

**To be published in Gazette of India, Extra ordinary, Part 1, Section1.**

F. No. 14//13/2014-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Anti Dumping & Allied Duties)  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi-110001

Date: 12<sup>th</sup> January, 2016

**NOTIFICATION**

**(Final Findings)**

**Subject: Anti-dumping investigation concerning imports of Phenol originating in or exported from European Unions, Singapore and Korea RP -reg.**

**F No: 14/13/2014-DGAD:** Having regard to Customs Tariff Act, 1975 as amended from time to time 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.

**A. BACKGROUND**

1. Whereas the Designated Authority (hereinafter referred to as the Authority) received a written application from M/s Hindustan Organic Chemicals Limited (HOCL) and M/s SI Group India Ltd (hereinafter referred to as the applicants or the petitioners ) on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules or the Rules), alleging dumping of Phenol (hereinafter referred to as the subject goods), originating in or exported from the European Union (EU), Singapore and Korea RP (hereinafter referred to as the subject countries), and thus, for initiation of anti-dumping investigation and levy of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject countries.
2. And whereas the Authority found sufficient prima facie evidence of dumping of the subject goods originating in or exported from the subject countries and injury to the domestic industry and causal link between dumping and injury and initiated the anti dumping investigation vide Notification No. 14/13/2014-DGAD dated 15<sup>th</sup> October, 2014 to investigate into the alleged dumping and consequent injury to the domestic industry, in terms of the Rules, and to determine the existence, degree and effect of the alleged dumping and recommend the amount of anti-dumping duty which, if levied, would be adequate to remove the injury to the domestic industry.

## **B. PROCEDURE**

3. The procedure described below has been followed:

- (i) The Authority notified the Delegation of the European Union to India, the High Commission Singapore in India and the Embassy of Korea RP about the receipt of dumping allegation before proceeding to initiate investigation in accordance with the AD Rules.
- (ii) The Authority, on the basis of sufficient evidence submitted by the applicants to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods originating in or exported from the subject countries.
- (iii) The Authority issued a public notice dated 15<sup>th</sup> October, 2014, published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods.
- (iv) The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicants) and the industry associations and gave them opportunity to make their views known in writing within the prescribed time limit in accordance with the AD Rules.
- (v) The Authority also 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 known in writing within the prescribed time limit.
- (vi) The Authority provided a copy of the non-confidential version of the application to the known exporters to the Delegation of the European Union to India, the High Commission Singapore in India and the Embassy of Korea RP in accordance with Rule 6(3) of the AD Rules. A copy of the application was also provided to the other interested parties, wherever requested.
- (vii) 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:
  - a. M/s LG Chem Ltd, Korea RP
  - b. M/s Kumho P& B Chemicals Inc, Korea RP
  - c. Mitsui Phenols Singapore Pte Ltd., Singapore
  - d. Chemoil Corporatrn, Korea RP
  - e. INEOS Phenol GmbH, Germany
  - f. Chemical Point UG, Germany
  - g. Chemical Point Benelux, Netherland
  - h. CEPSA Headquaters, Spain
  - i. CEPSA Quimica Belgium, Belgium
  - j. CEPSA Quimica Netherland, Netherland
  - k. Novapex, France
  - l. DOMO Caproleuna GmbH, Germany
  - m. Sky Petro-Chem Pte. Ltd., Singapore

- n. Humade Corporation, Korea RP
- (viii) The following exporters/producer/traders responded and filed the exporter questionnaire response:
- a. LG Chem Ltd, Korea RP
  - b. Hyundai Corporation, Korea RP
  - c. M Corporation Korea, RP
  - d. Petrochem Asia Pte Ltd, Singapore
  - e. Mitsui & Co. (Asia Pacific) Pte Ltd, Singapore
  - f. Mitsui Phenols Singapore Pte Ltd, Singapore
  - g. Oxyde Chemicals China Ltd, Hong Kong/China
  - h. Sumitomo Corporation Asia and Oceania Pte Ltd
  - i. Canko Marketing Inc, Korea RP
  - j. Kumho P&B Chemicals, Korea RP
  - k. Woori P&C Corporation, Korea RP
  - l. Humade Corporation, Korea RP
  - m. Continent International Ltd, Honk Kong
  - n. Vinmar International Ltd, USA
  - o. Haresh Petrochem Singapore Pte Ltd, Singapore
  - p. ICC Chemical Corporation, USA
  - q. Dinowic Pte Ltd, Singapore
  - r. Hazel Middle East FZE, UAE
  - s. Integra Petrochemicals Pte Ltd, Singapore
  - t. Kempar Energy Pte Ltd, Singapore
- (ix) The questionnaires were also sent to the following known importers/users of the subject goods in India calling for necessary information in accordance with the AD Rules.
- a. M/s. C.J. Shah and Company
  - b. M/s Haresh Kumar & Co., Mumbai
  - c. M/s. PCL Oil & Industries
  - d. M/s Kantilal Manilal & Co. Pvt. Ltd.
  - e. M/s Sonkamal Enterprises, Mumbai
  - f. M/s. Khetan Brothers
  - g. M/s. Shubham Dyes & Chemicals Limited
  - h. M/s Acron Enterprises
  - i. M/s. Naiknavare Chemicals Limited
  - j. M/s. Paras Dyes & Chemicals
  - k. M/s. Torrent Pharmaceuticals Limited, Gujarat
  - l. M/s. United Phosphorus Ltd. , Mumbai
  - m. M/s. Resins & Plastic Ltd.
  - n. M/s. Kailash Polymers
  - o. M/s Centrum Metalics Pvt. Ltd.
  - p. M/s. Wonder Laminates Pvt. Ltd.
  - q. M/s. Meghdev Enterprises
  - r. M/s. Satguru International
  - s. M/s. Bleach Marketing Pvt. Ltd.

- t. M/s. Karmen International (P) Ltd.
- u. M/s. High Polymer Labs Ltd.
- v. M/s. Rainbow colours & Chemicals
- w. M/s. Krishna Antioxidants Pvt. Ltd.
- x. M/s. NGP Industries Ltd.
- y. M/s. Farmson Pharmaceutical Gujrat Ltd.
- z. M/s. India Glycols Ltd.
- aa. M/s. Singh Plasticisers and Resins (I) Pvt.
- bb. M/s. National Plywood Industries Ltd.
- cc. Kundan Rice Mills Ltd.

- (x) One importer and user, namely, Sandeep Organics Pvt Ltd, Mumbai, responded to the investigation.
- (xi) None of importers/consumers has filed response to the importers questionnaire.
- (xii) The Authority held a public hearing on 16<sup>th</sup> September, 2015 to provide an opportunity to the interested parties to present their views orally in accordance with the Rules. The parties who attended the oral hearing were advised to file written submissions of the information presented orally. The interested parties were allowed to present rejoinders on the views/information presented by the other interested parties. The Authority has considered submissions received from the interested parties appropriately.
- (xiii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- (xiv) The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- (xv) Further information was sought from the applicants and other interested parties to the extent deemed necessary.
- (xvi) The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- (xvii) The period of investigation for the purpose of the present investigation was from 01.04.2013 to 31.03.2014. However, for the purpose of analyzing injury, the data of previous three years, i.e., 2010-11, 2011-12, 2012-13 and the period of investigation has been considered.
- (xviii) At the request of the Authority, the Central Government granted extension of time upto 14.01.2016 for completing the investigation and notifying the final findings.

- (xix) A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 06.01.2016. The post Disclosure Statement submissions have been considered, to the extent found relevant, in this Final Findings Notification.
- (xx) \*\*\* in this Final Findings Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- (xxi) Exchange rate for conversion of US\$ to Rs considered for the POI is US\$ 60.85.

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

### **Views of the Domestic Industry**

4. The views of the domestic industry are as follows:
- a. The product under consideration is Phenol originating and exported from the European Union, Singapore and Korea RP.
  - b. Phenol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. The product is marketed in two forms- bulk and packed. Bulk sales are normally in loose form, whereas packed consignments can be of much smaller container loads and generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol- A, Alkyl Phenols, Pharmaceuticals, Diphenyl Oxide etc. This product is classified under the Customs Tariff heading no. 29071110.
  - c. The Customs and ITC HS classifications are, however, indicative only and in no way binding on the scope of the present investigation.
  - d. The goods produced by the domestic industry are like article to the imported product in terms of parameters such as physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification.

### **Views of the other interested parties**

5. None of the importers, consumers, exporters and other interested parties filed any comment or submissions with regard to product under consideration and the like articles.

### **Examination by the Authority**

6. The product under consideration in the present investigation is “Phenol”. Phenol is a basic organic chemical normally classified under Chapter 29 of the Customs Tariff Act. The product is marketed in two forms- bulk and packed. Bulk sales are normally in loose form, whereas packed consignments can be of much smaller container loads and generally packed in drums. Phenol is used in Phenol Formaldehyde Resins, Laminates, Plywood, Particle Boards, Bisphenol-A, Alkyl Phenols, Pharmaceuticals, Diphenyl oxide etc. The product is classified under Customs Tariff heading no. 29071110. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.

7. Rule 2(d) of the AD Rules defines like article as follows:

*An article which is identical or alike in all respects to the article under investigation for being dumped in India or in absence of such article, another article which*

*although not alike in all respects, has the characteristics closely resembling those of the articles under investigation.*

8. The Authority notes that there is no known difference in subject goods produced by the domestic industry and exported from the subject countries. The subject goods produced by the domestic industry and that imported from subject countries are comparable in terms of characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, the subject goods produced by the domestic industry are being treated as domestic like article to the product under consideration imported from the subject countries in accordance with the anti-dumping Rules.

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

### **Views of Domestic Industry**

9. The views of the Domestic Industry are as follows:
- a. The petition has been jointly filed by M/s Hindustan Organic Chemicals Limited and M/s SI Group India Ltd.
  - b. M/s SI Group India Ltd and M/s HOCL are the only domestic producers of the product concerned and, therefore, constitute 100% of the total Indian domestic production.
  - c. The petitioners are multi product companies.
  - d. M/s HOCL has not imported the subject goods from subject countries and is neither related to the exporters or importers of the product under consideration.
  - e. M/s SI Group India Ltd has imported the subject goods from the subject countries under duty exemption scheme as well as after paying custom duty. However, the imports have been made primarily for captive consumption for production of downstream products. The company is not related to any exporter or importer of the dumped goods.
  - f. M/s SI Group has made majorly duty free imports which are not relevant to present investigation as such imports are only for export purposes.

### **Views of other interested parties**

10. The views of other interested parties are as follows:
- a. SI Group is an importer and, therefore, not a domestic industry. SI Group has made substantial imports of the subject goods in the POI.
  - b. SI Group has benefitted from the imports as it was able to competitively price its downstream product in the export market. Therefore, it should be excluded from the scope of the “domestic industry”.
  - c. Either SI Group should be excluded from the scope of domestic industry on account of its significant imports under advance license scheme or the advance license imports themselves must be excluded from the dumping and injury analysis.

### **Examination of Authority**

11. 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 like 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.*

12. The petition has been filed by M/s Hindustan Organic Chemicals Ltd and SI Group India Ltd. The petitioners are the only producers of the product concerned in India and, therefore, account for the total Indian production. Further, HOCL has not imported the subject goods, while SI Group has imported under the duty exemption scheme as well as after paying the custom duty. These imports are for captive consumption majorly and, thus, these imports have no bearing on the domestic market and, therefore, have no impact on the standing of SI Group as domestic industry.

13. The Authority notes that the imports made by SI Group India Ltd were not made available in the market. Therefore, the Authority holds that the imports made by SI Group did not disqualify it from being a part of the domestic industry.

14. Both the applicants are not related to any importer or exporter of the product under consideration. It is thus determined that the application made on behalf of the domestic producers satisfies the requirements of ‘standing’ under Rule 5 of the AD Rules. Further, HOCL and SI Group constitute ‘domestic industry’ in terms of Rule 2(b) of the AD Rules.

## **E. MISCELLANEOUS ISSUES**

### **Views of the Domestic Industry**

15. Views of the domestic industry are as follows:

- a. In the mid-term review concerning the present subject countries, the anti dumping duties were revoked when all price parameters showed improvement. However, in the present case it is quite clear that there is deterioration in profits, ROCE and cash profits which is attributable to dumped imports.

### **Views of other interested parties**

16. Views of other interested parties are as follows:

- a. The Mid Term Review investigation led to withdrawal of the anti dumping duty after spot verification. Domestic industry did not challenge the midterm review final finding and they shouldn't be allowed to question the same at this stage.

- b. Petitioners have exceedingly relied on anti dumping duties for over a decade. Despite the buffer of duties, HOCL was classified as a sick company by the BIFR under the SICA and has remained so for nearly a decade now.
- c. Despite the adjustment plans presented in the safeguards investigation, the petitioner's capacity remains at the same level as in 1999.

### **Examination of Authority**

17. As regards the contention that HOCL's Phenol plant has been shut in the past and has been declared a sick industry earlier and is seeking undue protection from the government, the Authority notes that the present situation falls within the purview of anti dumping law. The Authority recommends any measures or duty only after following the legal requirements. Irrespective of the history, every case is examined for a fresh period of investigation on its independent merits.

## **F. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS**

### **Determination of Normal Value, Export Price and Dumping Margin**

#### **Views of the domestic industry**

18. Views of the domestic industry are as follows:

- a. Efforts were made to get information regarding prices at which Phenol is being sold by the exporters and producers in their respective domestic market. Efforts were also made to get price lists or quotations of producers of the subject goods in the subject countries. However, because the product is generally not sold at retail level, no information was available to the domestic industry. Normal value has, therefore, been constructed for the subject countries.
- b. Cost of production has been determined considering Benzene prices as reported in Platts Report prevailing in the region. The power costs have been taken as applicable costs and other conversion cost has been taken as per the domestic industry.
- c. Export price has been determined as weighted average import price of the product under consideration after making due adjustments.
- d. The dumping margin is calculated on the basis of normal value and export price and is substantial.

#### **Views of other interested parties**

19. Views of the other interested parties are as follows:

- a. The injury margin calculations are without basis and should be rejected.
- b. Landed price alleged by the petitioners is not representative of the landed price for imports from Singapore.



- c. Petitioners have not provided any actual data to support their averments regarding the normal value and the export price while the exporters have provided detailed information. Therefore, the Authority may consider the exporters' information to calculate the dumping margin.
- d. Kumho P&B's selling price to India is not only higher than selling price in the domestic market and cost of production, but it is also highest when compared to other global exporters to India.
- e. Kumho has provided all responses and not received any request related to deficiency or clarifications by Authority or any objections by the Domestic Industry. Therefore, Kumho are fully cooperating.
- f. Kumho has no objection to monthly dumping margin determination.
- g. Kumho has not indulged in any dumping on any basis.
- h. The few transactions by Kumho are representative for DM determination as per the established practices and precedents of the Authority including in the MTR in the prior case.
- i. There is no requirement of complete export transaction chain as per the ADA or the practice in other leading jurisdictions. Moreover, Kumho has provided the complete transaction chain in respect of the few exports of KPBB produce to India during the POI of Phenol.
- j. Domestic Industry's submission with regard to Duty Drawback may not be adopted.
- k. LG Chem has made exports directly and through non-related traders. All the traders have provided Exporters' Questionnaire Response to complete the value chain. This is despite nominal quantity of exports and no interest in the Indian market.

### **Examination of Authority**

20. Under section 9A (1) (c), the 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
- (i) 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 sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:
  - (a) Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
  - (b) The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6).

21. As regards the submission that there should be individual dumping/injury margin determinations for each co-operating unaffiliated producer/trader combination separately, the Authority notes that the dumping margin and injury margin determinations in the present investigation are consistent with the established practice of the DGAD and the Rules in this regard.
22. As regards the contention that a few transactions of imports from Korea RP cannot injure the domestic industry, the Authority notes that it has made injury analysis separately under relevant headings.
23. As regards the submission for determination of dumping margin and injury margin on a monthly basis, the Authority notes that the relevant data has been analyzed on monthly basis in the present investigation in view of fluctuations in the prices of the raw materials.
24. 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 producers/exporters from the subject countries have filed exporter's questionnaire response:
  - (i) LG Chem Ltd, Korea RP
  - (ii) Hyundai Corporation, Korea RP
  - (iii) M Corporation Korea, RP
  - (iv) Petrochem Asia Pte Ltd, Singapore
  - (v) Mitsui & Co. (Asia Pacific) Pte Ltd, Singapore
  - (vi) Mitsui Phenols Singapore Pte Ltd, Singapore
  - (vii) Oxyde Chemicals China Ltd, Hong Kong/China
  - (viii) Sumitomo Corporation Asia and Oceania Pte Ltd
  - (ix) Canko Marketing Inc, Korea RP
  - (x) Kumho P&B Chemicals, Korea RP
  - (xi) Woori P&C Corporation, Korea RP
  - (xii) Humade Corporation, Korea RP
  - (xiii) Continent International Ltd, Honk Kong
  - (xiv) Vinmar International Ltd, Korea RP
  - (xv) Haresh Petrochem Singapore Pte Ltd, Singapore
  - (xvi) ICC Chemical Corporation, USA
  - (xvii) Dinowic Pte Ltd, Singapore
  - (xviii) Hazel Middle East FZE, UAE
  - (xix) Integra Petrochemicals Pte Ltd, Singapore
  - (xx) Kempar Energy Pte Ltd, Singapore

### **Determination of Normal Value for Korea RP**

#### **Normal Value for cooperative producers/exporters from Korea RP**

25. M/s LG Chem Ltd has responded and provided the information in prescribed format. The cost of production of the respondent has been compared with the transaction wise domestic sales and it was found that in most of the months, more than 80 % sales were profitable. Therefore, wherever more than 80% of sales were profitable, the Authority has determined the normal value on the basis of the total sales. However, wherever less than 80% of sales were profitable, the Authority has determined the

normal value on the basis of only profitable sales. The adjustments on account of inland freight and credit cost as claimed have been allowed. Accordingly, the normal value worked out on the basis of domestic selling price is indicated in the Dumping Margin Table below.

**M/s. Kumho P&B Chemicals Inc, Korea RP (Producer)**

26. M/s Kumho P&B Chemicals Inc has responded and provided the information in prescribed format. The cost of production of the respondent has been compared with the transaction wise domestic sales and it was found that the company has exported to India only in the two months of the POI and less than 80% of sales were profitable. Therefore, the Authority has determined the normal value on the basis of the total profitable sales only. The adjustments on account of inland freight and credit cost as claimed have been allowed. Accordingly, the normal value worked out on the basis of domestic selling price is indicated in the Dumping Margin Table below.

**Normal Value for non-cooperative producers/exporters from Korea RP**

27. The Authority notes that no other producer/exporter from Korea RP has submitted the exporter's questionnaire response. Therefore, the normal value as determined for the cooperating producer from Korea RP has been adopted for the non cooperative producers/exporters from Korea RP on the basis of facts available. Accordingly, the normal value so determined is as indicated in the Dumping Margin Table below.

**Determination of Normal Value for Singapore**

**Normal Value for cooperative producers/exporters from Singapore**

**M/s. Mitsui Phenols Singapore Pte Ltd, Singapore (Producer)**

28. M/s Mitsui Phenols Singapore Pte Ltd has responded and provided the information in prescribed format. The cost of production of the respondent has been compared with the transaction wise domestic sales and it was found that in most of the months more than 80 % sales were profitable. Therefore, wherever more than 80% of domestic sales were profitable, the Authority has determined the normal value on the basis of the total sales. However, in a particular month where less than 80% of the domestic sales were profitable, the Authority has determined the normal value on the basis of only profitable sales for that month. Further, during one of the months of the POI the profitable sales were minimal and, therefore, for that month the Authority has determined the normal value on the basis of cost of sales and reasonable profit for that month. The adjustments on account of inland freight and credit cost as claimed have

been allowed. Accordingly, the normal value worked out on the basis of domestic selling price is indicated in the Dumping Margin Table below.

### **Normal Value for non-cooperative producers/exporters from Singapore**

29. The Authority notes that no other producer/exporter from Singapore has submitted the exporter's questionnaire response. Therefore, the normal value as determined for the cooperating producer from Singapore has been adopted for the non cooperative producers/exporters from Singapore. Accordingly, the normal value so determined is as indicated in the Dumping Margin Table below.

### **Determination of Export Price for Korea RP**

#### **Export Price for cooperative producers/exporters from Korea RP**

##### **M/s. LG Chem Ltd, Korea RP (Producer)**

30. The Authority notes that M/s LG Chem Ltd, Korea RP (Producer) has exported the subject goods directly as well as through its un-related traders/exporters, namely, Vinmar International Ltd, USA, Haresh Petrochem Singapore Pte Ltd, Singapore, M Corporation, Hyundai Corporation, Korea RP, ICC Chemical Corporation, USA, Kempar Energy Pte Ltd, Singapore, Dinowic Pte Ltd, Singapore, Hazel Middle East FZE, UAE, Integra Petrochemicals Pte Ltd, Singapore, Continent International Ltd, Hong Kong and Oxyde Chemicals China Ltd, Hong Kong. These traders/exporters have submitted the exporters' questionnaire response but the data in the questionnaire response of M Corporation was found to be incomplete and, therefore, not considered. M/s LG Chem Ltd, Korea RP has exported total of 58,494 MT of the subject goods, out of which 2,877 MT has been exported by the company directly and 46,438 MT has been made through above mentioned un-affiliated cooperative traders/exports excluding M/s M Corporation. The adjustments claimed by the producer and traders/exporters are being considered for determination of net export price, i.e., inspection fee, international freight, interest, clearing & handling charges, bank charges, wherever applicable. The net export price for M/s LG Chem Ltd, Korea RP (Producer) and its un-related cooperative traders/exporters so determined is as indicated in the Dumping Margin Table below.

##### **M/s Kumho P&B Chemicals Inc, Korea RP (Producer)**

31. The Authority notes that M/s Kumho P&B Chemicals Inc, Korea RP (Producer) has exported the subject goods through its un-related traders/exporters, namely, Humade Corporation, Korea RP, Woori P and C Corporation, Korea RP and Canko Marketing Inc., Korea RP. These traders/exporters have submitted the exporters' questionnaire response. M/s Kumho P&B Chemicals Inc has exported a total of 48 MT of the

subject goods through the above mentioned un-affiliated cooperative traders/exports. The adjustment claimed by the producer and traders/exporters is being considered for determination of net export price, i.e., packing expenses, inland freight, inspection fee, international freight, credit expenses, bank charges and duty drawback, wherever applicable. The net export price for M/s Kumho P&B Chemicals Inc, Korea RP (Producer) and its un-related cooperative traders/exporters so determined is as indicated in the Dumping Margin Table below.

#### **Non-cooperative exporters from Korea RP**

32. The Authority notes that no other exporter/producer from Korea RP has responded to the Authority in the present investigation. Therefore, the Authority proceeds to determine the net export price based on the facts available. Accordingly, the export price so determined is as indicated in the Dumping Margin Table below.

#### **Export Price for cooperative producers/exporters from Singapore**

##### **M/s Mitsui Phenols Singapore Pte Ltd, Singapore (Producer)**

33. The Authority notes that M/s Mitsui Phenols Singapore Pte Ltd, Singapore (Producer) has exported a total of 20,138.7 MT of the subject goods through one related and cooperative trader/exporter, namely, M/s Mitsui & Co. (Asia Pacific) Pte. Ltd, Singapore (17,190 MT) and un-related and cooperative trader/exporters, namely, M/s Sumitomo Corporation Asia and Oceania Pvt Ltd and Petrochem Asia Pte Ltd, Singapore (2,949 MT). These traders/exporters have submitted the exporters' questionnaire response. The adjustments claimed by the producer and traders/exporters are being considered for determination of net export price, i.e., bank charges etc, wherever applicable. The net export price for Mitsui Phenols Singapore Pte Ltd, Singapore (Producer) and its related and un-related cooperative traders/exporters so determined is as indicated in the Dumping Margin Table below.

#### **Non-cooperative exporters from Singapore**

34. The Authority notes that no other exporter/producer from Singapore has responded to the Authority in the present investigation. Therefore, the Authority proceeds to determine the net export price based on the facts available. Accordingly, the export price so determined is as indicated in the Dumping Margin Table below.

#### **Determination of Normal Value for European Union (EU)**

35. None of the producer/exporter from EU has cooperated with the Authority with questionnaire response. As provided under the law, the Authority is required to consider the selling price of the product when meant for consumption in the domestic market of EU for determining the normal value in EU. The petitioner has provided the

details of the normal value in EU on the basis of the price of the subject goods published in ICIS. The Authority notes that in the absence of any response from any EU producer in the form and manner prescribed, the normal value cannot be determined on the basis of questionnaire response of a producer in EU. The Authority has, therefore, determined the normal value for all the producers/exporters in EU on the basis of ICIS prices for bulk Phenol. For packed Phenol, the packing cost based on the Domestic Industry's cost has been adopted. Accordingly, the normal value so determined is as indicated in the Dumping Margin Table below.

**Export Price for producers/exporters from European Union (EU)**

36. Since none of the exporters from EU has responded to the Authority, the Authority has determined Export Price in respect of imports from EU on the basis of best information available in accordance with Rule 6(8) of the AD Rules. The Authority has procured and considered the transaction wise import data from the DGCI&S and determined the export price considering all imports of the product under consideration in India from EU. Price adjustments on account of inland freight, ocean freight, marine insurance, commission, bank charges and port expenses as claimed by the petitioner domestic industry have been allowed in view of non cooperation from the exporters from EU. The export price has been determined at ex-factory level as stated in the below table.

**Dumping Margin Table**

37. Considering the Normal Values and the Export prices as determined as above, the Dumping Margin for the producers/exporters from the subject countries is determined as follows:

Country	Producers/ Exporters	Normal Value USD/MT	Net Export Price USD/MT	Dumping Margin USD/MT	Dumping Margin (%)	Dumping Margin Range (%)
Korea RP	M/s LG Chem Ltd, (Producer) and Vinmar International Ltd, USA, Haresh Petrochem Singapore Pte Ltd, Singapore, Hyundai Corporation, Korea RP, ICC Chemical Corporation, USA, Kempar Energy Pte Ltd, Singapore, Dinowic Pte Ltd, Singapore, Hazel	***	***	***	***	(-)ve

	Middle East FZE, UAE, Integra Petrochemicals Pte Ltd, Singapore and Continent International Ltd, Hong Kong and Oxyde Chemicals China Ltd, Hong Kong (Exporters)					
	M/s Kumho P&B Chemicals Inc (Producer) and Humade Corporation, Korea RP, Woori P and C Corporation, Korea RP and Canko Marketing Inc., Korea RP (Exporters)	***	***	***	***	(-)ve
	Any other combination	***	***	***	***	0-10%
Singapore	M/s Mitsui Phenols Singapore Pte Ltd (Producer), M/s Mitsui & Co. (Asia Pacific) Pte. Ltd, Singapore & M/s Sumitomo Corporation Asia and Oceania Pvt Ltd, Singapore and Petrochem Asia Pte Ltd, Singapore (Exporters)	***	***	***	***	0-10%
	Any other combination	***	***	***	***	10-20%
European Union	All producers and exporters	***	***	***	***	65-75%

## G. INJURY ASSESSMENT

### Views of Domestic Industry

38. The domestic industry has submitted as follows:

- a. The costing data has been updated as per the actual data available as against the earlier provisional data.
- b. The data shows intensified dumping due to imports from the subject countries.
- c. The injury information has been segregated to the extent feasible.
- d. Appropriate cumulative assessment was done.
- e. Demand for the PUC has increased consistently, while the sales of the domestic industry declined. Imports from the subject country increased significantly in the period of investigation.
- f. Apart from increase in absolute terms, imports have increased in relation to production and consumption.
- g. The market share of imports from the subject countries increased significantly, whereas the market share of domestic industry declined throughout the injury period.

- h. There is significant price undercutting as well as price suppression.
- i. A comparison of NIP and landed price of imports shows that imports are underselling the domestic industry prices.
- j. Performance of the domestic industry has deteriorated in terms of production, capacity utilization, domestic sales, profitability, PBIT, cash profits, profits, return on capital employed, market share, employment and productivity.
- k. The inventories have declined. However, the decline is primarily due to the suspension of production by one of the constituents of the domestic industry.
- l. The growth has also deteriorated on account of various parameters.

### **Views of other interested parties**

39. The other interested parties have submitted as follows:

- a. There are many inconsistencies in the petition which detrimentally impact the calculation of injury and dumping margin. Contradictory dumping margins are shown at different pages of petition. Three varied landed prices for imports have been used for price effect analysis. Price undercutting is shown in the range of 0-10 at one place and 6-10 at another. Import volume and value figures are also not consistent.
- b. There is a severe breach of causality. When import price increased, the price of the petitioner declined and, therefore, there is no correlation. Even when the import price has remained constant, the profitability has fallen continuously.
- c. Injury suffered by HOCL is due to other factors such as internal inefficiencies, inability to keep growing with the market, failure to make any improvement in its production facility or process. Therefore, the injury cannot be attributed to subject imports.
- d. The injury margin calculations are without basis and should be rejected.
- e. Landed price alleged by the petitioners is not representative of the landed price for imports from Singapore.
- f. There are various non attribution factors that exist. HOCL has faced severe plant shutdowns recently. A severe shortage of working capital has led to stoppage in production. There is inconsistency regarding the cost of sales, selling price and profit and loss.
- g. Subject imports are not causing injury as they form less than 50% of the total imports which are either under investigation or attracting duty.
- h. Fresh injury data should be called which excludes SI Group data and advance license imports.
- i. Petitioners have claimed but not segregated information by providing data for narrowest group of products wherever such information was not available. Petitioners must be requested to identify the fields and parameters where such bifurcation of data has not been possible.
- j. The petitioners' claim for cumulative assessment should be rejected as it is without actual analysis.



- k. Sales are low due to decline in production on account of plant shutdowns. There is absence of correlation between imports from the subject countries and the sales of the DI.
- l. Increase in imports is precipitated by the market conditions.
- m. Due to the negligible increase in capacity of petitioners over the last ten years, their market share is bound to show declining trend even if operating at 100% capacity utilization.
- n. Price undercutting is inconsistent in the petition and written submissions and, therefore, cannot be taken. Petitioners have not given data for landed value in the post POI because that would've reflected negative price undercutting.
- o. The price suppression is due to other factors and not because the landed price is below the cost of production. The rate of increase in selling price is not reflective of the rate of increase in the imports.
- p. Petitioners have not given data for previous years to prove price underselling which renders analysis ineffective. However, the price underselling is due to the petitioners' inability to sell their products for the price that is sold by exporters and thus sell their subject goods for a lower price.
- q. There is no evidence to show that decline in the economic parameters affecting the domestic industry is due to the increase in imports.
- r. There is no causal link between import price and profitability as both are showing inverse relationship.
- s. There is a greater decline in the decrease in wages that it is in the productivity of the employees. Therefore, the decline in employment is due to the company being unable to sustain itself.
- t. Inventories have evidently declined.
- u. The exporters have fully cooperated in the investigation and accordingly an individual margin may be afforded to them.
- v. KPB's selling price to India is not only higher than selling price in the domestic market and cost of production, but also highest when compared to other global exporters to India.
- w. The production and sales volume of Domestic Industry do not exhibit any injurious effect of imports.
- x. Domestic Industry has very less production capacity as compared to demand.
- y. There are factual errors in the injury analysis.
- z. The existing law should be complied with for computing the non-injurious price.
- aa. There is no causal link. The increase in market share of imports is because of the more than doubled domestic consumption in India without a corresponding increase in the domestic production.
- bb. There is no threat of injury by Kumho as it has sufficient domestic and third country sales and no surplus. Further, KPB increasingly captively consumes Phenol for their own increasing BPA production which is doing well in Korean and third country export markets.
- cc. There is no injury attributable to Kumho. There is no dumping by Kumho nor any price underselling, price depression, price undercutting or price suppression as alleged by Kumho.

- dd. The admitted increase in price by domestic industry by way of increase in indexed landed value is sufficient to disprove both the allegations of price undercutting and of any causal link.
- ee. The capacity of domestic industry has remained stable. Imposition of anti dumping duty is not in interest of downstream industries and consumers as the domestic industry's capacity is insufficient to meet demand in India.
- ff. The injury data of both HOCL and SI Group India Ltd should be examined by the Authority for an objective analysis.

### **Examination by the Authority**

- 40. The Authority has taken note of various submissions of the interested parties on injury to the domestic industry and has analyzed injury to the domestic industry considering the facts available on record and applicable law. The submissions made by the interested parties have been considered to the extent found relevant and examined as follows in the relevant headings.
- 41. With regard to the contention that there are inconsistencies in the petition, the Authority notes that it has accepted the updated costing information in the view of one year being elapsed since the initiation and only provisional information being available earlier.
- 42. With regard to the contention of severe breach of causality, the Authority has made a separate analysis of causal link under appropriate heading. However, it notes that there are significant volumes of imports from various sources.
- 43. As regards the contention that injury to HOCL is on account of its own inefficiencies, the Authority notes that HOCL has in fact made profits in the past. Therefore, the deterioration in performance and consequent injury to the domestic industry cannot be attributed to these parameters. Further, the Authority notes that despite the anti dumping duties in the past many years, the domestic industry has faced the incessant dumping from various sources.
- 44. As regards the contention that injury margin calculations are baseless, the Authority has made its analysis under appropriate headings.
- 45. As regards the contentions pertaining to non-attribution factors, the Authority has made a separate analysis under appropriate headings.
- 46. Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports of the domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the

effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

47. As regards the impact of the dumped imports on the domestic industry, para (iv) of Annexure-II of the AD Rules states as follows:

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

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

### **Cumulative Assessment**

49. 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 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 conditions of competition between the imported articles and the like domestic articles.

50. In the present case, it is noted that:

- a. The margin of dumping from each of the subject countries is more than the limits prescribed;
- b. The volume of imports from each of the subject countries is more than the limits prescribed;
- c. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries compete not only with the like goods offered by each of them but also the like goods offered by the domestic industry in the Indian market.

51. In view of the above, the Authority considers it appropriate to cumulatively assess the effect of imports.

52. The Authority has analyzed injury to the domestic industry after analyzing the information submitted by the interested parties.

### **Assessment of Demand**

53. The Authority has determined the demand as the sum of domestic sales of the domestic industry, sales of other Indian producers and imports of the subject goods in India from all sources. The demand so assessed is shown in the following table.

SN	Particulars	Unit	2010-11	2011-12	2012-13	2013-14
	<b>Demand in India</b>					
1	Sales of Domestic Industry	MT	80,021	67,361	61,185	46,948
2	Imports from subject countries	MT	15,441	11,752	16,135	84,112
	- EU	MT	10,870	10,047	104	21,430
	- Korea RP	MT	3,425	872	15,533	44,494
	- Singapore	MT	1,146	832	498	18,188
3	Countries Attracting ADD	MT	84,448	1,20,868	1,50,940	1,00,577
4	Other Countries	MT	18,647	8,926	1,574	132
5	Demand	MT	198,556	208,906	229,835	231,769

54. The Authority notes that the demand of the subject goods has shown a positive trend throughout the injury period.

### **Volume Effects of dumped imports**

#### **a. Import Volumes and market share**

55. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from the DGCI&S. The volume of imports of the subject goods from the subject countries has been analyzed as under:

A	Imports - (Volume)	Unit	2009-10	2010-11	2011-12	2013-14
1	Subject Countries	MT	15,441	11,752	16,135	84,112
2	EU	MT	10,870	10,047	104	21,430
3	Korea RP	MT	3,425	872	15,533	44,494

<b>A</b>	<b>Imports - (Volume)</b>	<b>Unit</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2013-14</b>
4	Singapore	MT	1,146	832	498	18,188
5	Countries Attracting ADD	MT	84,448	1,20,868	1,50,940	1,00,577
6	Other Countries	MT	18,647	8,926	1,574	132
7	Total	MT	118,536	141,545	168,649	1,84,821
<b>B</b>	<b>Market share in imports</b>					
1	Subject Countries	%	12.81	7.03	9.57	45.51
2	EU	%	8.95	5.83	0.06	11.60
3	Korea RP	%	2.89	0.62	9.21	24.07
4	Singapore	%	0.97	0.59	0.30	9.84
5	Countries Attracting ADD	%	71.24	85.39	89.50	54.54
6	Other Countries	%	15.95	7.57	0.93	0.07
7	Total Imports	%	100.00	100.00	100.00	100.00
8	Imports in relation to consumption in India	%	7.64	4.77	7.02	36.29
9	Imports in relation to production in India	%	18.79	14.75	26.93	181.40
<b>C</b>	<b>Market Share in Demand</b>					
1	Sales of Domestic Industry	%	40.30	32.24	26.62	20.25
2	Imports from subject countries	%	7.78	5.63	7.02	36.29
3	Countries Attracting ADD	%	42.53	57.86	65.67	43.40
4	Other Countries	%	9.53	5.13	0.69	0.06
5	Total	%	100.00	100.00	100.00	100.00

56. The Authority notes that the total imports during the injury investigation period grew significantly when compared with the base year. The Authority notes that the subject goods are attracting anti dumping duty on imports from several countries and anti dumping investigations are in progress against several other countries. The imports from countries which are already attracting anti dumping duties have also increased significantly. Imports from subject countries have also shown a significant increase. The share of imports in market share has also increased to a significant extent.

### **Price Effects of the Dumped Imports**

#### **Price Undercutting**

57. 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.

<b>Particulars</b>	<b>UOM</b>	<b>EU</b>	<b>Korea</b>	<b>Singapore</b>	<b>Subject</b>
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					<b>countries</b>
Landed value of imports	Rs./MT	***	***	***	***
Net Sales Realization	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
	%	***	***	***	***
	Range	5-15%	0-10%	0-10%	0-10%

58. It is noted that the landed price of the subject goods from the subject countries is substantially below the selling price of domestic industry showing significant price undercutting being caused by the dumped imports from the subject countries.

### **Price Underselling**

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

<b>Particulars</b>	<b>UOM</b>	<b>EU</b>	<b>Korea</b>	<b>Singapore</b>	<b>Subject countries</b>
Non Injurious Price	Rs./MT	***	***	***	***
Landed Value	Rs./MT	***	***	***	***
Price Underselling	Rs./MT	***	***	***	***
	%	***	***	***	***
	Range	10-20%	0-10%	5-15%	5-15%

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

### **Price Suppression and Depression**

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

Particulars	UOM	2010-11	2011-12	2012-13	2013-14
Cost of Sales	Rs./MT	***	***	***	***
	Indexed	100	111	136	158
Selling Price	Rs./MT	***	***	***	***
	Indexed	100	94	97	106
Landed Value – subject countries	Rs./MT	***	***	***	***
	Indexed	100	117	116	121

62. The Authority notes that whereas both the cost of production and selling price have increased when compared with the base year, the increase in selling price is much below the increase in the cost of sales. Thus the imports are suppressing the domestic prices in the injury period.

#### **Economic parameters of the domestic industry**

63. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. With regard to consequent impact of these imports on domestic producers of such products, 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, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury.

64. Various injury parameters relating to the domestic industry are discussed below:

#### **(a) Capacity, Production, Capacity Utilization and sales**

65. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:-

SN	Particulars	UOM	2010-11	2011-12	2012-13	2013-14
1	Capacity	MT	74,200	74,200	76,750	76,750
2	Production	MT	80,796	67,500	59,921	46,369

3	Capacity utilization	%	108.89%	90.97%	78.07%	60.42%
4	Domestic Sales	MT	77,521	64,427	54,316	41,109
5	Demand	MT	198,556	208,906	229,835	236,269

66. It is noted that the capacity utilization has significantly declined throughout the injury period along with the production which has dismally declined. The trend in production and sales is despite the remarkable increase in import volumes.

**(b) Market Share**

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

Market Share in Demand	Unit	2010-11	2011-12	2012-13	2013-14
Sales of Domestic Industry	%	40.30	32.24	26.62	20.25
Imports from subject countries	%	7.78	5.63	7.02	36.29
Countries Attracting ADD	%	42.53	57.86	65.67	43.40
Other Countries	%	9.53	5.13	0.69	0.06
Total	%	100.00	100.00	100.00	100.00

68. The Authority notes that the market share of the domestic industry has declined throughout the injury period, whereas the market share of the imports from the subject countries has prominently and significantly improved.

**(c) Profits, Return on Capital Employed and Cash Profit**

69. The profits, return on investments and cash flow of the domestic industry have been examined as under:

Particulars	Unit	2010-11	2011-12	2012-13	2013-14
Cost of Sales	Rs./MT	***	***	***	***
	Indexed	100	111	136	158
Selling price	Rs./MT	***	***	***	***
	Indexed	100	94	97	106
Profit/Loss	Rs./MT	***	***	***	***
	Indexed	100	42	(24)	(56)



Particulars	Unit	2010-11	2011-12	2012-13	2013-14
Profit/Loss	Rs. Lacs	***	***	***	***
	Indexed	100	35	(17)	(29)
Profit before Interest & Tax	Rs. Lacs	***	***	***	***
	Indexed	100	37	(12)	(21)
ROCE	%	***	***	***	***
	Indexed	100	44	(20)	(35)
Cash Profit	Rs. Lacs	***	***	***	***
	Indexed	100	36	(15)	(27)

70. All the parameters such as profitability, PBIT, cash profit and return on capital employed have deteriorated dismally and stayed at negative levels for most of the injury period.

**(d) Inventories**

71. It is noted that the inventories have declined over the injury period. The low level of inventory is noted to be attributable to the suspension of production by HOCL.

Inventories	UOM	2010-11	2011-12	2012-13	2013-14
Opening Stock	MT	***	***	***	***
Closing stock	MT	***	***	***	***
Average Stock	MT	***	***	***	***
<i>Average Stock</i>	<i>Index</i>	<i>100</i>	<i>120</i>	<i>94</i>	<i>51</i>

**(e) Employment and Wages and Productivity**

72. The status of employment levels, wages and productivity of the domestic industry is as follows:

Particulars	UOM	2010-11	2011-12	2012-13	2013-14
No. of Employees	Nos	***	***	***	***
	Indexed	100	89	89	86

<b>Particulars</b>	<b>UOM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
Productivity Per Employee	MT/Nos	***	***	***	***
	Indexed	100	94	83	67
Productivity Per Day	MT/Day	***	***	***	***
	Indexed	100	84	74	57
Wages	Rs. Lacs	***	***	***	***
	Indexed	100	85	86	86

73. It is noted that employment, productivity and wages have declined in the POI in comparison with the base year.

**(f) Magnitude of Dumping**

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

**(g) Ability to raise capital**

75. With regard to the ability to raise investments, it is noted that the domestic industry has not made fresh investments in the product under consideration. Further, even though the demand is far in excess of capacity with the domestic industry, the domestic industry is not able to utilize its capacity and is suffering losses.

**(h) Factors affecting Domestic Prices**

76. The examination of the import prices from the subject countries and other 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 cost of production of the domestic industry, causing significant price undercutting and underselling in the Indian market. It is further noted that the imports of the subject goods from other countries are at much higher prices, or attracting anti dumping duties or a part of anti dumping investigations. There is no viable substitute to this product. It is also noted that demand for the subject goods was showing significant increase during the injury period and this could not have been a factor affecting domestic prices. Thus the principal factor affecting the domestic prices is landed value of the subject goods from the subject countries.

**(i) Growth**

77. The various parameters of growth are examined as below. It is noted that nearly all the growth parameters have deteriorated and become negative while the return on capital employed has become positive in the post POI period. The overall growth of the domestic industry has been adverse during the injury period.

Growth		2010-11	2011-12	2012-13	2013-14
Production	%	-	(16.46)	(11.23)	(22.62)
Sales Volume	%	-	(21.92)	(13.16)	(17.33)
Cost of Sales	%	-	10.69	22.92	16.18
Selling Price	%	-	(6.05)	3.00	9.23
Profit / Loss	%	-	(57.61)	(157.14)	129.38
Return on Capital Employed	%	-	(60.46)	(68.43)	(15.44)

### **Conclusion on material injury**

78. After examining the volume and price effects of the imports from the subject countries and its impact on the domestic industry, it is noted that the dumped imports of the subject goods from the subject countries have increased significantly in absolute terms as also in relation to production and consumption of the subject goods in India. After examining other volume parameters like sales, production and capacity utilization of the domestic industry, it is noted that domestic industry has suffered significant volume injury on account of dumped imports of subject goods from the subject countries. Further, with regard to the price effect on account of imports of the subject goods from the subject countries, it is noted that imports of the subject goods from the subject countries are significantly undercutting the prices of domestic industry. Further, the domestic industry has suffered price suppression on account of imports of product under consideration from the subject countries as sales price of the subject goods could not increase in proportion to the increase in cost of production of the subject goods during the injury period. With regard to consequent impact of the dumped imports on the domestic industry, it is concluded that the performance of the domestic industry has deteriorated in respect of production, capacity utilization, domestic sales, market share, profits, cash flow, return on investment, productivity and inventories. The decline in profits, return on investment and cash flows is quite significant and material. Thus, the Authority concludes that the domestic industry has suffered material injury.

### **H. CAUSAL LINK AND OTHER KNOWN FACTORS**

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

**a) Imports from third countries and other known factors**

80. Imports from third countries were negligible or are already subject to anti dumping duties and thus could not have caused injury to the domestic industry. Most of the imports of the subject goods from countries other than the subject countries and countries attracting anti dumping duty were at a price higher than that from the subject countries.

**b) Contraction of demand**

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

**c) Changes in pattern of consumption**

82. There is no observable change in the pattern of consumption.

**d) Developments in technology**

83. The investigation has not revealed any possible injury to the domestic industry that could have been caused by developments in technology.

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

84. There is no trade restrictive practice which could have contributed to the injury to the domestic industry.

**f) Export performance of the domestic industry**

85. The export performance is not relevant since the Authority has considered only the domestic performance of the Domestic Industry for injury analysis.

**Parameters establishing causal link**

86. It is thus noted that while listed known other factors do not show that injury to the domestic industry has been caused by these factors, the following parameters show that injury to the domestic industry has been caused by the dumped imports.

a. The volume of dumped imports from the subject countries increased sharply resulting in increase in the share of dumped imports in the demand of the product under consideration in India. Consequently the domestic industry lost its market share.

b. The imports were significantly undercutting the prices of the domestic industry. Resultantly, the domestic industry was not able to increase its price in line with the increase in the costs. Imports were thus resulting in price suppression being faced by the domestic industry in the POI.

- c. All the price parameters of the domestic industry have deteriorated as a result of dumped imports.
- d. The level of dumping margins and injury margins as determined are considered significant.

**Magnitude of Injury Margin**

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

**Injury Margin Table**

Country	Producers/ Exporters	NIP (USD/MT)	Landed Value (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Injury Margin Range (%)
Korea RP	M/s LG Chem Ltd, (Producer) and Vinmar International Ltd, USA, Haresh Petrochem Singapore Pte Ltd, Singapore, Hyundai Corporation, Korea RP, ICC Chemical Corporation, USA, Kempar Energy Pte Ltd, Singapore, Dinowic Pte Ltd, Singapore, Hazel Middle East FZE, UAE, Integra Petrochemicals Pte Ltd, Singapore and Continent International Ltd, Hong Kong and Oxyde Chemicals China Ltd, Hong Kong (Exporters)	***	***	***	***	0-10%
	M/s Kumho P&B Chemicals Inc (Producer) and Humade Corporation, Korea RP, Woori P and C Corporation, Korea RP and Canko Marketing Inc., Korea RP (Exporters)	***	***	***	***	(-ve)

	Any other combination	***	***	***	***	10-20%
Singapore	M/s Mitsui Phenols Singapore Pte Ltd (Producer), M/s Mitsui & Co. (Asia Pacific) Pte. Ltd, Singapore & M/s Sumitomo Corporation Asia and Oceania Pvt Ltd, Singapore and Petrochem Asia Pte Ltd, Singapore (Exporters)	***	***	***	***	5-15%
	Any other combination	***	***	***	***	10-20%
European Union	All producers and exporters	***	***	***	***	10-20%

#### **I. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

88. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to reestablish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way and, therefore, would not affect the availability of the product to the consumers.
89. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

#### **J. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES**

##### **Post Disclosure Statement submissions by the opposing Interested Parties**

90. Following are in brief the post Disclosure Statement submissions made by the opposing Interested Parties:

- a. SI Group is an importer and, therefore, not a domestic industry. SI Group has made substantial imports of the subject goods in the POI.
- b. The petitioners have exceedingly relied on anti dumping duties for over a decade.
- c. The exporters have remained cooperative throughout the investigation and have also facilitated a complete verification of their data to the Authority's satisfaction. Therefore, their individual margin has been rightly granted and their cooperative status should be continued.
- d. The Authority has completely refrained from addressing the key causal link breaches identified by the exporters. Further, there are various other parameters causing injury which have simply not been examined by the Authority, in outright violation of the principles of natural justice. The Authority is requested to address the above issues with reasoned findings.
- e. The Authority may clarify, on a non-confidential basis, if the Capital Employed of the domestic industry has been determined using book value or market value of the assets. Only the book value of the domestic industry's assets may be relied upon to determine Capital Employed. Further, the Authority may clarify that the NIP has been considered at ex-factory level (i.e., not inclusive of inland freight) and that no credit expenses have been deducted while calculating landed price.
- f. During the POI, M/s Haresh Petrochem Singapore PTE Ltd., Singapore has exported Phenol sourced from LG Chem as well Mitsui & Co. (Asia Pacific) Pte Ltd (1759 Mt). However in the Disclosure Statement the Authority has mentioned its name as trader/exporter of LG Chem alone and not as trader/exporter with Mitsui & Co. The name of Haresh Petrochem Singapore PTE Ltd as Trader/exporter of Mitsui & Co. (Asia Pacific) Pte Ltd may please be considered.

### **Post Disclosure Statement submissions by the Domestic Industry**

91. Following are in brief the post Disclosure Statement submissions made by the domestic industry:
  - a. The dumped imports of the subject goods from the subject countries have increased significantly in absolute terms as also in relation to production and consumption of the subject goods in India.
  - b. The domestic industry has suffered significant volume injury on account of dumped imports of subject goods from the subject countries.
  - c. The imports of the subject goods from the subject countries are significantly undercutting the prices of domestic industry.
  - d. The domestic industry has suffered price suppression on account of imports of product under consideration from the subject countries.
  - e. The performance of the domestic industry has deteriorated in respect of production, capacity utilization, domestic sales, market share, profits, cash flow, return on investment, productivity

and inventories. The decline in profits, return on investment and cash flows is quite significant and material. Thus, the Authority domestic industry has suffered material injury.

- f. The dumping margin with respect to all the cooperating exporters from the subject countries and the subject countries as a whole is above de-minimis except for LG Chem Ltd. and Kumho P&B Chemicals Inc.
- g. It is not clear how export price claimed by the exporters compares to the Indian customs data, Director General Systems data and petition. In view of negative dumping margin of these companies, the same may be cross checked.
- h. LG Chem has repeatedly been investigated by the Designated Authority in India for different products and has been found to have de-minimis dumping margin. Similarly, Kumho in a number of cases has been found to have de-minimis dumping so long as the dumping margin is based on its questionnaire responses.
- i. In phenol, no producer is able to fetch a price materially different from other suppliers in one market and even when Authority found significant dumping margin in respect of other exporters in this product and other products, the Authority has found de-minimis dumping margin in respect of these companies.
- j. Published prices in trade journals show much higher domestic prices in Korea.
- k. Korean customs data show that the Korean producers have exported the product under consideration at much higher prices in third countries.
- l. How Kumho has been able to export at prices not matching the market prices and almost at the same level as ex-factory realisation.
- m. Value chain does not appear complete in case of LG Chem. ICC Chemical Corporation, USA, Dinowic Pte Ltd, Singapore, Hazel Middle East FZE, UAE, Integra Petrochemicals Pte Ltd, Singapore does not appear to have filed questionnaire response. Further, Kempar Energy Pte Ltd, Singapore name has been mentioned in the dumping margin and injury margin table. But name of this exporter is not mentioned in the procedure part. It appears that this company has also not filed questionnaire response.
- n. The NIP should be determined considering actual cost of production, based on actual consumption norms, actual capacity utilisation. The return on investment should not be based on NFA, or the rate of return should be higher considering the age of the plant.

### **Examination by the Authority**

92. The Authority notes that most of the above arguments of the opposing interested parties and the domestic industry are repetitive and have already been dealt with by the Authority in the Disclosure Statement earlier and have also been dealt with again in the Final Findings Notification. The Authority notes that the imports made by SI Group India Ltd were not made available in the market. Therefore, the Authority holds that the imports made by SI Group did not disqualify it from being a part of the domestic industry. The Authority recommends any measures or duty only after following the legal requirements. Irrespective of the history, every case is examined for a fresh period of investigation on its independent merits. The domestic



industry has suffered volume injury, price undercutting and price suppression. As far as the issue of non-injurious price is concerned, the Authority has determined the non-injurious price as per the guidelines laid down in Annexure III to the AD Rules. It is also noted that during the POI, M/s Haresh Petrochem Singapore PTE Ltd., Singapore has exported Phenol sourced from LG Mitsui & Co. (Asia Pacific) Pte Ltd as well and thus the Authority has included the name of M/s Haresh Petrochem Singapore PTE Ltd., Singapore as a trader/exporter of Mitsui & Co. (Asia Pacific) Pte Ltd as well. Further, the Authority has relied upon the DGCI& data as per its past practices. The responding exporters have provided relevant information regarding value chain.

## **K. CONCLUSION**

93. After examining the submissions made by the opposing interested parties and the domestic industry and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject countries below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the subject countries. The performance of the domestic industry has deteriorated in respect of production, capacity utilization, domestic sales, market share, profits, cash flow, return on investment, productivity and inventories. The decline in profits, return on investment and cash flows is quite significant and material. Thus, the Authority concludes that the domestic industry has suffered material injury.

## **L. RECOMMENDATIONS**

94. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of the subject goods from the subject countries in the form and manner described hereunder.
95. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from the subject countries.

### Duty Table

Sl. No.	ITC(HS) Code	Product Description	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
1.	29071110	Phenol	Korea RP	Korea RP		Vinmar International Ltd, USA, Haresh Petrochem Singapore Pte Ltd, Singapore, Hyundai Corporation, Korea RP, ICC Chemical Corporation, USA, Kempar Energy Pte Ltd, Singapore, Dinowic Pte Ltd, Singapore, Hazel Middle East FZE, UAE, Integra Petrochemicals Pte Ltd, Singapore and Continent International Ltd, Hong Kong and Oxyde Chemicals China Ltd, Hong Kong	Nil	MT	US\$
2.	29071110	Phenol	Korea RP	Korea RP	M/s LG Chem Ltd	Any other than at Sl. No.1	77.19	MT	US\$
3.	29071110	Phenol	Korea RP	Korea RP	Any other combination	Any other combination	77.19	MT	US\$
4.	29071110	Phenol	Korea RP	Korea RP	M/s Kumho P&B Chemicals Inc	Humade Corporation, Korea RP, Woori P and C Corporation, Korea RP and Canko Marketing Inc., Korea RP	Nil	MT	US\$
5.	29071110	Phenol	Korea RP	Korea RP	M/s Kumho P&B	Any Other than at Sl. No. 4	77.19	MT	US\$

					Chemicals Inc				
6.	29071110	Phenol	Korea RP	Korea RP	Any other combination	Any other combination	77.19	MT	US\$
7.	29071110	Phenol	Korea RP	Any	Any	Any	77.19	MT	US\$
8.	29071110	Phenol	Any country other than subject countries	Korea RP	Any	Any	77.19	MT	US\$
9.	29071110	Phenol	Singapore	Singapore	M/s Mitsui Phenols Singapore Pte Ltd	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd, Singapore, M/s Sumitomo Corporation Asia and Oceania Pvt Ltd, Singapore and Petrochem Asia Pte Ltd, Singapore	Nil	MT	US\$
10	29071110	Phenol	Singapore	Singapore	M/s Mitsui Phenols Singapore Pte Ltd	Any Other than Sl. No. 9	219.58	MT	US\$
11.	29071110	Phenol	Singapore	Singapore	Any other combination	Any other combination	219.58	MT	US\$
12.	29071110	Phenol	Singapore	Any	Any	Any	219.58	MT	US\$
13.	29071110	Phenol	Any country other than subject countries	Singapore	Any	Any	219.58	MT	US\$
14.	29071110	Phenol	European Union	European Union	Any	Any	253.06	MT	US\$
15.	29071110	Phenol	European Union	Any	Any	Any	253.06	MT	US\$
16.	29071110	Phenol	Any country other than subject countries	European Union	Any	Any	253.06	MT	US\$

**\*\*Explanation:** Where there is overlapping of antidumping duty on the subject goods with respect to a subject country in different customs notifications, the duty applicable to that subject country shall be the one imposed under the customs notification in which the said country has been specifically mentioned under the Column “Country of Origin.”

96. 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.
97. An appeal against the order of the Central Government arising out of this finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**(A.K.Bhalla)**

**Designated Authority**