 2012-13 and the POI.
- c) Return on investment over the injury period has shown the same trend as that of profits. Return on investment declined in 2011-12, becoming negative thereafter, in 2012-13 and the POI.
- d) Profit before interest and taxes (PBIT) declined in 2011-12, becoming negative thereafter, in 2012-13 and the POI.
- e) Cash profits have also shown the same trend as that of profits. Cash profits declined in 2011-12, becoming negative thereafter, in 2012-13 and the POI.

85. Since the domestic industry has not produced the product under consideration for some part of the POI, the interested parties have contended that the decline in profits is because of suspension of production by the domestic industry. The Authority has for the purpose of determining extent of injury has adopted a normated cost of production to determine NIP so that idle period cost is not included in the analysis.

Market Share

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Domestic Industry	%	45%	43%	31%	12%
Subject countries-Imports	%	45%	47%	69%	86%
Other Countries-Imports	%	9%	10%	0%	2%

87. It is seen from the above table that the market share of the domestic industry has declined throughout the injury period and that of the subject countries on cumulative basis has increased

consistently. The market share of the domestic industry declined by 33% during POI as compared to the base year, whereas the market share of the subject countries increased by 41% in the same period. However, since the production of the domestic industry suffered both due to non-availability of raw material as well as unremunerative product prices (i.e., dumping), the Authority has not considered decline in market share as an indicator of impact of dumping of the product in the Country.

Employment, Productivity and Wages

88. The position with regard to employment, wages and productivity is as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI*
No of Employees	Nos	***	***	***	***
Index		100	83	67	66
Salaries & Wages	Rs. Lacs	***	***	***	***
Index		100	94	79	81
Wages per Unit of Production	Rs./Kg	***	***	***	***
Index		100	83	107	294
Productivity per Day	MT	***	***	***	***
Index		100	115	75	27

**POI (figures are annualized)*

89. It is noted that employment with the domestic industry declined over the injury period. Wages paid have declined up to 2012-13 and then increased slightly in the POI. Productivity increased in 2011-12 and declined thereafter, in line with the decline in production.

90. However, since it is an established fact that the production of the domestic industry suffered both due to non-availability of raw material as well as unremunerative product prices (i.e.,

dumping), the Authority has not considered these parameters as an indicator of impact of dumping of subject goods on one domestic industry.

Inventories

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Average Stock	MT	***	***	***	***
Index		100	179	239	122

92. It is seen that inventories with the domestic industry increased up to 2012-13 and then declined in the period of investigation.

However, since the production of the domestic industry suffered both due to non-availability of raw material as well as unremunerative product prices (i.e., dumping), the Authority has not considered changes in inventory as an indicator of impact of dumping on the domestic industry.

Growth

93. The data relating to growth of the domestic industry is shown in the following table:

Growth	Unit	2010-11	2011-12	2012-13	POI*
Production	Y/Y	-	14%	-35%	-63%
Domestic Sales	Y/Y	-	12%	-33%	-58%
Cost of sales	Y/Y	-	7%	15%	25%
Selling price	Y/Y	-	3%	4%	10%
Profit/(Loss)	Y/Y	-	-32%	-153%	-457%
ROI	Y/Y	-	-3%	-16%	-6%
Market Share	Y/Y	-	-3%	-12%	-19%

94. The Authority notes that growth of the domestic industry was adverse both in terms of volume and price parameters. Growth with regard to sales, production, market share, profits, return on investments and cash flow was negative during period of investigation.

95. It is therefore noted that the production of the domestic industry suffered both due to non-availability of raw material as well as unremunerative product prices (i.e., dumping) and therefore the Authority considers that the negative growth of the domestic industry in respect of volume parameters could not be conclusively considered as an impact of dumping of the product in the Country. Further, as regards growth in price parameters (such as profits, return on investment and cash flows), the Authority acknowledges that the fixed expenses incurred by the domestic industry during the shutdown period have also contributed to decline in profits (and consequently cash flow and return on investments). However, the Authority notes that the cost auditors of the company have been mindful of the situation and have determined profitability of the product under consideration after excluding the expenses incurred by the domestic industry during the period of production suspension. It is noted that the profits position determined by the cost auditors also shows negative growth of the domestic industry in respect of price parameters. Thus, it is concluded that even when the effect of production suspension on the domestic industry profits is excluded, the growth of the domestic industry was negative.

Ability to raise capital investments

96. The Authority notes that given rising demand of the product in the country, the domestic industry has made investments in its enhancing capacity. However, despite these investments, the performance of the domestic industry has deteriorated considerably.

Level of dumping & dumping margin

97. It is noted that imports from each of the subject countries are entering the country at dumped prices and that the margin of dumping are above de-minimus limits.

Factors Affecting Domestic Prices

98. The examination of the import prices from the 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 shows that the landed value of imported material from the subject countries is below the selling price and the non-injurious price of the domestic industry, causing price undercutting as well as price underselling in the

Indian market. The Authority notes that the prices of the product under consideration in general should move in tandem with the prices of key raw materials and the domestic industry has been fixing its prices considering these input prices and landed price of imports. The Authority further notes that the statements of the domestic industry in annual reports contain statements by the domestic industry which indicate that the domestic industry has not been able to increase its prices despite increase in raw materials or power prices. These public statements also show that the domestic industry benchmarks its prices with the imports. Thus, the landed value of subject goods from the subject countries is indeed a factor off cutting domestic prices.

99. The Authority concludes that the domestic industry has suffered material injury and the same is established on price undercutting and underselling without considering decline in volume parameters such as production, sales, capacity utilization, inventories.

Causal Link

100. The Authority notes that many interested parties have argued that injury to DI is due to their 'intrinsic factors' i.e. high prices of raw materials, dependence on one source of propylene, plant shut down both of DI and its supplier i.e. HPCL due to fire accidents, maintenance, likely self-injury by DI due to inter se change of production mix amongst the 2 main products i.e. NBA and 2 EHI and IBA etc. and other factors like inevitability to import due to huge demand supply gap, ensuring uninterrupted continuous supply of Product Under Consideration to the end users which were consequences of the warranting circumstances as stated above. The Authority notes that during the POI there are multiple factors which could have led to injury to the domestic industry. No doubt these would also be intrinsic besides extrinsic factors like dumping.

101. The Authority has consistently in its past investigations undertaken appropriate segregation of such factors so as to evaluate the extent of injury only on account of dumped imports. In the instant investigation, the production volume, sales and capacity utilisation have been primarily adversely affected an account of plant shut down for more than 200 days in the 15 months POI. However in a last few months in the POI especially Dec. 2013 to June 2014, the landed values of imports from subject countries have shown a declining trend. The month wise production and imports from subject countries in POI depict trend in the same direction when

statistically correlated contrary to the claim of certain interested parties that imports increase only use when production of DI drops. The month wise production of NBA in POI when statistically correlated with production of 2 EHI and IBA also show a positive correlation of 0.90 i.e movement in same direction contrary to the claim of injury being self-inflicted due to inter se change of production mix amongst the 3 products produced by DI. The domestic industry would face price injury when it is under pressure to match the landed value (most likely the least landed value). The month-wise price undercutting in POI is noted to be negative as well as positive in different months as shown in table below. The Authority has therefore evaluated an overall price undercutting for entire POI rather than the last few months to examine whether the overall price undercutting in the POI demonstrates a net price injury.

Month wise price undercutting

POI	NSR Price (Rs/Kg) (Rs/Kg)	Landed Average	Price undercutting (Rs/Kg) Average
Apr- 13	***	***	-5 to 0
May – 13	***	***	0 to 5
Jun- 13	***	***	0 to 5
Jul- 13	***	***	-5 to 0
Aug- 13	***	***	-5 to 0
Sep- 13	***	***	-5 to 0
Oct- 13	***	***	-5 to 0
Nov- 13	***	***	-5 to 0
Dec-13	***	***	0 to 5
Jan- 14	***	***	15 to 20
Feb- 14	***	***	10 to 15
Mar- 14	***	***	15 to 20
Apr- 14	***	***	0 to 5
May- 14	***	***	5 to 10
Jun- 14	***	***	15 to 20
Average			0 to 5

102. The Authority ‘notices that intrinsic factors’ would primarily leads to a volume injury as the adverse price effect due to high cost elements of raw material, plant overheads and other process efficiencies are normated while computing the NIP as per AD rules. The price effect

would be triggered more by extrinsic factors i.e. dumping which can be captured by evaluation of weighted average injury margin for the entire POI. The other factors like changes in demand, product substitutability/obsolescence etc. as required is also examined by the Authority. The Authority in order to capture the price effect strictly on the comparable terms of trade compares the NIP computed for bulk consignments with the import price which also happens in bulk.

103. The Authority has below examined the other factors listed under the Antidumping Rules which could have contributed to injury to the domestic industry for examination of causal link between dumping and material injury to the domestic industry.

Imports from third countries

104. The Authority has examined import data of the subject goods obtained from DGCI&S on transaction-wise basis. It is noted that imports from third countries are negligible and could not have caused claimed injury to the domestic industry.

Contraction in demand

105. The Authority notes that the demand for the subject goods has shown significant improvement during the injury period. It has increased in the POI from the base year and the previous year. Possible contraction in demand could not have caused injury to the domestic industry.

Trade restrictive practices of and competition between the foreign and domestic producers

106. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

Developments in technology

107. The domestic industry's production process is Naphtha based on which they plan to shift to natural gas in future. However, the Authority notes that the existing technology and process adopted by the domestic industry is comparable with foreign producers as regards production of the final product.

Changes in pattern of consumption

108. The domestic industry is producing the subject goods that have been imported into India. Possible changes in pattern of consumption are not a factor that could have caused claimed injury to the domestic industry.

Export performance

109. Petitioner has no exports of the product under consideration. Thus, the claimed injury to the domestic industry is on account of domestic operations only.

Performance of the domestic industry with respect to other products

110. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

Productivity of the domestic industry

111. The Authority notes that the productivity of the domestic industry has followed the same trend as production. Deterioration in productivity has not caused injury to the domestic industry.

Factors establishing causal link

112. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has deteriorated due to dumped imports from subject countries. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

a) The volume of imports has increased significantly in absolute terms and in relation to production and consumption in India. The annual report shows that the production, and consequently capacity utilization and sales of the domestic industry suffered due to both - non availability of raw materials and unremunerative product prices, however the Authority has not considered the decline in market share of the domestic industry and decline in production, capacity utilization, sales of the domestic industry as a result of dumping of the product under consideration.

- b) The domestic industry is fixing its selling prices based on the import price from various subject countries. Further, whenever the cost of production of the domestic industry is increasing due to either raw materials, or power or general inflation, the domestic industry wishes to increase its prices. Even when the domestic industry increased its prices, the domestic industry has been prevented from raising its prices in proportion to the increase in the cost of production.
- c) The imports of the product under consideration are causing price suppression and are preventing the domestic industry from raising the prices. Consequently, profits, cash flow and ROI has declined.
- d) The subject imports are resulting in price underselling in the market.
- e) The growth of the domestic industry became negative in terms of a number of price and volume related economic parameters. While negative growth in volume parameters could be due production suspension, negative growth in the price parameters is primarily due to dumping of the product in the Country.

113. The Authority has determined non-injurious price for the domestic industry. For the purpose the Authority has considered best consumption norms of the raw materials & utilization. Further, since the domestic industry did not produce the product under consideration for some period during the POI, the Authority has considered fixed expenses by considering optimum production volume of *** MT considering best capacity utilisation during last 4 years. The Authority has also segregated and excluded various expenses considering the provisions of Annexure-III to the Rules. Capital employed of the domestic industry has been determined on the basis of provisions of Annexure III of the Rules and the return on capital employed has been granted at the level of notional production. The non-injurious price of the domestic industry so determined has been compared with the landed values of the subject imports from each of the responding exporters in the subject countries to determine injury margin.

Indian industry's interest & other issues

114. The Authority notes the submissions of users and holds 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 antidumping measures is

not to restrict imports from the subject countries in any way, and, to affect the availability of the products to the consumers.

115. The Authority also holds that though in event of imposition of anti-dumping duties the price level of product in India may be affected but fair competition in the Indian market will not be reduced by such anti-dumping measures. On the contrary, the anti-dumping measures may mitigate the unfair advantage gained by dumping practices, which 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.

Comments on Disclosure

Comments by Domestic Industry

116. The following comments have been made by the domestic industry:

- While determining price undercutting, the Authority has rejected the issue of credit period raised by the petitioner.
- The Authority may kindly specify in duty table that the PUC should attract duty regardless of the customs classifications under which goods are being cleared by the importers. Further, the authority may kindly specify in duty table that the customs classification is indicative only. It was submitted that only the duty table contents are relevant in this regard. Anything mentioned in the para relating to "product under consideration" but not stated in duty table is likely to get ignored while issuing notification by the Ministry of Finance. The Customs authorities at the port also consider and rely upon the notifications issued by the MOF and do not take cognizance of the notification issued by the final findings.
- The non injurious price determined is grossly low and is leading to unduly low injury margin.
- It is inappropriate to ignore actual production and adopt any other production basis for determination of non injurious price. The Authority should consider the expenses as per cost audit statement and ignore the fact that the petitioner plant was under shutdown.
- The Authority is requested to consider the request of the petitioner for inclusion of freight for determination of injury margin.

- Credit period should be considered for injury margin determination. In this regard, the Supreme Court case of in the matter of Haldor Topose was cited. The impact of credit can be seen either in terms of "cost to the exporter" or "benefit to the importer".

Cost to the exporter:

SN	Parameter		Case -1	Case -2	Case -3	Case -4
1	Interest free credit					
A	Credit period	Days	90	120	180	365
B	Interest cost of exporter	%	6%	6%	6%	6%
C	Selling price (assumed)	US\$/MT	1400	1400	1400	1400
D	Credit cost	US\$/MT	21	28	41	84
E	Credit cost %	%	1.48%	1.97%	2.96%	6.00%
2	Interest bearing credit					
A	Credit period	Days	90	120	180	365
B	Interest cost of exporter	%	6%	6%	6%	6%
C	Interest cost charged by exporter	%	4%	4%	4%	4%
D	Difference in interest cost	%	2%	2%	2%	2%
E	Selling price (assumed)	US\$/MT	1400	1400	1400	1400
F	Credit cost	US\$/MT	7	9	14	28
G	Credit cost %	%	0.49%	0.66%	0.99%	2.00%

Benefit to the importer:

SN	Parameter		Case -1	Case -2	Case -3	Case -4
1	Interest free credit					
A	Credit period	Days	90	120	180	365
B	Interest cost of importer	%	13%	13%	13%	13%
C	Hedging cost	%	6%	6%	6%	6%
D	Net cost to importer	%	7%	7%	7%	7%
E	Selling price (assumed)	US\$/MT	1400	1400	1400	1400
F	Credit cost	US\$/MT	24	32	48	98
G	Credit cost %	%	1.73%	2.30%	3.45%	7.00%
2	Interest bearing credit					
A	Credit period	Days	90	120	180	365
B	Interest cost of importer	%	13%	13%	13%	13%
C	Interest cost charged by exporter	%	4%	4%	4%	4%
D	Hedging cost		6%	6%	6%	6%
E	Difference in interest cost	%	3%	3%	3%	3%
F	Selling price (assumed)	US\$/MT	1400	1400	1400	1400
G	Credit cost	US\$/MT	10	14	21	42
H	Credit cost %	%	0.74%	0.99%	1.48%	3.00%

- Anti dumping duty may be imposed as fixed quantum of anti dumping duty (fixed form of duty), expressed as duty in US\$/kg. To support the said claim, cases of CESTAT were cited:
 - In the case of NBR from Korea, the Hon'ble CESTAT modified variable anti-dumping duty recommended by Designated Authority to fixed duty based on the appeal filed by an exporter, M/s. Kumho Petro-Chemicals Co. Ltd. (2004(170)E.L.T. 274)
 - In the case of Metcoke, the CESTAT, vide their decision 2000(116) E.L.T. 67 modified the anti-dumping duty from variable to fixed.
 - In the case of Vitrified files, the CESTAT upheld the decision of the Designated Authority to impose fixed quantum of duty.
 - The decision of the CESTAT in the matter of Metcoke from China.

Comments by Interested Parties:

117. The following comments have been made by interested parties:

- There is no justification for claiming landed price from subject countries as per DGCI&S as confidential.
- Injury, if any, to the domestic market was not due to imports from subject countries but self inflicted.
- There is no disclosure about the methodology adopted by the Authority to make adjustments in the cost of production of petitioner to account for the idle time due to plant shut downs in the disclosure statement.
- AD duties, if any, should only be recommended in terms of Indian Rs and not USD;
- Imposition of any AD duty in the present case would add on the cost of the users who are facing non supply of subject goods by the single domestic producer.
- The Authority may kindly record the term "PETRONAS" in capital letters throughout the disclosure statement and the final findings.
- The Authority's observation that imports of the subject goods have increased in absolute terms and in relation to production in the POI, is incorrect in view of the surrounding facts i.e. the domestic industry was shut for a period of 263 days during the POI – for 231 days due to non-availability of raw material and for remaining days due to unremunerative prices.

- The Authority should do a quarter-by-quarter analysis of imports vis-à-vis production of the domestic industry. The month-by-month analysis of production of the domestic industry with import volumes gives a skewed picture.
- It is not understood, on what basis the correlation coefficient *between production and imports from subject countries* has been calculated, as the actual figures of production and imports have not been disclosed by the Authority. Further, non-disclosure of production and import figures month-wise is a violation of the principles of natural justice.
- For a proper analysis, landed value of imports should be compared with net sales realization of the domestic industry only for those periods when the domestic industry was in operation. Such analysis would show that there is no price undercutting in this case.
- The Authority's analysis on Price Underselling is incorrect as the Authority has considered very high cost of production for the domestic industry.
- It is not clear on what basis the NIP has been determined on weighted average basis for the entire POI. The month-wise raw material prices relied upon by the Authority should be disclosed in indexed form to clear the doubts regarding cost of production and NIP of the domestic industry.
- It is not understood on what basis such wages per unit of production have been claimed by the domestic industry and allowed by the Authority.
- NIP should be calculated for the period in which the domestic industry was in operation and landed value should be compared for the same period.
- It is incorrect to say that the product prices were not increasing, because an analysis of landed value for all subject countries shows that landed value consistently increased during the entire injury analysis period.
- It is apparent from the annual reports of the domestic industry that the sole reason of injury was non-supply of raw material leading to plant shutdown.
- The Authority ought to show the exact extract from the annual reports of the domestic industry from the injury analysis period wherein it is stated that the domestic industry has been prevented from increasing prices due to dumping.
- The only reason for injury to the domestic industry is loss of production due to plant shutdown.

- The Authority's determination of not considering volume parameters for determination of material injury is legally incorrect. All economic parameters of the domestic industry ought to be considered for a proper appreciation of material injury to the domestic industry.
- The Authority should modify its conclusions on price effect and conclude that there is no price effect due to imports during the POI.
- There is no volume injury to the domestic industry.
- Prices of raw materials considered by the Authority are very high.
- The Authority has determined NIP based on cost of production data and raw material prices for selective months (when the domestic industry manufactured the subject goods) in the POI but has compared the same with average landed value of the subject goods during the POI. The Authority should therefore re-determine cost of production and NIP of the domestic industry.
- Extraordinary hike in wages as claimed by the domestic industry has inflated the cost of production.
- The Authority wrongly holds that employment, productivity and wages are not relevant factors for determining material injury. Also the observation of the Authority that inventory is not an indicator of injury for the purpose of injury analysis, is incorrect.
- Throughout the final findings that would be issued, wherever the Authority examines the volume parameters of the domestic industry it should be recorded that *there is no injury on volume parameters due to imports of the subject goods*.
- Incorrect analysis has been made by the Authority on the growth of the domestic industry during the POI.
- It is not understood on what basis competition in the domestic market has been examined by the Authority.
- The Authority has incorrectly determined selling prices and NIP of the domestic industry. Also, the Authority should also provide indexed figures of NIP for the periods prior to the POI.
- The Authority wrongly notes that prices of the domestic industry did not move in tandem with prices of the raw material and the domestic industry has been fixing its prices based on landed prices. The Authority also wrongly concludes that the annual reports of the domestic industry show that the domestic industry benchmarks its prices with imports.

- The Annual reports of the domestic industry should be considered as it is. The Authority should not add more facts to already established facts to support the domestic industry's claims. To support this, CESTAT's case of *Andhra Petrochemicals Ltd. v. Designated Authority* [2006 (201) E.L.T. 481 (Tri. - Del.)] was cited.
- Volume parameters cannot be ignored while analysing material injury.
- There is no causal link in the present case as there is no volume injury to the domestic industry and injury due to price effects have been wrongly determined by the Authority.
- The Authority has not explained how cost of production has been adjusted to take into account idle time when production was suspended by the domestic industry.
- In determining the non-injurious price for domestic industry, the statute provides for a reasonable rate of return to be included. Reliance in this regard was placed on CESTAT's case of *Indian Spinners Association v. Designated Authority* 2004 (170) E.L.T. 144 (Tri. - Del.)
- The Authority should take into consideration increase in cost of utilities while noting increase in cost of sales of the domestic industry.
- Imports from Malaysia were only bridging the demand-supply gap in the domestic market of India.
- High prices of propylene, the primary raw material for the production of NBA, during the POI should be examined in the causal link analysis. Also the domestic industry was able to sell its entire production in the injury analysis period.
- Same rate of anti-dumping duty for related entities, i.e. for M/s PETRONAS Chemicals Derivatives SDH BHD and M/s BASF PETRONAS Chemicals SDN BHD in the present investigation should be recommended as per the consistent practice of the Authority. In this regard, anti -dumping investigations on the imports of:
 - (a) Plain Gypsum Plaster Board originating in or exported from China PR, Indonesia, Thailand, and United Arab Emirates [Notification No. 06/2013-Customs (ADD) dated 12 April 2013];
 - (b) Sunset review concerning imports of 'Homopolymer of Vinyl Chloride (Suspension Grade)' originating in or exported from China PR, Chinese Taipei, Indonesia, Japan, Korea RP, Malaysia, Thailand and the United States of America [Notification No. 27/2014-Customs (ADD) dated 13 June 2014].

- Dumping margin should be calculated as a percentage of CIF export price and not ex-factory export price in this case.
- There is no discussion or evidence placed on record to show that how the production loss of the domestic industry of 212 days did not allegedly lead to self inflicted injury, but the imports did.
- It remains to be seen as to how did the Authority undertook to consider the period of investigation as a comparison period and the last three years for adopting the “best utilization” ratios for various parameters such as raw materials, utilities etc.
- Causal link clearly fails to meet the requirements of Rule 9(2) of the Anti-dumping Rules and Article 5.2 of the Anti Dumping Agreement (ADA).
- The subject countries in the present investigation have wrongly been cumulated for the purposes of analyzing the injury caused to the domestic industry. The Authority de-cumulate the EU imports and terminate the investigation against those imports without the imposition of measures. To support the said claim, Article 3.3 of the ADA, Paragraph (iii) of Annexure II to the Anti-Dumping Rules, *European Communities – Malleable Cast Iron Tube Or Pipe Fittings From Brazil* [WT/DS219/AB/R dated 22 July 2003], *Certain tube and pipe fittings, of iron or steel, from China, Croatia and Thailand* [Commission Regulation (EC) No 2318/95 of 27 September 1995] and *Ammonium nitrate from Russia* [Council Regulation (EC) No 2022/95 of 16 August 1995] were cited.
- Despite increase in demand the imports from EU have declined over the injury period.
- Competition is an indicator of a free market. Inflow of imports into the home market does not point towards dumping especially in the present case where the domestic industry has suspended production during the POI.
- There is no price underselling caused by the producer/ exporter from EU since the injury margin calculated by the Authority is negative (-5 to 0%).
- The Authority's argumentation that the Petitioner should have been able to pass on the 40% price increase of propylene (when by comparison import prices of propylene into the EU increased only by 8% during the same period) is wrong.
- Imports cannot be held responsible for the Petitioner's inability to pass on excess raw material costs.

- Imports from the subject countries did not suppress /depress the Petitioner's prices. Furthermore, prices of EU imports of n-butanol have not undercut Indian prices throughout the entire period investigated and EU import volumes have decreased by 47% since 2011/12.
- The Authority did not consider deterioration in volume parameters in concluding whether that the domestic industry has suffered material injury. Also, the decline in profits and inability of the domestic industry to raise Capital Investments is because of suspension of production by the domestic industry.
- The Authority has not considered decline in market share; Employment, Productivity & Wages; and considered changes in inventory as an indicator of impact of dumping on the domestic industry.
- Since the imports from EU are not undercutting or underselling the domestic industry's prices, the alleged dumping is irrelevant for the injury assessment.
- The Authority should also examine factors other than dumped imports which might be injuring the domestic industry at the same time.
- There is a breach in causal link between material injury caused to the domestic industry and the allegedly dumped imports from EU.
- The imposition of anti-dumping duties is not in the interest of the downstream Indian industry as the local demand is more than twice the domestic production.
- The sole purpose of the present Petition is to create an artificial supply shortage through the imposition of anti-dumping duties that would allow the Petitioner to increase prices to the detriment of the domestic users, which is not a legitimate use of the anti-dumping instrument.
- The Authority is requested to order the Petitioner to provide further details on the impact of the cyclone *Hudhud* on its production capabilities, so that it could be assessed whether imposition of anti-dumping duties would lead to a supply shortage to the detriment of Indian users.
- It is assumed that the Authority has determined the capital employed using book value of the domestic industry's assets.
- The Authority should adjust the non-injurious price downwards to take into account (i) the part of the Petitioner's injury that it admits is not attributable to imports, and (ii) the part of the injury that is self-inflicted by purchasing propylene at exaggerated prices from a local supplier when it was apparently available cheaper from other international sources.

- The POI has been set out without appropriate justification.
- Injury, if any, has been suffered by the domestic industry by factors other than imports alleged to be dumped.
- It is wrong to conclude that price level of the Indian domestic industry became unremunerative because of the dumped imports, but rather that the cost of production had abnormally increased without any apparent reason.
- Unavailability of raw material and the resulting plant shut down for 212 days breaks the causal link.
- The petitioner would inevitably have lost market share to the benefit of imports over the period 2010- 11 to the POI because of the significant increase in domestic demand.
- NIP calculated on the basis of an abnormally high cost of sales has been unduly inflated.
- Full set of information on the basis of which the dumping, undercutting and underselling margins had been calculated was not disclosed to the EU exporters.

Examination by Authority:

118. The Authority notes the submissions on injury and causal link made by various interested parties, regarding comparison to be made for the months only when production was made by the Domestic Industry, volume injury occurring only due to intrinsic factors, Authority not to attribute and assign conclusions on statements in the annual reports of the domestic industry, NSR being higher than landed value, terminate present investigation like in earlier photographic paper case where the domestic industry was sick, cumulation of imports not possible due to different rates of basic custom duty, Hon'ble CESTAT having quashed the findings of the same case earlier due to non-evaluation of causal link, lead time of imports not considered and hence erroneous interpretation of import and production correlation, erroneous interpretation of price injury and causal link. The Authority notes the above submissions and holds that a month-wise analysis in POI as requested earlier by various interested parties and keeping the nature of the case was undertaken. However while month-wise trend analysis has been undertaken to analyse causality, for the assessment of quantum of price injury, the entire POI has been taken as done in all cases. The lead time is equally important for domestic production, and therefore for an overall assessment, the entire POI is considered so as to average out the lead time issues, as done consistently in anti- dumping investigations.

119. The Authority also notes that M/s APL being the sole domestic producer though has no competition from domestic producers, it faces competition from imports especially dumped imports from subject countries. The authority also holds that filling of demand supply gap by imports from subject countries needs to be at fair price and not at unfair dumped price which is being addressed in the finding.

120. As regards the argument on no price injury due to dumping to Domestic Industry made by various interested parties the Authority holds that the verified data in accordance with the Anti Dumping Rules has been adopted and the extent of dumping evaluated has not been contested by either cooperative or non-cooperative exporters. The comparison of NIP and Landed Value in case of cooperative exporters has been done on the basis of export price data submitted by exporters, duly verified and furnished to exporters through an exporter's verification report and disclosure. The Landed Value accordingly has been worked out on this data and injury margin evaluated after appropriate comparison with NIP over the entire POI. The injury margin has been worked out by adopting the landed value of dumped imports and injurious price effect impact it can have by undercutting the NIP.

121. The price effect though triggered the onset of the injury, its ramification as a volume effect in POI is at a low key as other intrinsic factors have over shadowed the volume injury in POI. The domestic industry is still in production and not closed and has requested for injury redressal due to dumping.

122. The Authority has analysed annual reports and other submissions of the Domestic Industry to evaluate causal link so that factors other than dumping are also addressed in view of the issues submitted by various interested parties citing the earlier Judgement of Hon'ble CESTAT.

123. Transaction wise data of DGCI&S provided by the domestic industry has been placed in public file and made available to various interested parties.

124. The NIP has been determined for the entire POI by adopting the consistent methodology of determining NIP on highest capacity utilisation, best achieved norms of consumption etc. over the injury period as stipulated in Annexure III to the AD rules. Domestic Industry's and other interested parties' contention regarding idle time, the Authority holds that it has adopted the consistent practice to evaluate NIP as per Annexure III to the AD rules.

125. The freight cost as requested by the domestic industry for factoring in the NIP has not been considered appropriate as decisions of locating a unit near to raw-material supply or finished goods consumers are strategic decisions taken at the time of inception and injury assessment in an AD investigation warrants apple to apple comparison of NIP with Landed Value, and cannot be altered on a case to case basis, keeping in view the history of locating a unit which may vary entity to entity with raw-material sources and consumers location also getting diversified and changing dynamically over time.

126. As regards altering the landed value through credit cost adjustment, the Authority holds that the adjustment of credit cost has been done for evaluation of dumping margin. Further, adjustment of credit cost in landed value does not seem appropriate as stated in the disclosure statement as well, as other factors like freight, preferential custom duty or even commission paid to agents by exporters may also warrant an adjustment depending on business practices and bilateral arrangements between countries.

127. As regards the submissions that Authority has not dealt all injury parameters, the Authority holds that all relevant injury parameters have been analysed under the injury and causal link examination with a finding on the possible negative impact due to dumping wherever relevant.

128. The Authority notes the submissions of Lakshmi Kumaran & Sridharan Attorneys to recommend same rate of anti dumping duty for both M/s PCD and M/s BASF PETRONAS. The Authority holds that the channels of export adopted by M/s PCD and M/s BASF PETRONAS are different. As the evaluation has been undertaken specific to a value chain channel and the transaction between related parties have been considered after confirming that these are at arms length, the need to combine the two producers/ exporters from Malaysia does not seem

appropriate. Further, exports by channels other than the related channels of export by cooperative producers/ exporters which have been verified and considered for according individual dumping margin and injury margin assessment in the present investigation, would attract anti dumping duty under the residual/ non- cooperative category.

129. As regards the form and manner of duty, the Authority holds that anti dumping duty has consistently been recommended in the form of fixed duty in US\$ keeping in view the experience of efficacy in the implementation of anti dumping measures. The Authority has therefore recommended anti dumping duty as per lesser duty rule in fixed form in US\$. The Authority noting the submission of the domestic industry to make the duty table comprehensive, has mentioned in the footnote to the domestic industry that customs head is indicative.

Recommendations

130. The Authority notes that the export price of the subject goods exported from the subject countries are below normal value, thus establishing dumping of the same. The Authority also notes that the domestic industry continues to suffer material injury on account of dumped imports from the subject countries. Therefore, the Authority considers it necessary to recommend imposition of antidumping duty on imports of subject goods from the subject countries in the form and manner described in the “Duty Table” below. However, wherever the injury margin is negative for any producer/ exporter, it has been so indicated in the analysis in the previous paragraphs on injury analysis.

131. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount mentioned in Col 8 of the table below is recommended to be imposed by the Central Government, on imports of the subject goods originating in or exported from the subject countries.

DUTY TABLE

S.N.	*Subheading/ Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Duty Amount	Unit of Measure	Currency
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1	2	3	4	5	6	7	8	9	10
1)	29051300	Normal Butanol or “N-Butyl Alcohol”	European Union	European Union	Oxea GmbH	Petrochem Middle East FZE, Dubai	Nil	MT	US\$
2)	29051300	Normal Butanol or “N-Butyl Alcohol”	European Union	European Union	Oxea GmbH	ICC Chemicals, USA	Nil	MT	US\$
3)	29051300	Normal Butanol or “N-Butyl Alcohol”	European Union	European Union	Any combination other than 1) and 2) above.		46.27	MT	US\$
4)	29051300	Normal Butanol or “N-Butyl Alcohol”	European Union	Any	Any	Any	46.27	MT	US\$
5)	29051300	Normal Butanol or “N-Butyl Alcohol”	Any	European Union	Any	Any	46.27	MT	US\$
6)	29051300	Normal Butanol or “N-Butyl Alcohol”	Malaysia	Malaysia	M/s PETRONAS Chemicals Derivatives SdnBhd	M/s PETRONAS Chemicals Marketing SdnBhd	51.42	MT	US\$
7)	29051300	Normal Butanol or “N-Butyl Alcohol”	Malaysia	Malaysia	BASF PETRONAS	BASF PETRONAS	26.59	MT	US\$
8)	29051300	Normal Butanol or “N-Butyl Alcohol”	Malaysia	Malaysia	Any combination other than 6) and 7) above.		149.31	MT	US\$
9)	29051300	Normal Butanol or “N-Butyl	Malaysia	Any	Any	Any	149.31	MT	US\$

		Alcohol”							
10)	29051300	Normal Butanol or “N-Butyl Alcohol”	Any	Malaysia	Any	Any	149.31	MT	US\$
11)	29051300	Normal Butanol or “N-Butyl Alcohol”	Singapore	Singapore	Any	Any	35.66	MT	US\$
12)	29051300	Normal Butanol or “N-Butyl Alcohol”	Singapore	Any	Any	Any	35.66	MT	US\$
13)	29051300	Normal Butanol or “N-Butyl Alcohol”	Any	Singapore	Any	Any	35.66	MT	US\$
14)	29051300	Normal Butanol or “N-Butyl Alcohol”	S. Africa	S. Africa	Any	Any	13.24	MT	US\$
15)	29051300	Normal Butanol or “N-Butyl Alcohol”	S. Africa	Any	Any	Any	13.24	MT	US\$
16)	29051300	Normal Butanol or “N-Butyl Alcohol”	Any	S. Africa	Any	Any	13.24	MT	US\$
17)	29051300	Normal Butanol or “N-Butyl Alcohol”	USA	USA	Any	Any	24.16	MT	US\$
18)	29051300	Normal Butanol or “N-Butyl Alcohol”	USA	Any	Any	Any	24.16	MT	US\$

19)	29051300	Normal Butanol or "N-Butyl Alcohol"	Any	USA	Any	Any	24.16	MT	US\$
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* The customs classification is indicative only and not binding on the scope of this investigation.

132. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

Further Procedure

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

AK Bhalla
Additional Secretary & Designated Authority