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Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

Dated the 23rd October, 2018

FINAL FINDING NOTIFICATION

(Case No. OI-42/2017)

Subject: Final Finding in the Anti-dumping investigation concerning imports of ‘Di Methyl Formamide’ (DMF) originating in or exported from China PR, Germany and Saudi Arabia.

1. 6/37/2017-DGAD: M/s Balaji Amines Ltd (hereinafter referred to as the “applicant” or “domestic industry”) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also 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 also referred to as the Rules) for imposition of Anti-dumping duty on imports of ‘Di Methyl Formamide’ (DMF) originating in or exported from China PR, Germany and Saudi Arabia (hereinafter also referred to as subject countries).
2. Whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No. 6/37/2017-DGAD dated 22.1.2018, published in the Gazette of India, initiating the subject investigations in accordance with the Rule 5 of the above Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from China PR, Germany and Saudi Arabia (hereinafter also referred to as the subject countries) and to recommend the amount of anti- dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

A. PROCEDURE

3. The procedure described herein below has been followed with regard to the subject investigation:

- i. The Authority notified the Embassy of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
- ii. The Authority issued a notification dated 22.1.2018, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject countries.
- iii. The Embassy of the subject countries in India was informed about the initiation of the investigations in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from the subject countries to respond to the questionnaire within prescribed time limit.
- iv. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 1. Methanol Chemicals Company, Saudi Arabia
 2. Fahad Thnayan AI Thnayan and PA, Saudi Arabia
 3. Barwil Agencies Ltd, Saudi Arabia
 4. Rabochem AG, Germany
 5. Taminco BVBA, Germany
 6. Shandong Hualu-Hengsheng Chemical Co Ltd, China PR
 7. Hualu Holding Group Co., Ltd China PR
 8. Zibo Luzhong Chemical & Light Industry Co., Ltd China PR
 9. Anhui Huaihua Fine Chemicals Co., Ltd China PR
 10. Zhejiang Jiangshan Chemical Co., Ltd China PR
- v. In response to the above notification, following exporters/ producers have submitted exporter questionnaire responses.
 1. Methanol Chemicals Company, Saudi Arabia,
 2. M/s Luxi Chemical Group Co., Ltd, China PR,
 3. M/s Shandong Liaocheng Luxi New Material Sale Co., Ltd., China PR,
 4. M/s Lu Xi Chemical (Hong Kong) Co., Limited, Hong Kong,
 5. Shandong Hualu-Hengsheng Chemical Co., Ltd.
- vi. A Supplementary questionnaire on Market Economy conditions was also sent to the known producers/exporters in China PR and the Embassy of China PR in India with a request to provide relevant information to the Authority within the prescribed time limit.
- vii. The producers/exporters who have responded from China PR filed only the EQ Responses and have not filed replies to the questionnaire to rebut the Non Market Economy presumption of China PR. In the absence of any substantiated claims for Market Economy Treatment (MET) in the prescribed format by the responding producer/exporters from China PR, none of the producers/exporters from China PR are given market economy treatment in the present investigation.
- viii. The Authority sent Importer's Questionnaires to the following known importers/ users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
 1. M/s Orchid Chemicals and Pharmaceuticals Ltd

2. M/s Symed Labs Ltd
 3. M/s Matrix Laboratories Ltd
 4. M/s Dorf-Ketal Chemicals India Pvt Ltd
 5. M/s Harman Finochem Ltd
 6. M/s Ramkamal Chemicals Pvt Ltd
 7. M/s Piramal Enterprises Ltd
 8. M/s Matrix Laboratories Ltd
 9. M/s AMI Organics Pvt Ltd
 10. M/s Indian Acrylics Ltd
 11. M/s Wockhardt Ltd
 12. M/s Yogesh Dyestuff Products Pvt Ltd
 13. M/s Sun Pharmaceutical Industries Ltd
 14. M/s Lupin Ltd
 15. M/s Aurobindo Pharma Ltd
- ix. The following importers/users have submitted importers questionnaire responses:
1. M/s Indian Accrylics Ltd.
 2. M/s Aurobindo Pharma Ltd
 3. M/s Pasupati Acrylon Ltd.
 4. M/s Ramkamal Chemicals Pvt Ltd
 5. M/s Ami Organics Pvt Ltd.
 6. M/s Laurus Lab Ltd.
- x. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xi. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- xii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered 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 and the same were kept in the public file maintained by the Authority as per the Rules.
- xiii. The Non-injurious Price based on 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;
- xiv. The petition was filed on the basis of secondary source import data (Export Genius), the Authority had examined the same and found sufficient evidence for dumping and

injury for initiation of investigation. The Export Genius was kept in the public file as a part of the petition. During the course of investigation, the Authority sought transaction by transaction import data for the injury period and POI from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). The Authority has relied upon import data procured from DGCI&S for analysis of various parameters in the present investigation.

- xv. Investigation was carried out for the period starting from 1st October 2016 to 30th September 2017. The examination of trends, in the context of injury analysis, covered the period from Apr'14-Mar'15, Apr'15-Mar'16, Apr'16-Mar'17 and the Period of Investigation (POI).
- xvi. The Authority held oral hearing in terms of Rule 6(6) of the Anti-Dumping Rules on 4.5.2018, providing opportunity to the interested parties to present their views orally. The parties, who presented their views in the oral hearing, were requested to file written submissions of their views expressed orally by 11.5.2018, followed by rejoinder submissions by 18.5.2018.
- xvii. The submissions made by the interested parties considered relevant by the Authority have been addressed in this Final Finding. The submissions filed by Embassy of subject countries/Associations/Federations/Foundations has been duly considered and addressed appropriately.
- xviii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded these findings on the basis of the 'facts available'.
- xix. A Disclosure Statement was issued to interested parties on 28.9.2018 containing essential facts under consideration of the Designated Authority, giving time up to 09.10.2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xx. *** in this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxi. The exchange rate for the present investigation is 1 US \$ = Rs 66.53.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 4. The product under consideration for the purpose of present investigation is "Di Methyl Formamide (DMF)". It is a colorless, high boiling polar aprotic solvent with a characteristic odor. It is stable on heating and under its distillation temperature range and is freely miscible with water, alcohols, ethers, ketones, ester, carbon disulfide and chlorinated and aromatic hydrocarbons.
- 5. The uses of the subject goods can be broadly categorized as follows;
 - a) As a solvent in pharmaceuticals manufacturing;
 - b) As a solvents in Acrylic Polymers manufacturing;
 - c) As a feedstock for synthesis of derivatives of DMF;

d) As a solvent in pesticides formulations.

6. The product under consideration is classified under Chapter 29 of the Customs Tariff Act. The PUC has a specific HS code 2921 1110 under Chapter 29 of Customs Tariff Act, 1975. It is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.
7. The Authority notes that there is no known difference in the subject goods produced by the Indian industry and the product under consideration produced and exported from the subject countries. The two products are comparable in terms of essential product characteristics such as 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. Thus, the Authority holds that goods produced by the applicant domestic industry are like article to the product under consideration imported from subject countries in accordance with the AD Rules.
8. None of the interested parties have put forward any issues regarding the PUC and the scope thereof.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

9. The domestic industry has submitted that M/s Balaji Amines Ltd is the sole producer of the subject goods in India and hence their production constitutes 100% share of total Indian production. M/s RCF Ltd was a producer of subject goods but has not produced the subject goods for some time now and M/s RCF Ltd has filed a letter of support for the present investigation. The position of RCF supports the argument of the petitioner that dumping can cause closure of DMF plant of M/s Balaji also, if no AD Duties are imposed on the subject goods at the earliest.
10. The exporter/importer has submitted that M/s Rashtriya Chemicals & Fertilizers Limited have supported the present investigation vide letter dated 31.5.2018 though they do not have any locus standing. The submission that RCF suffered due to dumped imports and unfair competition is of no relevance and it cannot be considered because RCF has not produced the subject goods in the injury analysis period or the POI. Merely having production capacities for the like article would not satisfy the requirement of Domestic Industry. Petitioner holds no brief with regard to RCF. The statement has been made without any knowledge with regard to RCF operations and without any brief from RCF. The petitioner cannot guarantee that RCF will start production of DMF. All such claims must be completely rejected
11. The Authority examined the application filed by M/s Balaji Amines Ltd., who is presently the only producer of subject goods in India. The other producers namely M/s Rashtriya

Chemical & Fertilizers Ltd. have closed their production. M/s Balaji Amines Ltd. have not imported the PUC from the subject countries and are not related either to any exporter or producer of the PUC in the subject countries or any importer of the PUC in India.

12. It is also noted that there have not been any submission disputing the claim of petitioner as eligible domestic industry. However, the Authority has taken note of the support to the present investigation extended by RCF Ltd after initiation of the present investigation which does not require any examination as the company did not produce the subject goods during the POI and has no locus standi to be identified as DI.
13. The Authority determined that the petitioner, who presently holds 100% share of total domestic production, constitutes an eligible domestic industry in terms of Rule 2 (b) and also satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

D. ISSUES RELATING TO CONFIDENTIALITY

14. The petitioner has stated that they have claimed confidentiality on certain information and have disclosed the volume parameters to allow the opposing parties to understand the case better, however, the exporters/importers in the present case have not disclosed even the volume information and to hide such excessive claims of confidentiality, an allegation of excessive confidentiality is raised against the applicant which is not true. The opposing parties should at least give a range of their actual volume of export/import so that the petitioner also would be able to provide its comments on the submissions by the opposing parties.
15. The producers/exporters/importers/other interested parties have submitted that the domestic industry has kept lots of information as confidential without providing any legitimate reasons and in the absence of such information, the exporter has been denied of a reasonable opportunity to make submissions to defend their interest by making their effective comments. The non-confidential version of the Petition does not allow for a reasonable understanding of the allegations contained therein. The Petitioner is required to show justification for its claim but has failed to do so in response to the Calculations of working capital, Interest on Term Loans, Depreciation, Details of misc. income earned during the year, Details of WIP at the beginning and end of the investigation period. In a multi business company like Balaji Amines Limited, the Annual reports are consolidated for various products in each segment and it is not possible to assess such consolidated financial information and link the same to the product under consideration. The transaction wise import data has also not been furnished in excel format.
16. The Authority examined the submissions. It is noted that non confidential version of the information provided by various interested parties to others was made available through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

17. Information provided by the interested parties on confidential basis was examined with regard to the justification of their claims and the specific provisions of law as interpreted by the Hon'ble Supreme Court. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.
18. With regard to the contentions on the transaction-wise and sorted import data, it is noted that the Authority has relied upon transaction wise import data procured from DGCI&S for the purpose of present investigation. Any of the interested parties could seek data from the Authority in terms of trade notice no. 07/2018 dated 15th March, 2018.

E. MISCELLANEOUS ISSUES

Submissions of the Domestic Industry

19. The submissions made by the domestic industry pertaining to miscellaneous issues are as follows:
- i. The contention of certain parties that the petition does not meet the evidentiary and legal standards is not of any merit. Best possible efforts were made by the petitioner to adduce reliable and adequate evidences to substantiate various claims in the petition. Even the estimates on adjustments from Export Price were carried out as per the best available information basis and such methodologies are permissible under the law and the basis of every information relied upon is provided in the petition also. The Authority may note that the petitioner has acted to best of its ability to adduce correct evidences in the petition and the claims otherwise are bereft of any merit.
 - ii. It has been contended that there is ADD on various products produced by Balaji. The statement is wrong. There is ADD on DMAC currently in force and DMAC is produced by Balaji and RCF Ltd. Duties were earlier imposed on a product called Morpholine produced by Balaji which was subjected to MTR first and then discontinued/no SSR was initiated. The company is doing well on certain products which do not negate injury in DMF.
 - iii. It has been contended that the DI did not take cognizance of summary import data published by DGCI&S and omission of the said data is a huge mistake and was done to show a huge jump in import by relying on some other source data. The contention has no basis and the mistake is accused on a set of data which is not used by the DI for a valid reason. The DGCI&S summary data was not available for the complete POI when the petition was filed and there was no logic in using the same for certain years except POI. The DI then called in T/T data as per secondary source to ensure

correct import data for the entire POI. It was noted in the T/T data that imports of PUC were made under various subheadings other than the dedicated classification and it was also noted that imports of certain other products were also made under the dedicated classification for DMF ruling out the reliability on DGCI&S summary data completely. It was incumbent upon the DI to use the most reliable data to present its case. It is reiterated that DGCI&S summary data has impurities in it which makes the said data not reliable in the present case.. Thus, the allegation of the opposing party is not of any merit and done only to insinuate wrong doings by the DI which has no merit.

- iv. The facts of the present case show a clear case of material injury. The company started its production a few years back but could only reach to a miniscule level of performance on various parameters by the present period under investigation.

Submissions of the opposing interested parties

20. The submissions of various interested parties are summarized as follows:

- i. The petitioner has not brought about any substantive evidence to prove the condition for initiation of the Anti-Dumping Investigation, while the investigating authority has not carried out appropriate, enough scrutiny to the related facts. The petition does not meet the evidentiary and legal standards regarding dumping, injury and a causal relation between the alleged dumping and injury.
- ii. The volume of import reported by petitioner in the petition are grossly low as compared to volume of imports reported under dedicated classification itself as per DGCI&S, leave aside imports reported in other classifications. This clearly speaks very adversely on the accuracy of the information contained in the petition. The kind of difference between the volume of imports reported in the petition and volume of imports reported under the dedicated classification itself is so alarmingly different that the same casts serious doubts about the accuracy of the information. The sufficiency of evidence for the purpose of initiation as set in *Guatemala — Cement II* case by WTO is not met in the present case.
- iii. There is ADD on various products produced by the petitioner namely M/s Balaji Amines Ltd indicating a tendency to seek overprotection in the garb of trade remedy measures.

Examination by the Authority

21. The miscellaneous submissions have been examined as under:

- i. As regards the allegation regarding the initiation, the Authority notes that the initiation was done on the basis of prima facie evidences/facts provided by the Domestic Industry on various claims made by it in the application.

- ii. It is the established practice that quality of information and evidence improves subsequently during the course of the investigation.
- iii. As regards the submission that the domestic industry did not take cognizance of summary import data published by DGCI&S at the time of petition, it is noted that the petitioner had relied upon import data reported in a secondary source namely Export Genius. Petitioner had claimed that secondary source data was used for the reason that the PUC in spite of having a dedicated customs classification code at eight digit level is still being imported under various other subheadings. At that point in time it was considered sufficient by the Authority to initiate investigation.
- iv. During the course of investigation, the Authority has obtained DGCI&S transaction wise data for the POI and previous three years. The T/T import data from DGCI&S has been used in the present case for determination of import volume and value into the country. It is noted that the difference in secondary source data relied upon by the petitioner and the DGCI&S data is huge for the entire injury period and POI. This kind of difference in the volume of imports reported in the petition and volume of imports reported in the DGCI&S which is alarmingly different definitely casts a serious doubts about the accuracy of the information furnished by the petitioner and the trends of injury claimed by the petitioner.

F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Normal Value

Views of the Domestic industry

22. The submissions made by domestic industry are as follows:

- i. China PR should be treated as nonmarket economy country as the responding producers/exporters from China PR have not rebutted the presumption of NME by replying to the relevant Supplementary questionnaire format. The Normal Value for Chinese producers should be determined based on Para 7 of Annexure I to the AD Rules.
- ii. Constructed Normal Value based on cost of production of petitioner adjusted for reasonable profit shall be the appropriate methodology and the Authority is requested to adopt the said approach in the present case also. Such best available information shall be applicable for Germany also since there is no cooperation from producers/exporters from Germany.
- iii. The import data relied upon in the petition was based on secondary source information. A copy of such submission was made available in the public file also. It can be seen from data that the dumping margin from subject countries is significant and causing material injury to the domestic industry.
- iv. The product under consideration has been exported to India from subject countries below their normal values resulting in dumping;

- v. Methanol Chemical Company from Saudi Arabia has filed the EQ Response in the present matter. It can be noted from the EQ Response of the said party that the company is in losses and DMF constitutes a significant portion of its exports and also overall revenue. The DI clearly faces serious further threat from this large exporter apart from the injury already caused by its exports. It has been submitted in the EQ Response of the said exporter that they have a Gas supply agreement with some party and the name or the details of the agreement is not disclosed to the petitioner. It is requested that the Authority may subject the cost of production of the exporter to strict scrutiny as per Annexure I Para 1 to the Rules to see whether the cost of the exporter for the PUC reflect the cost associated with the production and sale of the PUC.
- vi. Certain parties have questioned the basis or normal value claimed by the petitioner and contended that the Authority should consider information from Saudi Arabia for the determination of normal value for the Chinese exporters in the current investigation. The claims are not on merit factually and legally. The exporters from China PR had the opportunity to rebut the NME presumption which they did not do. Hence, what is relevant for normal value in case of China PR is Para 7 of Annexure I. The Authority has consistently followed the CNV method for China PR and the same principles should be followed in the present case also. Also, there is no comparison between economic conditions in China PR and Saudi and there is no legal or factual basis to consider Saudi as an appropriate surrogate country for China PR.
- vii. There are submissions made by the opposing parties that capacity utilization of DI should be adjusted to avoid effects of high cost for the purpose of CNV. The low capacity utilization was due to dumped imports and cost of DI as per actual details alone should be considered for CNV and other purposes. The exporters who materially injured the DI by adopting the practice of dumping cannot now argue that some unrealistically low CNV should be worked out so that exporters will be exonerated.

Views of the opposing interested parties

23. The following submissions have been made with regard to normal value, export price and dumping margin –;
- i. Consideration of producers from China P.R as non-market economy is inconsistent with legal provisions, hence, the normal value determination for China PR is arbitrary further resulting in a flawed dumping margin determination. The normal value for the companies from China PR in the current investigation is to be determined on the basis of their domestic sales and the cost of the subject goods. Any other methodology used for the determination of normal value for Chinese exporters would be in violation of the obligations of India under the WTO.
 - ii. The normal value for Chinese producers is constructed in the application by the DI based on the cost of production in India and considering the rate of profit at 5%. However, the item-wise cost details of the constructed normal value have not been provided.

- iii. Petitioner has not proved existence of any of the conditions necessitating the construction of normal value. The relevant provisions do not mention "non-availability" of data relating to domestic selling prices as a ground for construction of normal value.
- iv. For the subject countries which are market economy countries, the normal value must be based solely on Explanation (c) to Section 9A (1). The said explanation does not allow construction of normal value based on Domestic Industry's own costs.
- v. In the initiation notice, the DA has not explained whether such 'prima-facie' issues and inconsistencies were examined or not. While it is true that the final duty is imposed based on verified figures provided by the Respondents, such an approach renders the legal provisions relating to evidentiary thresholds for initiations redundant.
- vi. The NCV of the application does not contain any evidence with regard to the deductions claimed in Net Export Price. Further, inland freight and port handling charges have no relationship to the price of the product. Therefore, the very basis of calculating these expenses as a percentage of CIF or FOB price is incorrect. The data presented in the petition with regard to every adjustment are bare assertions unsubstantiated by evidence, which could not have been relied on for initiating the case.
- vii. Petitioner has not been able to adduce even single credible evidence regarding the prices prevailing in the domestic market of the exporting country, projecting equal normal values in all subject countries and unsubstantiated deductions towards allowances from export price.
- viii. The Normal Value considered on the basis of cost of production of the Domestic industry is not accurate as the domestic industry's cost of production is distorted. Additionally the sourcing of raw material is also a problem for the domestic industry, as they are relying on imports of raw material for production of the PUC, hence inflating the cost of production even more. The Constructed Normal Value cannot be adopted based on petitioner's data, as they have not utilized the production capacities to a very significant extent. The conversion costs of the petitioner is naturally very high and unreliable to represent reasonable costs for determination of normal value. Such being the case, the Constructed Normal Value cannot be determined based on such low capacity utilization.
- ix. The normal value has been calculated on the basis of cost of production of the Domestic Industry, which itself is inflated. The export price figures are based on secondary source data, which is not accurate. Hence, the dumping margin, as calculated by the DI is distorted and not reliable
- x. The domestic industry has achieved capacity utilization which is much below the level of utilization that can be achieved by such a plant. It is requested to consider the project report of the petitioner and optimum capacity utilization achieved therein. The CNV for China should be determined by considering optimum plant utilization levels as projected in the project feasibility report.
- xi. Petitioner has stated that they made efforts to obtain the information with regard to the domestic prices of the subject goods in the subject countries, but no price details were available in the public domain (with the exception of China PR which was

- treated as Non-Market Economy).
- xii. Petitioner has not proved existence for necessitating the construction of normal value. The relevant provisions do not mention “non-availability” of data relating to domestic selling prices as a ground for construction of normal value.
 - xiii. It is requested that the Authority consider the information from Saudi Arabia for the determination of normal value for the Chinese exporters in the current investigation. The per unit fixed cost for the PUC are higher by about 3-4 times of the actual fixed cost. Thus it is requested that construction of the normal value on such basis is fundamentally flawed and is artificially inflated with a view to make out a case of dumping against exporters from Chinese whereas in reality it does not exist.
 - xiv. In terms of the provisions of Para 7 it is submitted that the DI is under an obligation to inform, without unreasonable delay, the selection of market economy third country so as to give the parties concerned an opportunity to respond to the same.
 - xv. For all the subject countries involved in the present investigation, except for China, the normal value has been ‘constructed’ in the application based on Domestic Industry’s own prices & costs. Such an approach of DI does not even ‘prima facie’ meet the conditions for determining normal value in terms of explanation (c) to Section 9A (1). For the subject countries which are market economy countries, the normal value must be based solely on Explanation (c) to Section 9A (1). The said explanation does not allow construction of normal value based on Domestic Industry’s own costs. BAL cannot devise their own methodology to determine normal value.

Examination by the Authority

24. The following interested parties from China PR and Saudi Arabia have filed responses and submissions with regard to Normal Value and export price. However, none of the parties from China PR have filed response in supplementary Questionnaire nor claimed market economy treatment. Also no response has been file from any of the exporters from Germany.

- i. M/s Shandong Hualu-Hengsheng Chemical Co. Ltd.(Producer/Exporter)
- ii. M/s Luxi Chemical Group Co. Ltd. Chlor –Alkali Chemical Branch, China (Producer) along with and its exporter and trader M/s Shandong Liaocheng Luxi New Material Sale Co. Ltd. & M/s Luxi Chemical (HongKong) Co. Ltd
- iii. M/s Methanol Chemical Company (Producer/Exporter), Saudi Arabia

25. The submissions of various interested parties are summarized as follows:

I. CHINA PR

i. NORMAL VALUE

26. At the stage of initiation, the petitioners proceeded with the presumption by treating China PR as a non-market economy. Upon initiation, the Authority advised the

producers/exporters in China PR to respond to the notice of initiation and provide information relevant to determination of whether their data/information could be adopted for the purpose of normal value determination. The Authority sent copies of the questionnaire to all the known producers/ exporters for providing relevant information in this regard. The Chinese exporters filed questionnaire responses; however, none of them filed Market Economy Treatment questionnaires.

27. The Authority notes that the known Chinese producers/ exporters and the Government of China have been adequately notified about the requirement of submission of information in the form and manner prescribed and adequate opportunity was also granted to them to make their submissions in this regard. None of the producers have filed MET questionnaire, hence the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and proceeds with Para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.
28. In view of the above, Normal value for the subject goods imported from China PR into India has been constructed considering optimum consumption norms of the domestic industry for raw materials and utilities, conversion cost, interest, SGA, etc. at the levels allowed for the domestic industry including thereupon reasonable profits.

ii. **EXPORT PRICE**

a. **M/s Luxi Chemical Group Co., Ltd Chlor-Alkali Chemical Branch (Producer), M/s Liaocheng Luxi New Material Sale Co. Ltd (Exporter) And M/s Luxi Chemical (Hong Kong) Co. Ltd (Exporter)**

29. From the exporters questionnaire response, it is noted that the producer M/s Luxi Chemical Group Co., Ltd has exported the subject goods to India during the POI through its related trader M/s Liaocheng Luxi New Material Sale Co. Ltd and M/s Lu Xi Chemical (Hong Kong) Co., Limited. Adjustment on account of inland freight, port charges and bank charges have been claimed and the same have been allowed by the Authority for computation of the export price at ex-factory. The net export price determined for exports to India is as shown in the Dumping Margin Table below.

b. **M/s Shandong Hualu-Hengsheng Chemical Co., Ltd..**

30. M/s Shandong Hualu-Hengsheng Chemical Co., Ltd.. has filed exporters questionnaire response, it is noted that Shandong Hualu-Hengsheng Chemical Co., Ltd., is a producer as well as exporter of the subject goods. During the POI, M/s Shandong Hualu-Hengsheng Chemical Co., Ltd., exported subject goods to India directly . Adjustment on account of inland freight, port charges and bank charges have been claimed by the producer/exporter and the same have been allowed. Accordingly, the export price has been worked out for M/s Shandong Hualu-Hengsheng Chemical Co., Ltd at ex-factory. The net export price determined for exports to India is as shown in the Dumping Margin Table below.

II. GERMANY

S.N	Producer/ Exporter	CNV	NEP	DM		
		USD/MT	USD/MT	USD/MT	%	Range
1	Shandong Hualu Hengsheng Chemical Co. Ltd (producer/exporter), China PR	***	***	***	***	20-30
2	Luxi Chemical Group Chor alkali chemical branch (producer)/ Shandong liaocheng Luxi new material sale co. ltd / Luxi Chemical (Hong Kong) Co. Ltd, China PR	***	***	***	***	35-45
3	Methanol Chemicals Company, Saudi Arabia	***	***	***	***	25-35
4	Germany	***	***	***	***	35-45

31. The Authority notes that no producer/ exporter from Germany have responded to the exporter's questionnaire in the present investigation. Therefore, the normal value has been determined on the basis of best facts available on record which is provided in the Dumping Margin Table herein below.

III. SAUDI ARABIA

a. M/s Methanol Chemicals Company

i. NORMAL VALUE

32. M/s Methanol Chemicals Company filed response to the questionnaire. The same has been examined and found that domestic sales of the subject goods are less than 5% of the total sales of the producer exporter and hence they do not satisfy the sufficiency test. In view thereof the Authority constructed the normal value on the basis of best facts available.

ii. EXPORT PRICE

33. M/s Methanol Chemicals Company has filed exporters questionnaire response, it is noted that they are a producer as well as exporter of the subject goods. During the POI, M/s Methanol Chemicals Company, exported subject goods to India directly. The sales to Indian customers are on FOB basis. Adjustment on account of inland freight, port charges and bank charges have been claimed and the same have been allowed by the Authority. Accordingly, the export price has been worked out for Methanol Chemicals at ex-factory. The net export price and dumping margin determined for exports to India is as shown in the Dumping Margin Table below.

IV. DUMPING MARGIN

34. The dumping margin for subject goods has been determined by comparing normal value and net export price at ex-factory level for the subject goods as below.

G. METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK

Views of the Domestic Industry

35. The following are the injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:
- i. Significant dumping in the imports of subject goods from subject countries. Such dumped imports increased over the years significantly. Imports from subject countries have been above the 3% threshold individually with highest imports from Saudi Arabia. The volume of dumped imports has increased significantly and has been holding about 84% of the market share in demand which prevented any notable penetration by DI into the domestic market. Resultantly, the DI ended up getting only about 15% share in the domestic demand during the POI and rest all been held by dumped imports. Third country imports were negligible.
 - ii. The dumped prices of such imports were also at positive undercutting levels. Such price undercutting had multiple effects on the price parameters of injury which is further reflected in the below par situation in terms of profits, ROI etc.
 - iii. The price increases prevented by significant level of price undercutting had a cascading effect on the profitability and ROI and the profitability in real terms remained negligible at very low level and ROI also have been at low single digit level showing the enormity of material injury suffered by the DI on account of dumping.
 - iv. The volume levels of domestic industry remained at subdued or very negligible levels which are reflected in terms of very small production volume, below par capacity utilization and low sales volume and such below par volume position is when demand increased significantly and is clearly the effect of dumped imports.
 - v. The severity of the dumping and consequent material injury is visible in subdued performance in both volume and value parameters. The DI has suffered material injury as envisaged in the Rule on account of dumping from subject countries.
 - vi. It is highly unrealistic to say that the increase in sales from the base year to the POI when the demand during the POI was about 42277 MT is a reasonable growth. The actual volume in the POI itself is relevant and the exporters engaged in dumping cannot take the benefit of a low base year sales by the DI to cite increase in market share in terms of percentages to say that performance improved on a trend line.
 - vii. Share of imports in relation to production may show a decline but the same is due to the low volume of production in the base year and do not show that there was no significant growth in the level of dumped imports including the POI.
 - viii. The DI was clearly side lined from taking any benefit of domestic demand to some reasonable level leading to low production and sales which shows clear volume injury on account of such dumped imports.
 - ix. The average prices of imports from subject countries have significantly declined by the POI over the base year. Price reductions were carried out by the exporters to maintain the volume of dumped imports and to keep the domestic industry away from

supplying more in the domestic market. The DI could have increased the prices to a more significant level so as to achieve reasonable profits but the same was prevented by the dumped imports which were available at significantly undercutting levels. Price injury is visible in the present case.

- x. Price suppression/prevention of price increase to significant levels is visible in the fact that the NSR almost remained the same and the cost declined. Scope for price increases created by reduction in cost was adversely affected by dumped imports.
- xi. The installed capacity at the end of the domestic industry remained the same during the entire injury period and is sufficiently capable to meet significant part of the Indian demand.
- xii. The capacity utilization during the POI is clearly below par level and is the direct result of significant level of dumped imports from subject countries. The DI took at least 5 years and what has hampered better utilization of capacity is the presence of dumped imports all this while.
- xiii. Dumping is what prevented the DI from producing and selling more. Export sales of the DI in this period have shown some increase though the same was of very low level. Material injury on this factor is, thus, visible in such low production volume itself during the POI wherein the demand was very robust. ADD will help the DI to increase the production to countable levels.
- xiv. Dumped imports at significantly positive undercutting levels are the cause for low sales volume which signifies severe position of material injury.
- xv. The inventories with the DI were very significant during the POI. Such significant level of inventory was when the demand for the product registered superb growth in the country. The level of inventory clearly shows the pressure of dumped imports on the subject good produced by the domestic industry.
- xvi. The profits and ROI achieved by the DI during the POI do not show the one which it could achieve in the absence of dumping. The actual profits and ROI achieved by the DI during the POI was insignificant and much lower than what it could have achieved in the absence of dumping.
- xvii. The level of employment shows similar trend as that of production and the industry has the potential to create more employment should it be in a position to produce more and sell more. Productivity was at good levels during the POI that any underperformance in productivity was not the cause of injury. The element of wages in cost also showed similar trend of overall cost and any increase in wages per se was not the cause of injury.
- xviii. Material injury is reflected in subdued growth of the industry even after several years of being in production albeit low levels.
- xix. The DI also provided information relevant for the determination of Non Injurious Price and it would be seen that the landed value of imports were clearly at a price lower than the NIP leading to positive price underselling in the present case.
- xx. The non attribution analysis as presented in the petition shows clear causal link between dumping from subject countries and injury suffered by the DI on account of the same. Dumping prevented better performance by the DI and that establishes the causal link between dumping and material injury caused in the present case.

- xxi. Even a decline in all parameters may not show material injury as defined in the AD Agreement and determination of material injury has to be a more subjective analysis rather than a mere trend analysis. Analysis needs to be done in the present case by giving emphasis to the factual position of various parameters during the POI itself which would show the below par performance of the DI on various counts establishing material injury. Not achieving a prudent level of performance in the POI on a given parameter also shows material injury even though the same may have increased by the POI on a trend trajectory. This position is applicable to all most every parameter of injury in the present case.
- xxii. The material injury in the present case is visible in the fact that the injury parameters, both volume and price, remained at subdued and below par level during the POI as a result of dumping and the domestic industry cannot sustain for any longer under such circumstances without AD duties to remove such injurious effect of dumping. Subdued performance during the POI itself on account of dumping is the indicator of material injury during the POI in the present case and such below par performance is apparent in both volume and price parameters. Thus, the domestic industry has suffered material injury and contentions to the contrary are bereft of any merit.
- xxiii. The profitability achieved by the DI in the POI is far below than what it could have achieved in the absence of dumping and also far below than the 22% ROI which is considered by the Authority as a reasonable level of return for the purpose of non injurious price. The DI in the present case could reach only to a lower single digit ROI in the POI from a negative situation in the base year and such subdued performance in the POI signifies situation of material injury. The improvement over base year is negated by the below par level performance in the POI and performance in the POI signifies a situation of material injury.
- xxiv. It is submitted that the installed capacity of DMF with the DI 30000MT and is sufficient to meet about 75% of the Indian demand. But it is able to only sell less than 15% as a result of dumped imports in the market.

Views of the opposing interested parties

36. The following are the injury related submissions made by the opposing interested parties during the course of the present investigation and considered relevant by the Authority:
- i. No material injury suffered by Domestic Industry as all relevant economic parameters show significant improvement
 - ii. There is no volume and price injury to the DI. The DI has not established the causal link between alleged dumped imports and alleged material injury to the domestic industry. For the causal link to be established between dumping and injury, the conditions of both para (ii) and para (iv) of Annexure II need to be met. In the present case, neither the conditions set forth in para (ii), nor the conditions prescribed in para (iv) are met. A bare perusal of the evidence of injury provided by the Domestic Industry in its petition clearly reveals none.
 - iii. The imports from the targeted countries have at no point in time during the period considered put any sort of volume pressure on the sales of the Petitioner. Imports from

the subject countries increased in absolute terms, the same reduced drastically when compared to the production of the Domestic Industry and consumption in the domestic market. Which clearly indicates that there is no volume effect of the imports from the subject countries.

- iv. Despite having positive price undercutting, Domestic Industry has improved its performance. Hence, price undercutting has no relevance in the present case. The imports from the subject countries have had no effect on the prices of the domestic prices of the subject goods.
- v. With the decrease in cost of sales globally, the landed value has also declined accordingly. However, selling price of the Domestic Industry has kept on increasing. Therefore, there is no correlation between the landed value and domestic selling price.
- vi. The petitioning company has understated the demand figures. The petitioner has in fact stated that the imports are occurring in other customs classifications as well, which implies that the actual demand may even be higher than this. This clearly shows that the petition is based on grossly inaccurate data and suffers from accuracy and adequacy of the data.
- vii. Sales, production, capacity utilization has significantly increased from base year to POI. There is a decline in inventories when viewed as a percentage of production and sales of the DI as the increase in inventories is not commensurate to the increase in production and sales; the cash profit has increased as a result, there is no adverse impact on cash flow; profits before tax and overall profits have also improved consistently throughout the injury analysis period; the employment generated by the Domestic Industry also increased manifold as the number of employees increased. wages paid, productivity per employee and productivity per day has increased. From a negative return on investment during the base year, the same turned positive by the POI and the increase was a significant. It can also be seen that there has been consistent growth of the Domestic Industry on a year on year basis. On an examination of factors affecting domestic prices, while cost of sales has gone down, the selling price of the like article produced by the Domestic Industry has gone up. Therefore, imports from the subject countries are not affecting the domestic prices of the subject goods.
- viii. The overall analysis of the 15 economic parameters set out in para (iv) of Annexure II clearly reveal that the economic parameters of DI have improved tremendously and that imports from the subject countries have had no impact of the performance of the Domestic Industry as not a single relevant economic factor shows a negative trend as required by para (iv). Throughout the injury period the Domestic Industry has been consistently earning profits and the highest profits earned is during the period of investigation. If the petitioner is already earning 22% return on capital where is the case of injury.
- ix. Injury to the DI is caused due to other factors thus eliminating the chance of any causal link between dumped imports and injury to the Domestic Industry. The DI has exaggerated the increased import of the subject product, and deliberately invented injury to the DI.

- x. The capacity installed by the petitioner is not clear. The petitioner has a capacity of 18000MT to produce the product under consideration but has claimed a capacity of 30,000 MT in its petition. This is very low as compared to the existing demand of 42,473 MT. The petitioner is not producing enough quantity to fulfill the demand of the Domestic Industry. Products are being imported into India from subject countries to meet the demand of the downstream Indian industry. Subject goods are imported only to fill such demand and supply gap and not to cause injury to the Domestic Industry.
- xi. Although the volume of imports from Saudi Arabia increased, the market share has drastically reduced. Lower market share means lesser sales with more effort to sell the product. Increase in imports per se is not a factor showing consequent impact of dumping on the domestic industry.
- xii. Financial statement of DI discloses a healthy profit earned by the company during POR disputing their own claim of suffering loss.
- xiii. DI is also exporting the subject goods, however, such information is claimed as confidential.
- xiv. Price underselling in itself cannot be considered as a parameter showing injury to the DI. The question of injury margin and price underselling arise only when authority comes to a conclusion that the DI has suffered injury. Unless the Authority finds that the DI has suffered injury, the authority shall not determine injury margin.
- xv. The DI has claimed a highly inflated return on gross fixed assets. It is submitted that calculation of return by adopting 22% uniformly on both the components of capital employed is totally incorrect and needs to be reviewed. Authority is hereby requested to take the precautionary actions in this regard and modify the practice of applying 22% ROCE keeping in view existing tax and interest rate structure.
- xvi. The low capacity utilization is artificially inflating the Non-injurious Price of the DI. The DI has not even utilized its production capacity to a reasonable extent, it is trying to recover its fixed overhead cost at such low level of capacity utilization which is clearly preventing the petitioner from doing so, considering that the DI is charging abnormally high prices. Further, despite the alleged price undercutting, the petitioner has increased its sales.
- xvii. Only positive undercutting, dumping margin and injury margin cannot mean injury to the domestic industry. It is evident that the petitioner has shown nothing with regard to adverse effects, because indeed none of the parameters relating to the domestic industry performance shows deterioration because of imports.
- xviii. The question of reasonable penetration in the market is irrelevant to the present case as the present petition is not in the form of determination of material retardation to establishment of domestic industry. It is a fresh investigation and therefore authority is required to consider actual and potential deterioration in performance of the DI, which is clearly missing in the present case. unless the petitioner establishes deterioration on the basis of its performance in respect of various injury parameters, it cannot establish that its performance has suffered as a result of dumping of the product in country.

- xix. Despite alleged price reductions, the petitioner was able to increase its sales, market share and consequently production & capacity utilization on one hand; and, it was able to reduce its losses so significantly that the return on investment even became positive from a situation of negative. It cannot therefore be said the alleged price reductions have led to deterioration in performance of the DI.

Examination by the Authority

37. The Authority has taken note of the submissions made by all the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Antidumping Rules. The injury analysis made by the Authority hereunder addresses the various other submissions made by the interested parties. The details of the examination are mentioned in the following paragraphs:

I. CUMULATIVE ASSESSMENT

38. 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. In terms of Annexure II (iii) of the AD Rules, the Cumulative assessment of the effects of the dumped imports is appropriate in the 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 Authority, therefore, considers it appropriate to cumulatively assess the effect of dumped imports from the subject countries.

II. VOLUME EFFECT

i. ASSESSMENT OF DEMAND

39. The demand of subject goods has been determined by adding the domestic sales of Indian producers of like product with the imports of the subject goods from all the countries. For the purpose of present injury analysis, the Authority has relied on the import data procured from DGCI&S.

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Total Imports from Subject Countries	MT	28,814	31,990	36,887	35,488
2	Total Imports from Other Countries	MT	400	495	370	256
3	Sales of Domestic Industry	MT	305	2,182	3,239	6,533
4	Sales of Other Producers	MT	-	-	-	-
5	Total Demand	MT	29,519	34,667	40,496	42,277

40. It is seen that the demand of subject goods has consistently increased over the entire injury period and POI. It is also noted that the sale of domestic industry has increased multifold during the POI as compared to base year.

ii. IMPORT VOLUMES AND SHARE OF SUBJECT COUNTRIES

41. The volume of imports of the subject good from the subject countries has been analyzed as under:

As per DGCI&S

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Imports from China PR	MT	11,878	12,712	10,237	8,810
2	Imports from Germany	MT	1,442	2,310	2,848	2,297
3	Imports from Saudi Arabia	MT	15,495	16,968	23,802	24,381
4	Total Imports from Subject Countries	MT	28,814	31,990	36,887	35,488
5	Other Countries	MT	400	495	370	256
6	Total imports		29,214	32,485	37,257	35,744
7	Share in Import Volume					
7a	China PR	%	40.66	39.13	27.48	24.65
7b	Germany	%	4.93	7.11	7.64	6.43
7c	Saudi Arabia	%	53.04	52.23	63.89	68.21
7d	Share of Subject Countries	%	98.63	98.48	99.01	99.28
7e	Share of Other Countries	%	1.37	1.52	0.99	0.72
7f	Total	%	100	100	100	100

As per Secondary Source data (furnished by DI)

SN	Particulars	UOM	2014-15	2015-16	2016-17	POI
1	China PR	MT	1,024	1,322	11,028	8,594
2	Germany	MT	471	701	2,019	2,281
3	Saudi Arabia	MT	6,443	16,264	8,199	12,598
4	Total Subject Countries	MT	7,938	18,287	21,246	23,474
5	Other Country	MT	26	124	255	261
6	Total Imports	MT	7,964	18,411	21,501	23,734
7	Share in Import Volume					
7a	China PR	%	12.86	7.18	51.29	36.21
7b	Germany	%	5.91	3.81	9.39	9.61
7c	Saudi Arabia	%	80.90	88.34	38.13	53.08
7d	Share of Subject Countries	%	99.67	99.33	98.81	98.90
7e	Share of Other Countries	%	0.33	0.67	1.19	1.10
7f	Total	%	100.00	100.00	100.00	100.00

42. It is seen that:

- i. Imports of the subject goods from subject countries are significant and have increased in absolute terms during the POI as compared to the base year.

- ii. The data submitted by the DI and as obtained from DGCI&S, both exhibit increased imports, however, the DGCI&S data shows a gradual increase as compared to the drastic increase shown in the data from secondary source.

III. PRICE EFFECT

43. With regard to the effect of the dumped imports on prices, the Authority is required to analyze whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is to depress prices or prevent price increases, which otherwise would have occurred in normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

i. PRICE UNDERCUTTING

44. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed value of imports with net sales realization of the domestic industry.

SN	Particulars	Landed value	NSR of DI	Price undercutting		
		Rs./Kg	Rs./Kg	Rs./Kg	%	Range
1	China PR	56.66	***	***	***	1 -10
2	Germany	54.75	***	***	***	5 - 15
3	Saudi Arabia	54.51	***	***	***	5 - 15
4	Subject Countries	55.06	***	***	***	5 - 15

45. It is seen that the price undercutting for China PR, Germany and Saudi Arabia is positive.

ii. PRICE UNDERSELLING

46. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject counties. For this purpose, the NIP determined for the domestic industry has been compared with the landed value of imports.

SN	Particulars	NIP	Landed Value	Injury Margin		
		Rs./Kg	Rs./Kg	Rs./Kg	%	Range
1	China PR	***	56.66	***	***	10-20
2	Germany	***	54.75	***	***	15-25
3	Saudi Arabia	***	54.51	***	***	15-25
4	Subject Countries	***	55.06	***	***	15-25

47. It is seen that the landed value of the subject goods from subject countries were lower than the NIP determined for the domestic industry.

iii. PRICE SUPPRESSION/DEPRESSION

48. 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 in normal course, the Authority considered the changes in the costs and prices over the injury period, as detailed below:

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Landed Value of imports	Rs./Kg	61.58	52.31	50.68	55.06
1a	Trend	<i>Indexed</i>	100	85	82	89
2	Cost of Sales	Rs./Kg	***	***	***	***
2a	Trend	<i>Indexed</i>	100	85	70	69
3	Domestic Selling Price	Rs./Kg	***	***	***	***
3a	Trend	<i>Indexed</i>	100	95	94	101

49. The above data demonstrates that the cost of sales of the domestic industry were very high in the base year which have declined consistently whereas the domestic industry has managed to keep the selling price at the same level during the entire injury period and the POI. It indicates that the prices of the Domestic Industry are not suppressed and depressed because of the alleged dumped imports.

IV. ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY

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

i. MARKET SHARE

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

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Domestic Industry	%	1.03	6.29	8.00	15.45
2	Other Indian Producers	%	-	-	-	-
3	Imports from Subject Countries	%	97.61	92.28	91.09	83.94

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
4	Imports from Other Countries	%	1.36	1.43	0.91	0.61
5	Imports from subject countries relative to Indian consumption	%	97.61	92.28	91.09	83.94
6	Imports from subject countries relative to production of DI	%	***	***	***	***
6a	Trend	Indexed	100	37	23	12

52. It is seen that the market share of domestic industry has increased throughout the injury period and the POI whereas the share of imports from subject countries has decreased during the same period. The share of imports from other countries has remained at insignificant levels.

53. The above data demonstrates that the Domestic Industry being the sole producer of the subject goods has been able to increase its share in the market and the share of the imports has decreased. However, the DI's share is only about 15.45% and 84% of the Indian demand is still held by the subject countries.

54. Imports from subject countries in relation to domestic consumption / demand have declined during the entire injury period and the POI though it is still significant.

ii. CAPACITY, PRODUCTION, CAPACITY UTILIZATION AND SALES

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

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Installed Capacity	MT	30,000	30,000	30,000	30,000
2	Production	MT	701	2,095	3,901	7,035
3	Capacity Utilization	%	2.34	6.98	13.00	23.45
4	Sales of DI		305	2,260	3,535	6,712
4a	Domestic Sales	MT	305	2,182	3,239	6,533
4b	Export Sales	MT	-	***	***	***
4b(i)	Trend	Indexed	-	100	375	227

56. It is seen that the production, capacity utilization and sales of the domestic industry have increased over the entire injury period and POI. The export sales of the domestic industry have also increased during 2015-16 and 2016-17, however the same declined during the POI.

iii. PROFITABILITY

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Profit / (Loss)	Rs./Lakhs	(***)	(***)	(***)	***
1a	Trend	<i>Indexed</i>	(100)	(415)	(89)	313
2	Profit / (Loss)	Rs./Kg	(***)	(***)	(***)	***
2a	Trend	<i>Indexed</i>	(100)	(58)	(8)	15

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
3	ROCE	%	(***)	(***)	(***)	***
3a	ROCE	Range %	(0-5)	(5-10)	(0-5)	5-10

57. It is noted that the domestic industry has increased its profits to a significant level and became positive during the POI. The ROCE has also registered significant improvement and became positive during the POI.

58. It is stated by the domestic industry that the profits achieved in the POI is not of reasonable levels and the domestic industry could have achieved better profits had there been no price undercutting /suppression effects triggered by dumped imports. For ROCE the domestic industry claimed that they have not been able to earn an adequate return on capital employed throughout the injury investigation period though the situation was positive during the POI.

iv. INVENTORIES

Particulars	Unit	2014-15	2015-16	2016-17	POI
Average Inventory	MT	***	***	***	***
Trend	<i>Indexed</i>	100	158	208	244

59. It is seen that the average inventory with the domestic industry has increased throughout the injury period and the POI, however in view of the absence of data regarding average permissible inventory levels, the impact of increased inventory cannot be gauged.

v. PRODUCTIVITY OF THE DOMESTIC INDUSTRY

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	No. of Employees	Nos.	***	***	***	***
1a	<i>Indexed</i>	<i>Index</i>	100	117	117	350
2	Productivity per Employee	MT/ Employee	***	***	***	***
2a	<i>Indexed</i>	<i>Index</i>	100	256	477	287

60. It is seen that the employment level of the domestic industry has shown similar trends as that of production and increased in the injury period and POI. Further, productivity per employee also has improved.

vi. ABILITY TO RAISE CAPITAL INVESTMENTS

61. It was submitted by the petitioner that given the rising demand of the product in the country, the domestic industry has made significant investments in plant and machinery and set up capacity to the tune of 30,000 MT against a demand of about 42,000 MT. However, despite these investments and demand, the highest capacity utilization achieved by the domestic industry was about 24% that too during the POI. Thus, the question of further investment at this stage may not be significant. However, the petitioners submitted

that the ROCE currently achieved by them are not reasonable and any further investment shall depend on the sustainability of investments already made.

vii. LEVEL OF DUMPING & DUMPING MARGIN

62. It is noted that imports from the subject countries are entering into the country at dumped prices and that the margins of dumping is positive.

viii. GROWTH

63. From the information provided by the domestic industry it is seen that the growth has shown multifold increase in respect of capacity utilization, production and sales. Further the selling price, profits, ROI etc have also shown positive growth.

ix. FACTORS AFFECTING DOMESTIC PRICES

64. 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, etc., shows that the landed value of imported goods from the subject countries is below the non-injurious price and selling price of the domestic industry, causing a positive price under-cutting and price under selling in the Indian market. However, the net sales realization of DI has consistently been above the landed value of subject goods from the subject countries despite its nominal share in country's demand of PUC.

65. It is seen that there has been an increase in the volume of dumped imports from the subject countries in absolute terms though the same decreased in relation to consumption and production of the product in India. Though the production and sales by the domestic increased over the years, the market share of the dumped imports remained at about 84% in the POI and the domestic industry was operating only at 24% capacity utilization. Dumped imports have had some adverse price effect in terms of price under-cutting and price under-selling. However, the net sales realization of DI has remained about 8 to 11% above the landed prices. As a result, the profits and ROCE achieved by the domestic industry during the injury period have shown improvement and was positive during POI.

V. MAGNITUDE OF INJURY MARGIN

66. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the exports from the subject countries for determination of injury margin during the POI and the injury margin so worked out is as under:

S.N.	Producer/ Exporter	NIP	LV	IM		
		USD/MT	USD/MT	USD/MT	%	Range
1	Shandong Hualu Hengsheng Chemical Co. Ltd China PR	***	***	***	***	5-15

2	Luxi Chemical Group Chor alkali chemical branch /Shandong liaocheng Luxi new material sale co. ltd / Luxi Chemical (Hong Kong) Co. Ltd, China PR	***	***	***	***	15-25
3	Methanol Chemicals Company, Saudi Arabia	***	***	***	***	15-25
4	Germany	***	***	***	***	15-25

H. OTHER KNOWN FACTORS & CAUSAL LINK

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

i. Imports from Third Country

68. The imports from countries other than subject countries are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry. About 99% of total imports during the POI are from subject countries.

ii. Contraction in demand

69. The demand for the subject goods has shown an increasing trend in absolute terms. Accordingly, fall in demand cannot be the reason for injury to the domestic industry. The share of DI during the entire injury period has remained consistent.

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

70. The Authority notes that there is no trade restrictive practice which could have impacted the DI.

iv. Developments in technology

71. The technology for production of the product concerned has not undergone any change. Thus, developments in technology had no impact on the growth of the DI.

v. Changes in pattern of consumption

72. The DI is producing similar goods that have been imported into India. Possible changes in pattern of consumption are not a factor that could have caused any impact on the DI.

vi. Export performance

73. The DI has exported the goods from 2015-16 onwards, however, the domestic sales only have been identified and examined for the present analysis.

vii. Performance of the domestic industry with respect to other products

74. The Authority notes that the performance of other products being produced and sold by the DI has not impacted the DI as the information with respect to the product under consideration only has been considered for analysis.

viii. Productivity of the domestic industry

75. The Authority notes that the production and productivity of DI has shown steep improvement when compared from base year to the subsequent years in the injury period and POI.

I. POST DISCLOSURE COMMENTS

76. The post disclosure submissions have been summarized and addressed as below:

Views of the Domestic industry

77. The Domestic Industry made the following submissions:

- i. The decision to use Export Genius data was purely on account of unavailability of DGCI&S T/T data at the time of filing of petition and the petitioner has never tried to show any fabricated situation of import or injury before the Authority by relying on a secondary source import data or in any other manner. The petitioner did not submit secondary source data as a conclusive one but used the said data as the most reliable one with the given facts at that juncture.
- ii. A higher level of imports as per DGCI&S T/T data no way puts the claims of injury in the petition made by petitioner under doubts.
- iii. Dumping margin even from the responding exporters is very significant. Thus, the claims of dumping by the petitioner stands established.
- iv. It is humbly requested that Shandong Hualu Hengsheng Chemical Co. Ltd should not be granted any individual margin if they have only exported very low or a non commercial volume during the POI. Shandong Hualu Hengsheng Chemical Co. Ltd was not a major exporter of DMF to India. This company have the potential to export much more and it is apparent that the price of this exporter has already started to come down.
- v. The factual disclosure of injury parameters shows the DI suffered material injury and we request the Authority to conclude that the DI has suffered material injury. Though the sales of the DI increased along with increases in demand, the presence of dumped imports at very high level. The profitability and ROCE situation of the DI also showed a below par performance and situation of material injury
- vi. There seems some calculation error in the Allowable return. The return calculated by the Authority is not correct.

Views of the opposing interested parties

78. The submissions of various opposing interested parties are summarized as follows:

- i. The domestic industry did not provide the accurate and adequate information in the current investigation at the time of initiation, it is in itself a sufficient ground for the termination of the current investigation.
- ii. It is requested to determine the normal value for the Chinese exporters on the basis of their records but not on the basis of constructed normal value. It is requested to consider the information from Saudi Arabia for the determination of normal value for the Chinese exporter in the current investigation
- iii. Normal Value of Chemanol should be determined in accordance with the procedure in Section 9A(1)(c) of the Customs Tariff Act, 1975. The DA has not disclosed any instance or recorded any fact which states that Chemanol has provided an incomplete questionnaire response or insufficient information which did not allow for the determination of normal value as per the residuary methods of construction provided under Section 9A(1)(c)(ii)(a) and 9A(1)(c)(ii)(b). The present methodology adopted by the DA for determination of Normal Value by resorting to best facts available and thereby, using the cost of production of the Domestic Industry is clearly in derogation of the statutory scheme and unsustainable.
- iv. The best fact available applied against Chemanol have not been disclosed depriving Chemanol of the opportunity to comment on the same.
- v. The Normal Value considered on the basis of cost of production of the Domestic industry is not appropriate as the domestic industry's cost of production is highly distorted due to capacity utilization of only 23%, which has inflated its cost of production.
- vi. There is a significant variance in the export prices on monthly and quarterly basis in the POI for the exporter of Luxi Group.
- vii. The consumption norms of the petitioner or the conversion cost in the POI was abnormally high due to low plant utilisation. The same cannot be used for determining normal value for the foreign producers who are operating the plants at much different level of capacity utilisation.
- viii. No material injury suffered by Domestic Industry as all relevant economic parameters show significant improvement. An overall analysis of the economic parameters set out in para (iv) of Annexure II clearly reveal that the situation of the Domestic Industry improved substantially and that imports from the subject countries have had no impact on its performance. In case the DA is of the opinion that only the existence of a dumping margin demonstrates material injury to the Domestic Industry, then cogent reasons must be furnished on why the presence of only the dumping margin outweighs the positives that have been witnessed in the other 14 parameters.
- ix. The Domestic Industry has cherry picked the source of import data with the motive of prejudicing the DA by portraying a 196% increase in imports whereas the actual increase in imports as per DGCI&S data was merely 23% from that of the base year and pertinently, imports actually decreased by 5% in the POI from that of the year immediately preceding it i.e. 2016-17.

- x. DI sales are disproportionately higher as compared to increase in imports. If imports have still remained significant, it is only because of demand-supply gap in the Country.
- xi. The price effect of subject imports on the domestic market of the like article is absent.
- xii. Price undercutting and price underselling are not the factors of injury as has been laid down by the Hon'ble CESTAT in the case of *Bridge Stone Tyre Manufacturing (Thailand) Vs. DA 2011 (270) E.L.T. 696 (Tri. - Del.)*. Price underselling is an irrelevant factor as far as determination of injury to the Domestic Industry is concerned. The reasons for the positive price undercutting is high price targeted by the petitioner.
- xiii. No causal link can be established as no injury suffered by the Domestic Industry.
- xiv. There is no merit in the submissions of the domestic industry for earning reasonable profits and ROCE.
- xv. There are other factors impacting the domestic industry and preventing it from reaching optimum capacity utilization.
- xvi. The domestic industry being multi-product company and making profits, its ability to raise funds has not been affected by the performance of the newly introduced subject goods
- xvii. The petitioner has recently commenced production and the best utilization achieved by the domestic industry stands at 23%, it would be grossly inappropriate to determine the NIP at such low levels of capacity utilization.

Examination by the Authority

79. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs.

J. CONCLUSIONS

80. After examining the issues raised and submissions made by the interested parties and facts available, as recorded in this finding, the Authority concludes that:
- i. The volume of PUC exported to India from Saudi Arabia is consistent and quite large over the entire injury period, whereas volume from Germany is not very large though consistent. Volume of exports from China PR have declined during POI.
 - ii. The large volume of imports are in response to the increased demand in the country and are not directly impacting the DI as is reflected by the positive growth in DI's performance.
 - iii. There is overall improvement in the health of the domestic industry. The production from base year (2014-15) to subsequent years have multiplied manifold and during POI has reached 10 times of the production of the base year. The sales of DI have also shown manifold increase.

- iv. The evident positive growth of DI is inspite of the fact that during the same period, the imports have been substantial to the extent of 97% of the Indian consumption which have declined to 83.9% though they are still substantial in absolute terms.
- v. The analysis of economic parameters indicate that injury to the domestic industry cannot be attributed to the alleged dumped imports. Hence, it is concluded that there is insufficient evidence to establish that alleged dumping is resulting in material injury to the domestic industry.

K. RECOMMENDATION

81. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic producers, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the present investigation into dumping, injury and the causal link thereof in terms of the AD Rules it is established that the domestic industry is not suffering injury on account of the subject imports from the subject countries and there is no causal link between the dumped imports material injury to the domestic industry due to reasons given above. The Authority is of the view that imposition of antidumping duty is not warranted in the present investigation. In view thereof the Designated Authority considers it appropriate to not recommend Anti-Dumping Duty in respect of 'Di Methyl Formamide' (DMF) from China PR, Saudi Arabia and Germany into India.
82. An appeal against this notification shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 and the decision on Hon'ble High Court of Delhi in M/s Jindal Poly Film Ltd. v. Designated Authority W.P. (Civil) No. 8202/2017.

(Sunil Kumar)

Additional Secretary & Director General