

No. 15/14/2005-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES
NOTIFICATION

New Delhi, the 4th August 2006

FINAL FINDINGS

Subject: Mid-term Anti-dumping review investigations in the matter relating to imports of: D (-) Para Hydroxy Phenyl Glycine Base (PHPG Base) from Singapore – Final findings

A BACKGROUND OF THE CASE

1. Whereas having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), vide Notification No. 51/1/2001-DGAD dated 20th September 2002, the Designated Authority (hereinafter referred to as the Authority) notified its final findings recommending definitive anti-dumping duty on import of PHPG Base (hereinafter referred to as subject goods) originating in or exported from China PR and Singapore. The provisional findings were issued on 5th of June 2002 and provisional duties were imposed by Central Government on 5th July 2002.

And whereas definitive anti-dumping duty was imposed on the subject goods vide Customs Notification No. 122/2002-Customs dated 31st October 2002.

2. Whereas the Rules require the Authority to review, from time to time, the need for continued imposition of Anti-Dumping Duty and if it is satisfied, on the basis of positive information received by it that there is no justification for continued imposition of such duty, the authority may recommend to the Central Government for its withdrawal. Notwithstanding, the above provision, the authority is required to review, on the basis of positive information submitted by any interested party substantiating the need for a review, provided

that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, whether continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

In terms of the above provision, the producer and exporter M/s Kaneka Singapore Corporation, Singapore (KSC) filed a request for a changed circumstances mid-term review of the anti-dumping duty in force.

3. The producer and exporter of subject goods from Singapore M/s Kaneka Singapore Corporation (KSC), Singapore has listed the following grounds for changed circumstances review.

- The export price of KSC to India has significantly reduced.
- The Customs duty has been reduced from 35% to 20%.
- The dumping Margin has significantly declined and thus benchmark fixed in the original investigation should be reduced accordingly.
- The Cost of production has significantly declined in view of significant reduction in raw material price leading to reduction in the Normal value.
- The profits realized by the company have significantly declined which would be a tantamount to a decline in Normal value.

4. Having regard to the positive information provided by the applicant indicating the changed circumstances necessitating a review of the measure in force, the Designated Authority considered that a mid-term review of the Anti-dumping Duty is appropriate in view of the changed circumstances, in terms of the provision of Rule 23 supra. Having decided to review the final findings notified vide Notification No.51/1/2001-DGAD dated 20th September 2002, the Authority initiated the investigations in terms of the Rules on 21st September 2005, to review whether continued imposition of the duty on imports of PHPG Base originating in or exported from the Singapore (also referred to as subject country) is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

B. PROCEDURE

5. The procedure described below has been followed with regard to this investigation:

- i) After initiation of the review the Authority sent questionnaires, along with the initiation notification, to exporters/producers in the subject country, and domestic industry in India in accordance with the Rule 6(4), to elicit relevant information;
- ii) The Embassy of the subject country in New Delhi were informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
- iii) Questionnaires were sent to known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4).
- iv) Investigation was carried out for the period starting from 01.04.2004 to 31.03.2005 (POI). However, injury examination was conducted for a period from 2000-01 to the end of POI.
- v) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigations;. However, the DGCIS report has not been relied upon in this investigations as it was seen that exports quantity submitted by exporter are much higher in terms of quantity.
- vi) No response to the initiation notification was received from any other exporter except M/s Kaneka Singapore Corporation (KSC) and M/s Kaneka Japan, Japan (KNK). None of the interested parties except domestic industry have submitted response, in any manner, to the initiation notification subsequent stages of the investigations.
- vii) The Authority has considered all views expressed and submissions made by various interested parties to the extent they are relevant for the present investigation.
- viii) 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;
- ix) The Authority examined the information furnished by the domestic industry to the extent possible examine the injury suffered by them.

- x) The Authority also verified the data of the cooperating exporter and applicant for the subject review, to determine the normal value and dumping margin as per the Rules. Following verification, a copy of the verification report was sent to the exporters for their comments and the comments received have been incorporated in the final findings. A copy of the Non-confidential verification report was also placed in the public file for the information of all other interested parties.
- xi) The Authority held a public hearing on 3rd February 2006 to hear the interested parties orally, which was attended by representatives of the domestic industry, exporters of the subject goods from the subject countries. The parties attending the public hearing were requested to file written submissions of views expressed orally. Written submissions received from interested parties have been considered by Designated Authority in this finding to the extent these have been considered relevant to the investigation. In accordance with Rule 16 of the Rule supra, the essential facts/ basis considered for these findings were disclosed to known interested parties on 14th July 2006 and comments received on the same are duly considered in Final Findings.
- xii) **** In the Notification represents information furnished by interested parties on confidential basis and so considered by the Authority after examining them under the rules.

C. PRODUCT UNDER CONSIDERATION AND 'LIKE ARTICLE'

6. The product involved in the original investigation and the current review is D (-) Para Hydroxy Phenyl Glycine Base (PHPG Base) falling under heading No.2942.00 in Chapter 29 of the First Schedule to the said Customs Tariff Act and ITC HS classification. This classification, however, is indicative only and, in no way, binding on the scope of the present investigation. Predominantly 'D (-) Para Hydroxy Phenyl Glycine Base' (also to be read as per above mentioned synonyms) i.e. the 'subject material' (herein after referred as 'PHPG') is imported in to India which is converted in-situ to " D (-) Para Hydroxy Phenyl Glycine Methyl Potassium Dane Salt " (herein after referred as 'PHPGDS') by the various importers / manufacturers and used for the production of Amoxicillin and Cefadroxyl. (i.e. bulk drugs). In other words PHPG cannot be used directly for the production of Amoxicillin etc. It is only when PHPG is converted to PHPGDS, the same is used for the production of Amoxicillin etc. This conversion may either be done at the PHPG / PHPGDS manufacturers' end, or at the users end, i.e. producers of Amoxicillin etc.

7. There are no arguments on the product under consideration. As regards like article, it is noted that there is no significant difference in PHPG Base produced by the domestic industry and those imported from and sold in the subject country. PHPG Base produced by the domestic industry and imported from subject country are comparable in terms of physical characteristics, functions and uses, specifications, distribution and marketing, pricing and tariff classification of goods. The consumer can use and are using PHPG Base imported from the subject countries and PHPG Base produced by the domestic industry interchangeably. Thus, PHPG Base produced by the domestic industry is considered as domestic like product to those imported from Singapore (subject country).

D. Domestic industry

8. In the original investigation the application was filed by M/s Daurala Organics Limited, Daurala, Meerut (UP) now merged with M/s DCM Shriram Industries Ltd, unit; Daurala organics, Daurala. The applicant is the sole producer of the subject goods in India and have filed response to the review investigation as domestic industry. The Authority therefore holds that M/s.DCM Shriram Industries Ltd, unit; Daurala Organics, Daurala (DOL or Daurala Organics) constitutes a domestic industry within the meaning of the rules.

E. Arguments raised by various interested parties and Examination by the Authority

9. The domestic industry has submitted that there are insufficient grounds for review brought out by the petitioner in this case. M/s DCM Shriram Industries Limited, Unit- Daurala Organics, Daurala, Meerut (UP) (previously known as M/s Daurala Organics Limited, Daurala, Dist. Meerut (UP) and the domestic industry (hereinafter referred to as DI or domestic industry) has stated that the basic conditions in respect of subject material D (-) Phenyl Hydroxy Phenyl Glycine Base (hereinafter referred to as PHPG Base) have not changed, since the matter was finally investigated by the Designated Authority in the year 2002 and Customs Notification No.122/2002 dated 31.10.2002 was issued levying Anti-Dumping duty on import of the subject material from Singapore and China.

10. Article 11.2 of the WTO Agreement on Anti Dumping contains the following ingredients, for review of Anti Dumping levy:-

- (i) The authorities shall review the need for continuing any imposition of duty, where warranted.
- (ii)upon request by any interested party, which submits positive information substantiating_for the need for review.
- (iii)where the continued imposition of the duty is necessary to offset dumping.
- (iv) Whether the injury would be likely to continue or recur, if the duties were removed or varied or both.

11. Domestic Industry has submitted that the market conditions prevailing in India with respect to demand and supply for PHPG base and the economic conditions of domestic industry do not warrant any mid term review of imposition of duty. It has been further added that the most important criteria for review relates to whether the injury would be likely to continue or recur, if the duty were varied or removed or both. According to Article 11.2, reviews are prospective in nature, which require a projection of the likelihood of the continuation or recurrence of dumping and injury, if the definitive duties were removed. This entails a counter-factual analysis of hypothetical future events based on projected levels of dumped imports, prices and impact on domestic producers. The question to be addressed is whether the domestic industry is likely to be injured again, if duties were lifted.

12. It has been further submitted by the domestic industry that they have provided the necessary factual details with regard to the performance of domestic industry in the Confidential version of their reply to the Authority vide their submission dated 15th December, 2005, which clearly demonstrate that the domestic industry is still injured and performance of the domestic industry would further deteriorate, if the Anti-Dumping duty is lifted.

13. The domestic industry has further added that dumping margin on the export made by KSC is claimed to be de-minimus in spite of both landed price of export and dumping margin in respect of export of KSC has significantly declined and therefore, benchmark must be reduced. KSC has claimed that landed price of import of inputs has significantly declined. It means that the export price has also declined significantly, which KSC also admits, in such case the dumping margin will rather increase instead of decrease as claimed by KSC. With regards to the export price, it has been submitted that the export price PHPG base from Kaneka, Singapore is declining is proof enough that goods are still being dumped in the Indian market.

14. It has been further submitted that KSC has claimed that their cost of production have reduced significantly due to significant reduction in raw material prices. KSC has claimed that the major raw material prices have reduced by almost 25% over the past 4 years. The analysis of Annexure-9 submitted on indexed basis shows that there is reduction in the prices of 7 nos. of raw materials by 2 to 17% during 2005 compare to 2001, while the prices of 8 nos. of raw materials has increased from 5 to 53% during the above period. It has been further submitted that It is a well known fact that over last 1 – 2 years, the prices of crude oil has gone up significantly from 2001 around US\$ 25 / barrel to as high as to US\$ 70 / barrel in recent period. Due to the same, not only the prices of solvents has gone up significantly, the cost of utilities has also almost doubled over the period. If a nominal increase of 5% in wages and other overheads is added, the cost of production will go up further at least by 10 to 15%. The claim of normal increase of 5% in the expenses is further substantiated based on the Annual Report of KC for financial year 2004-05 stating “Selling, general and administrative (SG&A) expenses were yen 85,673 million, up 5.3% year-on-year basis

15. The domestic industry has submitted that KSC source major raw material required for the production PHPG Base-PHTN from its parent company Kaneka Corporation, Japan (KC). The cost of PHTN itself is a major cost component for the production cost of PHPG Base for KSC. Accordingly, the cost of PHTN in the production cost of PHPG Base will definitely increase over the period due to the factors stated as above like increase in the solvent, utility prices, labour cost etc. The Domestic Industry has requested the Authority to go into the details of cost structure of PHTN produced by KC and must verify in detail the cost structure and transfer price mechanism of PHTN from KC to KSC.

16. It is submitted by the domestic industry that the averments of KSC that export price of Kaneka is above the cost of production and level of profit realized by the company has declined are contradictory. If earlier they were selling at less than the cost of production, they should have been making losses and when the export price has gone over and above the cost of production, as claimed by them, the profit should have risen which is in sharp contrast to their contention that profits have come down. This clearly indicates that they have reduced the prices in order to dump the goods in the Indian market.

17. On the other hand, the applicant has submitted that the fact whether or not inputs have declined is a matter of fact and is

based on the information/evidence/records of the applicant company. It is immaterial whether or not the Indian Producer has also experienced the same. Also, whereas the petitioners have argued about decline in the prices over the past 4-5 years, Indian Producer has been arguing between the investigation period and thereafter. It is not denied that the prices have increased within the investigation period and thereafter. The dumping margin determined by the Authority in the previously concluded investigation was also quite high and was unsupported by the information provided by the company. It has been further added that the cost of production of the company has declined in view of reduction in the prices of major inputs, significant increase in production, significant reduction in employment, decline in costs on account of depreciation, etc. Kaneka provided a comparison of cost of production for the previous investigation and present investigation, accounting for the differences with quantified reason and offered the same for verification at the time of visit.

- a) Prices of major input PHTN have declined, amongst other reasons, due to the fact that the company had switched its procurement source from **** to *****.
- b) Since Kaneka has provided factual information, construction of normal value done by Daurala is meaningless.
- c) Petitioners have provided detailed transaction wise information not only with regard to export sales to India, but also in respect of exports to third countries. This is sufficient to establish whether the company was dumping the product to any of the third countries.
- d) Kaneka has provided invoice by invoice details of all expenses incurred on exports and therefore any claim of Daurala in this regard need be rejected.
- e) One of the possible reasons for high cost of production in the earlier investigation was the fact that in that investigation period, the company had produced very low volume of the product, thus resulting in high overhead costs incidence.

Examination by the Authority

18. The Authority has carefully examined various submissions made by the interested parties in connection with the initiation of this review investigation.

19. Rule 23 of the Anti Dumping Rules provides that the Designated Authority shall, from time to time, review the need for continued imposition of anti dumping duty and if it is

satisfied on the basis of information received by it that there is no justification for the continued imposition of such duty, shall recommend to the Central Govt. for its withdrawal.

20. Article 11.2 of the Agreement provides that the Authority shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti dumping duty, upon request by any interested party which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti dumping duty is no longer warranted, it shall be terminated immediately. The Authority holds that it has been its consistent practice to commence a review at the substantiated request of an interested party only after a lapse of one year from the date of imposition of Anti dumping duty and this requirement has been notified by a trade notice 1/99. In this instance case, the review has been accordingly initiated 26 months after the date of imposition of anti dumping duty.

21. The domestic industry has argued that under Article 11.2 of ADA read with Rule 23 of Indian Antidumping Rules, substantiation of grounds of review are mandatory and the applicant has failed to do so. Therefore, the initiation of the review is flawed. The Authority has analysed the arguments made by the various interested parties and concludes that the "Applicant" had submitted positive information, inter alia that the export price of KSC to India has significantly reduced and the customs duty has been reduced from 35% to 20%. Further, the dumping Margin has significantly changed as explained in the earlier para and thus benchmark fixed in the original investigation should be revisited accordingly keeping in view of the fact that the cost of production has significantly declined in view of reduction in raw material price leading to reduction in the Normal value. On the basis of the foregoing, it is considered that initiation of mid term review has rightly been initiated by the Authority due to change in circumstances described in the foregoing. Subsequent to the disclosure statement, the domestic industry has submitted various arguments pertaining to the issue of confidentiality and adequacy of the data submitted by the applicant which have been examined by the Authority. They have argued that sufficient disclosures were not made by the applicant in their application and response to the questionnaire. It has also been submitted that the questionnaire response lacked indexed information and confidential replies

given in response to some of the questions were insufficiently disclosed. Further, full information with regard to related companies was not provided by the applicant and annual reports for the investigation period and preceding three years have not been provided to the Designated Authority. The submissions were examined by the Authority and having regard to requirements under Rule 7, the nature of product and the limited technology available with regard to production process, the fact that Kaneka is the sole producer and exporter from Singapore, it is held that the claims of the applicant with regard to confidentiality were justified. It is further clarified that sufficient information required for the purpose of determination of dumping margin was provided by the applicant. It is further confirmed that the applicant has also provided annual reports for the period ending June'04 and June'05 and three years preceding investigation period on the confidential basis (as they are not in public domain). Additionally, detailed financial information with regard to Kaneka, Japan not only concerning the company as a whole but also the division and the group relating to the product under consideration were provided by M/s Kaneka Japan. Investigations revealed that the information provided was on the basis of records maintained by the Company, which were found to be consistent with generally accepted accounting principles and the same reasonably reflected information with regard to the production, sales, costs and prices of the product under consideration. Information with regard to all world wide related companies was also provided. The issues with regards to the cost and price of raw materials and determination of dumping margin are analyzed in the following section.

E. DUMPING DETERMINATION

NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

22. Under Section 9A (1) (c) of the Customs Tariff Act 1975, Normal value in relation to an article means:

- (i) The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- (ii) When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country

or territory, such sales do not permit a proper comparison, the normal value shall be either:-

(a) Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

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

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

Normal Value and Export Price

23. The Authority notes that M/s KSC does not have any domestic sales in Singapore. With regards to its sales to third countries, the applicant could not propose with justification as to which third country should be taken for the purpose of determination of normal value. After examination of the sales to third countries, the authority could not also determine the appropriate third country for the purpose of determining the normal value having regard to the criteria consistently followed by the Authority. In the absence of the above indicated basis of determination of Normal value the Authority had no option other than to determine the normal value based on the cost of production of the subject goods in Singapore by the company.

24. During the examination of the information submitted by the applicant and during verification process, it was noted that M/s KNK, Japan is the parent company of M/s Kaneka Sales Corporation, Singapore, the applicant in this investigation. In addition to substantial production activity, KNK Japan also undertakes sales of goods produced by its affiliates. Further, KNK purchases critical raw materials required for production of Base and Dane Salt for KNC, Singapore. However, verification team was shown that no service is provided free of cost to any affiliates, including KSC. While these transactions are priced more out of conventions, the costs associated with providing these services were found to be lower than the margins

retained by KNK. It was noted that KNK has made a net profit out of purchase and supply of raw materials for KSC and sales of Base and Dane Salt for KSC.

25. With regards to the normal value determination, it was noted that the company prepares cost of production statement on monthly basis. The company has consolidated cost of production statement for the POI from these monthly cost of production statements. The company also prepares six monthly profit & loss account and Balance Sheet. The Authority verified statement of raw materials and packing materials consumption and reconciliation from the books of account. With regards to manufacturing expenses, it is noted that the company prepares a statement of expenses incurred on conversion on monthly basis. The manufacturing expenses includes expenses on salaries, operating expenses, energy saving activities, inward transportation, fire insurance, rent, property tax, repairs & maintenance, facility movement, replacement of old equipment, laboratory expenses, samples, defective production written off, depreciation, shutdown expenses, etc. With regards to the selling and distribution expenses, it is noted that the company prepares a statement of sales & distribution expenses on monthly basis. Sales & distribution expenses includes expenses on commission, discounts, sample, freight, sales insurance, sales assistance fee. With regards to SGA expenses, it is noted that the company every month prepares a statement of SGA and Interest expenses. The SGA and Interest expenses includes various expenses in the nature of administrative expenses, indirect sales expenses and general expenses. The Authority verified the allocation of all expenses between PHPG Base and other products sold by the company. It was explained that the company has its audited income statement for the completed accounting years, i.e., 2004 and 2005. Further, the company was required to prepare an income statement for the period ending June on the basis of limited audit review by the auditors. Therefore, the company has prepared its income statement and balance sheet for the period ending June, 2005. The company has provided this income statement for the period June, 2004 and June, 2005 and for the period ending June, 2004, Dec., 2004, June, 2005, Dec., 2005 and July, 2004 – June, 2005 in order to compile data for the period of investigation.

26. With regards to determination of cost of production for self-consumption, exports to India and exports to third countries, the company has prepared cost of production statement by considering costs up to production level. Captive consumption has been reduced from this gross cost of production. Cost of

production has been considered at the same level at this stage. Therefore, direct selling expenses, SGA and interest have been added to determine cost of sales, after adjustment for stock changes. For the purpose verified cost of production of the exporter for the investigation period has been considered. Costs have been determined in terms of costs of major raw materials, consumption factors thereof and weighted average price in the period of investigation. Conversion costs have been determined by considering expenses incurred during the period of investigation. Selling, General and Administration (SGA) expenses have been added considering the SGA expenses of the company, apportioned on the product under consideration in the ratio of turnover. The Authority has determined profit by considering the overall profit earned by the company. The normal value so assessed come to US\$*****.

27. With regard to sales, the M/s KNC, Singapore follows two sales routes - direct sales and sales through KNK, Japan. The sales can be directly to the customer or through an agent in importing country. In case of India, all sales are through agents in India. The company primarily has two agents - APC Corpn. and Sampark. It was also noted that the goods in all cases move directly from Singapore to the customer. In case the goods have been invoiced directly to the customer, Japan gets a commission. In case goods are invoiced by KNK, Japan, KSC invoices on KNK, Japan after adjusting for margin of KNK. Sales made directly may or may not involve any marketing effort by Japan. Yet, a commission is paid to them. Even in case of domestic sales (for other products also) in Singapore, sales assistance fee is paid. It is noted that sales assistance fee paid to Japan has been duly reported in the sales statement as sales assistance fee. Margin added by Japan in respect of sales through Japan has been worked out from the difference between the sales invoice amounts of KNK, Japan and KSC, Singapore. With regard to the commission, it is noted that the company paid commission on various sales made, which included commission paid on sale made to India. Further, the credit period was examined from various records. Expenses on account of ocean freight has been determined from shipper's invoice. However, in case of one combined invoice by the shipper against goods sold by more than one shipment, ocean freight is determined in proportion to the weight involved in the invoice. The marine insurance has been determined from insurance policy and payment voucher. It is noted and verified that the port expenses, inland freight and all other expenses associated with exports are included in ocean freight invoice issued by the shipper. Thus, after deducting all expenses, the ex factory export price to India for KSC has been determined.

Further to the disclosure statement, the domestic industry has raised issues pertaining to the confidentiality pertaining to the information submitted by the exporter and has reiterated the submissions made by them earlier in this investigations. The issue of confidentiality has already been examined in the earlier paragraphs. On the Other hand, In response to disclosure statement, M/s Kaneka disputed the dumping margin determined by the Authority. The company claimed that the dumping margin determined was incorrect and was required to be reviewed with regard to cost of production & profit margin for the purpose of determination of normal value and CIF export price for the purpose of determination of ex-factory export price. Claims made by the company were examined by the Designated Authority and it was found that in fact there was a typographical error in considering CIF export price and therefore the same is corrected. The Authority does not agree with the cost of production claimed by the exporter. Authority notes that the company has claimed different cost of production for captive consumption, exports to India and exports to third countries. The Authority has however considered it appropriate to adopt weighted average cost of production for the different markets (including captive consumption). However, it was found that there was a calculation error in cost of production, which has also been corrected. In response to disclosure statement, Kaneka disputed the landed price of imports determined by the Authority. The company argued that the customs duties in the investigation period varied between 20% and 15% and therefore the Authority should have considered weighted average customs duties after taking into account the invoice date. The Authority has however considered simple average of customs duties applicable during the investigation period, as per consistent practice being applied in this regard, without considering the volumes exported during the relevant period.

28. The dumping margin for M/s KSC, Singapore has been determined as 15.71% or S\$ ****.

Lasting nature of the changed circumstances and likelihood of dumping- arguments by various interested parties

29. In accordance with the practices of the Authority, it was examined whether changed circumstances could be said to be of lasting nature or if there would chances of recurrence of dumping if the anti dumping duty is withdrawn. M/s KSC has submitted that export price to India is above normal value in the current POI. The domestic industry has claimed that the claim of KSC of lower cost of production, based on lower raw materials prices is far from the facts. The Domestic Industry has submitted that in maximum number of raw materials, the prices has increased and

comparatively, increase is much higher than the decrease in prices of few of the raw materials. The higher raw material prices, higher solvent prices, higher utilities cost due to increase in crude oil prices, lower capacity utilization, normal increase in overheads, ****% increase in SG&A expenses as reported in KC's Annual Report along with allocation of parent company's expenses to its subsidiaries in view of the changed in the Accounting Policy etc. will definitely increase the constructed normal value and in-turn, higher dumping margin.

No possibilities of further reduction in export price

30. The domestic industry in its confidential submission dated 15th December, 2005 has submitted the export price trend of PHPG Base from Singapore. The price trend from financial year 1998-99 onwards, in last 7 years continuously showing a downward trend and the price of PHPG Base has reduced from US\$ **** / MT during financial year 1998-99 to US\$ **** / MT during financial year 2004-05 i.e. reduction of about 48% since financial year 1998-99. The claim of exporter that the price reduction is due to reduction in cost of production because of decrease in raw materials is not substantiated by KSC. As per KSC's claim itself, decrease in some of the raw materials prices is only as high as 25% while the prices of major raw materials have increased substantially ranging upto ****%. Accordingly, the claim of KSC for no possibilities of further reduction in export price is contrary to the facts available on records. However, M/s KSC has claimed significant reduction in the raw material costs due to various reasons as actually recorded by it in its submissions to the Authority.

Lasting nature of its behavior in respect of exports to India

31. M/s KSC has claimed that considering the actual dumping margin during the proposed investigation period and present trend of prices, there is no likelihood of continuation or recurrence of dumping. On the contrary, the respondent has claimed that the Designated Authority had determined dumping margin in original investigation based on the export price of PHPG Base of US\$ ****4 / MT and looking the present trend of price of PHPG Base at US\$ **** / MT, it is obvious that dumping is continuously increasing and would continue and increase, if existing anti dumping duty is removed.

Examination by Authority

32. The Authority examined various arguments advanced by the domestic industry. It has been argued by the domestic industry that PHTN cost structure has not been provided. It is also argued that

PHTN has been purchased from an affiliated company. It is also argued that the PHTN prices have declined after the POI and therefore there is likelihood of dumping. The Authority notes that the argument of the domestic industry that Kaneka produces PHTN is factually incorrect. There is no production of PHTN and the same is procured from market by Kaneka, Japan and supplied to Kaneka, Singapore. The fact whether or not PHTN price has declined is a matter of facts pertaining to the company under investigation. The Authority has examined transaction wise details of purchase of PHTN submitted by the exporter. Details of purchases made during the original investigation period were also examined. It is found that the company has switched its supply source from **** to **** which has resulted in substantially lower prices. It is also found that the Kaneka, Japan has in fact sold to Kaneka, Singapore at profits, after taking into account indirect selling, general & administrative expenses. The investigation has thus not shown that the claim of the domestic industry is factually correct. It is also pointed out that the domestic industry has not provided any evidence which establishes that the claim of the applicant is incorrect. It has also been submitted that since the export price has declined, dumping margin can at best increase. The Authority notes that there is no basis to hold that the decline in export price would lead to increase in dumping margin. Dumping margin is linked to both normal value and export price. It is noted that both normal value and export price have declined over the period.

33. The Domestic industry argued that raw materials prices have in fact increased. The investigation has however established that the raw materials prices have in fact declined (because of shift in the sourcing of raw materials from Japan to China PR). The Authority has proceeded on the basis of records available. Further, the domestic industry argued the cost of production has increased. However, it is noted that the cost of production has declined not only for the applicants but also for the domestic industry. In fact, the cost of production of the domestic industry has declined far more substantially than the cost of production of the applicants. Additionally, the domestic industry argued that dumping is likely to increase as employment has gone down. However, there is no basis for the argument that decline in employment would lead to intensified dumping. However, the fact remains that dumping margin continues to be positive and significant during the POI. Moreover, the exporter has a huge capacity for the production of subject goods in their country and also they do not have any domestic sales of the subject goods and exports to India comprises a small fraction of the their total production and sales. The Authority thus concludes that whereas arguments of M/s KSC were based on the premise that there was no dumping during the investigation period and there was no likelihood of continuation of

dumping, the Authority has nevertheless determined that the goods have been exported to India at dumping prices and the dumping margin continues to be significant from Singapore and the dumping is likely to continue if the anti dumping duty is withdrawn.

Continuation of Injury

34. It has been submitted by the applicant that

- a) The Indian Producer was suffering no continued injury due to exports made by the petitioners. Exports were being made only under Advance Licence and anti dumping duty paid prices were significantly higher to permit huge profits to the domestic industry.
- b) Domestic industry in any case was not suffering injury to possible dumping of the goods.
- c) Huge expansion done by Daurala shows no continued injury. Petitioners also requested for detailed investigation into the reasons for expansion by the company.
- d) Whereas the landed price of imports by Kaneka were significantly below the benchmark due to the fact that exports were under advance licence, anti dumping duty paid price could not have been below the benchmark. Nothing prevented Daurala from selling below this benchmark. Should Daurala have sold below the benchmark, they could not have suffered financial losses. This establishes that the reasons for injury to Daurala are different.
- e) Capacity addition claim made by Daurala is misleading. The fact is that the company had planned two stage setting up of the plant. While the first stage was set up earlier, this alleged expansion was nothing but second stage of the plant. In fact, due to this, the cost of production earlier assessed by the Authority which formed the basis for determination was abnormally high, which should have now come down significantly.
- f) Daurala is exporting the product at prices significantly below their selling price in India and export price to a number of countries. In fact, Daurala was causing unfair competition to Kaneka in world market by exporting at huge financial losses.
- g) Govt. of India had recently revoked anti dumping duties on the product from Europe. Therefore, impact of such undumped

imports on the domestic industry must also be taken into account.

- h) Daurala's technology to make PHPG Base is not developed by them but bought from Europe and so they might be paying licensing fee and/or royalty which makes their product expensive.

35. On the other hand, the domestic industry has contended that present mid term Review for revocation of antidumping duty on PHPG base has been initiated on the request of sole exporter from Singapore. In such a case, the test to be applied and examined is whether the cessation of antidumping duty in force is likely to lead to the continuation or recurrence of the injury to the domestic industry. Thus, the existence of material injury is not the pre-requisite for continuation of antidumping duty even though domestic industry considered that the imports of the subject material have resulted in continued injury to them.

36. Article 3.1 of the ADA and Annexure-II of the A.D. Rules provide 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 products, and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports.

37. With regard to the volume of the dumped imports, the Designated Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. However, given that the present investigation is a Mid Term Review of existing duties, what is more relevant to examine is whether cessation of Anti dumping duty would result in continuance of imports or recurrence of imports. Given the volume of imports and the level of prices at which the goods have been exported to India inspite of existence of anti dumping duty, it is likely that the volume of imports would further increase in case the present Anti dumping duties are withdrawn.

38. The market share of imports from the subject countries, imports from other countries and market share of domestic industry in relation to demand / consumption in India were determined after assessing the demand of the subject goods in India. Demand / consumption in India were assessed as the sum of imports and domestic sales of the domestic industry.

After imposition of anti dumping duty, it was examined if the market share of imports from the subject country declined with the increase in the market share of the domestic industry. Their examination by the Authority are produces in the paragraph below.

Effect on prices:

39. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. Domestic industry has determined net sales realization considering selling price of domestic industry, excluding of taxes and duties, rebates, discounts & commissions and freight & transportation. Entire sales volumes of the domestic industry have been included in the calculations. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The comparison was done between net sales realization and landed price of imports.

40. With regards to factors affecting prices, it is noted that the exporter from Singapore is exporting the subject material at the dumped price, which may be compelling the domestic industry to reduce its prices to match the export price and in turn, resulting into the losses to the domestic industry.

41. It is also noted after examining the performance of the domestic industry that the performance of the domestic industry over the past has been such that revocation of Anti dumping duty would result in recurrence in injury to the domestic industry. This is more than evident from a number of economic parameters relating to the domestic industry with regard to situation of the domestic industry over the period.

42. It has been submitted by the domestic industry that the landed prices of imports (without the Anti dumping duty) are significantly low as compared to non-injurious price. The landed price of the imports is also lower than the domestic selling price of the company. It has been added that the domestic industry is forced to sell the subject goods well below the proposed non-injurious price in the domestic market. The landed price of the imports from subject country is still under cutting the prices of the domestic

industry even Anti dumping duty is in forced and causing material injury to the domestic industry. In the event of cessation / revocation of anti dumping duty, the imports of subject country would intensify the under cutting the prices of domestic industry, thereby leading to recurrence of injury.

43. It has been further added that the threat of price under cutting is significant and is per se sufficient to justify continuance of anti dumping duty. It has been further submitted that effect of dumped imports would further depress the prices to significant degree or prevent price increases, which otherwise would occur to a significant degree. For the purpose, the domestic industry has provided the information with regard to unit cost of production, net sales realization and unit profit / loss. It has been argued that imports were coming from China PR, Singapore and European Union at dumped prices, which were causing injury to the domestic industry. However, at the request of domestic industry in their petition, the Designated Authority after examination had imposed Antidumping duty on the import of PHPG base from China PR and Singapore vide its final findings notification no. 51/1/2001-DGAD Dt. 20.09.2002 and vide custom notification no. 122/2002-Customs Dt. 31.10.2002. Later on, Anti-dumping Duty was also imposed by the Designated Authority on import of PHPG base originating in or exported from European Union vide its Notification No. 14/6/2002-DGAD Dt. 07.03.2003. After the imposition of Anti dumping duty on the imports of PHPG from China PR, Singapore and European Union, the domestic industry could utilize its capacity and even has increased the installed capacity from 240 MT (at the time of previous investigation) to 850 MT per annum. It is claimed that if the Anti-dumping duty were to be withdrawn, it will result in serious consequences for the domestic industry.

Examination by the Authority

44. Article 3.1 of the ADA and Annexure-II of the A.D. Rules provide 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 products, and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports.

45. 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 the importing country. However, given that the present investigation is mid term review for continuation of existing Anti dumping duty, what is relevant to examine here is whether the imports at dumped prices would continue in significant volume

in the event of revocation of Anti-dumping duty. This is the most likely situation given the surplus capacity with exporter from Singapore in view of no domestic sale of the subject material in the domestic market and the level the export prices to India also, keeping in mind previous volume of export in India.

46. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether dumping is resulting into significant price under cutting as compared to the prices of like product in India or whether the effect of such imports is otherwise to depress prices to significant degree or prevent price increases, which otherwise would have occurred to a significant degree. It is considered after examination that dumped imports have caused adverse price effect on the domestic industry during the POI.

Assessment of demand

47. For the calculation of the Domestic consumption/demand of the product under consideration, the Authority added the sales volume of the domestic industry to the total imports into India. The domestic industry has determined import volume and value based on the data collected from secondary source i.e. International Business Information Services. The Authority collected transaction wise data from the DGCI&S. Comparison of imports reported by the applicants, DGCI&S and IBIS shows that the actual volume of exports made by the applicants is higher than the volumes reported by DGCI&S and IBIS. Therefore, the Authority has considered imports from Singapore on the basis of the information provided by the applicants. However, imports from other countries have been considered on the basis of DGCI&S transaction wise data.

	2002-03	2003-04	2004-05	POI
Sales of Domestic industry *	****	****	****	****
Indexed	100.00	140.79	105.99	80.88
Sales Captive	****	****	****	****
Indexed	100.00	381.23	726.28	830.12

Total sales of domestic industry	****	****	****	****
Indexed	100.00	207.37	277.75	288.35
Imports – Subject Country*	****	****	****	****
Indexed	100.00	380.46	391.48	285.71
Imports – Other Countries	601	386	441	511
Indexed	100.00	64.21	73.33	85.10
Demand	1033	1517	1795	1753
Indexed	100.00	146.90	173.81	169.75

* Claimed confidential

From the above table, it is concluded that the demand of the subject goods in the country shows positive growth and increased by 69 % in the injury period.

Import volumes and market share

48. With regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. Annexure-II (ii) of the Anti-dumping rules provides as under :-

“While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India

49. It is noted that volume of dumped imports from Singapore has increased in absolute terms during the injury period. It is also noted that the volume of imports shows continued imports. Further, the dumped imports shows an increase in absolute terms and also in relation to production and demand and its share increased as is evident from the table below

	2002-03	2003-04	2004-05	POI
Imports				
Singapore	****	****	****	****
Index	100	380.88	391.91	286.03
Total Other Countries	****	****	****	****
Index	100	64.23	73.38	85.02
Total Imports	737	904	974	900
Index	100	122.66	132.16	122.12
Market Share in Imports				
Singapore	****	****	****	****
Index	100	310.29	296.43	233.95
Total Other Countries	****	****	****	****
Index	100	52.36	55.50	69.66
Demand	1033	1517	1795	1753
Index	100	146.85	173.77	169.70
Market Share in Demand				
Singapore	****	****	****	****
Index	100	259.10	225.34	168.36
Other Countries	****	****	****	****

Index	100	43.71	42.20	50.14
Total Imports	71.37	59.58	54.24	51.36
Index	100	83.48	76.00	71.96
Domestic industry	****	****	****	****
	100	141.18	159.83	169.89
Production of Domestic industry	****	****	****	****
Index	100	192	257	269
Imports in relation to production of domestic industry				
Singapore	****	****	****	****
Index	100	196	152	105
Other Countries	****	****	****	****
Index	100	33	28	31
Total Imports	****	****	****	****
Index	100	63	51	45

It is noted that volume of dumped imports from Singapore has increased in absolute terms during the injury period. It is also noted that the volume of imports shows continued imports. Further, the imports shows an increase in absolute terms and in relation to production and demand increased as is evident from the table above. The Authority has determined market share of imports from the subject countries, imports from other countries and market share of domestic industry in relation to demand / consumption in India. Demand / consumption in India were assessed as the sum of imports and domestic sales of the domestic industry. It was found that whereas the market share of imports from the subject countries was expected to decline significantly with a consequent increase in the market share of domestic industry after imposition of Anti dumping duty, In fact, the domestic industry rather than gaining market share, lost market share. At the same time, dumped imports from the subject country, rather than losing market share, has increased significantly its market share.

Price effect of imports

50. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In order to assess the effect of imports on the domestic market an analysis of import prices over the injury period was made. The table below shows the trend over the injury period-

	2002-03	2003-04	2004-05	POI
Export Price from Singapore	****	****	****	****
Index	100	87	95	110
Landed Price of imports from Singapore	****	****	****	****
Index	100	84	77	84
Selling price of the domestic industry	****	****	****	****
Index	100	94	88	88
Cost of production of the domestic industry	****	****	****	****
Index	100	105	104	104
Non injurious price for the POI				****
Price undercutting				
Amount				****
%				3-8%
Price underselling				
Amount				****

%				25-35%
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51. A comparison for product concerned was made between the landed value of exported product and the average selling price of the domestic industry for domestic market net of all rebates and taxes for sales made to unrelated customers, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The CIF prices of the subject country concerned were adjusted for post importation applicable duties. This comparison showed that during the period of investigation, the subject goods originating in Singapore were sold in the Indian market at prices which were significantly undercutting the domestic industry's prices even in a situation where the domestic industry was already offering significantly sub-optimal prices. The extent of price undercutting was found significant. It is also noted that the prices of the domestic industry remained at suppressed level throughout the injury period. The Authority therefore holds that the imports from Singapore were significantly undercutting the prices and were at the same time depressing the prices of the domestic industry in a situation where the domestic industry should have increased its prices due to increases in the input prices.

Impact of the dumped imports on the domestic industry

52. The performance of the domestic industry over the past has been such that revocation of anti dumping duty would result in recurrence of injury to the domestic industry. This is more than evident from a number of economic parameters relating to the domestic industry, as discussed herein below.

Sale volume

53. It has been submitted that the domestic industry has just come out of its nascent stage only due to imposition of the anti dumping duty on the import of the PHPG base. If the anti dumping duty were to be withdrawn, this will result into the cheap imports from Singapore and will reduce the sales volume of the domestic industry significantly. The sales volume of the domestic industry have increased significantly during the injury period.

Details about Imports and Sales and trends thereof
(Unit MT)

	2002-03	2003-04	2004-05	POI
Import from Singapore	****	****	****	****
Index	100	380	391	286

Import from Other countries	****	****	****	****
Index	100	283	324	375
Sales by Domestic Industry in India	****	****	****	****
Index	100	450	603	626
Total Demand In India	1032.7	1516.99	1794.9	1752.98
Trend	100.00	146.90	173.81	169.75
Share of Domestic Industry in Total Demand In India	****	****	****	****
Trend	100.00	141.17	159.80	169.87

Capacity utilization

54. It has been submitted that before the imposition of Anti-Dumping Duty on PHPG Base, the capacity utilization for the domestic industry was only (30-35%) , however, after imposition of the Anti dumping Duty capacity utilization during POI has increased upto 100% on the enhanced installed capacity. If the existing anti dumping duty on PHPG base is withdrawn, this will result into opening up of floodgates of the dumped goods from Singapore, and will result into substantial decrease in the capacity utilization.

55. Profitability

After the imposition of Anti dumping duty on PHPG base, the domestic industry has reduced its losses compared to previous years as the production has increased resulting into normation of the fixed cost on higher production, in turn resulting into the lower cost of production. However, if anti dumping duty were to be withdrawn, it is sure that losses will further increase, due to lower sales volume on account of dumped imports. It may result into higher production cost and as a consequence result into more losses to the Domestic .

Trends of selling Price and PBT

	2002-03	2003-04	2004-05	POI
Selling Price (Rs./Kg.)	****	****	****	****
Trend	100.00	89.19	83.40	82.75
Profit Before Tax (Rs.Lacs)	****	****	****	****
Trend	(100.00)	(62.30)	(60.95)	(51.34)

It is noted that losses have reduced mostly due to captive consumption of the subject material for the production of PHPGDS at a transfer price based on cost of production. If the profitability is compared based on selling price, the prices in the years are showing a declining trend.

Adverse effect on Cash Flow

56. It has been submitted that it will be very difficult for the domestic industry to prepare the cash flow for the subject material separately. However, as already mentioned and noted, the domestic industry is incurring losses on the subject material, and is facing adverse cash flow.

Inventory

57. As evident from table given below, the domestic industry has been able to liquidate inventories after imposition of Antidumping Duty.

Details of Inventory (Unit in MT)

	2002-03	2003-04	2004-05	POI
Inventory	****	****	****	****
Index	100	81.78	6.43	6.20
Inventory as a % of sales	****	****	****	****
Index	100	58.04	5.97	7.63

Return on investment

58. Due to depressed prices, the domestic industry is incurring losses on its investment and currently, running its operation at losses and having a negative return on investment. However, losses have come down after imposition of Antidumping Duty. It has been submitted that if Anti-dumping duty is withdrawn, losses would again increase and the return on investment will be adversely affected.

Wages

59. It is noted that because of the losses, the domestic industry is able to provide only the nominal increment to its employees.

Ability to raise the capital investment

60. The demand of the PHPG Base in India is more than the existing capacity of the domestic industry and domestic industry could cater to entire demand of the domestic market by debottlenecking of existing capacities through support of the parent company. However, due to dumped imports from the subject country at unreasonable prices, the domestic industry is not in position to raise the capital from the market.

Employment (employment levels, lay-off of employees due to increased alleged dumped imports)

61. The numbers of employees of the company dedicated for this product has not changed significantly since last 3 years in spite of the fact that the sales of the company have increased and capacity has been added.

Evidence of lost contracts or declining sales

62. It has been submitted that because of the sharp price fall in export prices, the importers are forcing the domestic industry to match the imported prices. It has been further submitted that domestic industry is not in a position to provide the subject material at such a low price, and by selling at such low prices, DOL cannot even recover the marginal cost, resulting in loss of customers.

Profitability (history of profit levels for the petitioner(s) and industry):

63. As mentioned earlier domestic industry is operating at loss from its beginning itself. Though, volumes have increased, on the price front domestic industry does not seem to have gained at all and the company is continuously incurring losses.

Quantum of Imports

64. Quantum of imports has increased despite imposition of the Anti dumping duty. However, if the Anti-dumping duty is revoked, the quantum of imports might jump significantly as it was before the imposition of anti dumping duty. Dumped imports may further gain the market share.

Trend of Imports

	2002-03	2003-04	2004-05	POI
Import from	****	****	****	****

Subject Country				
Trend	100.00	380.46	391.48	285.71

Magnitude of Dumping

65. Magnitude of dumping as the indicator of the extent to which the dumped imports can injure the domestic industry shows that dumping margin determined against Singapore is substantial for the POI, even when the Antidumping Duty is in force.

Production

66. Production of the domestic industry before imposition of Anti dumping duty was very low. It increased after imposition of the anti dumping duty. However it has been submitted that the same would decline if anti dumping duty is withdrawn.

	2002-03	2003-04	2004-05	POI
Production of domestic industry MT	****	****	****	****
Trend	100.00	193.42	257.46	269.73

Conclusions on material injury

67. Examination by the Authority

Article 3.1 of the ADA and Annexure-II of the A.D. Rules provide 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 products, and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The Authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing country. However, given that the present investigation is mid term review for continuation of existing Antidumping duty, what is relevant to examine here is whether the imports at dumped prices would continue in significant volume in the event of revocation of Anti-dumping duty. This is the most likely situation given the surplus

capacity with exporter from Singapore in view of no domestic sale of the subject material in the domestic market and the level the export prices to India also, keeping in mind previous volume of export in India. The performance of the domestic industry over the past has been such that revocation of Anti dumping duty would result adversely to the domestic industry. This is more than evident from a number of economic parameters relating to the domestic industry with regard to situation of the domestic industry over the period. With regards to Capacity, Production, Capacity Utilization and Sales, it is seen that the sales volumes of the domestic industry have gone up considerably during the POI after imposition of the Anti dumping duty. It has been submitted that the present review being Mid Term Review investigations, what is more relevant to examine is whether revocation of present Anti dumping duties would potentially result in decline in sales volumes. Domestic industry submits, in this regard, given the level of existing price undercutting, the domestic industry would be faced with significant loss of sales volumes, should the present Anti dumping duties be revoked. The Authority has examined the injury parameters concerning domestic industry. It is seen that before the imposition of Anti dumping duty on PHPG Base, the capacity utilization for the domestic industry was only ****%, however, after imposition of the Anti dumping duty capacity utilization during POI has increased significantly on the enhanced installed capacity. With regards to the prices, however, it is seen that the selling price of the domestic industry has continuously declined. The decline in the prices is significant. It is argued that the domestic industry is exporting the product at lower prices. However, domestic industry considers that it has been compelled to export only because of presence of dumped imports in the country. Export volumes of the domestic industry is far lower than the import volumes in the country. Given that the domestic industry is finding it difficult to sell the subject goods in the domestic market, there is no other option for the domestic industry other than to export the material at whatever prices it can get. With regards to the profitability, after the imposition of Anti dumping duty on PHPG Base, the domestic industry has reduced its losses compared to previous year as the production has increased resulting into normation of the fixed cost on higher production, which in turn has resulted in the lower cost of production. Indeed, it is noted that if Anti dumping duty were to be withdrawn, losses would further increase, due to still lower sales realization on account of dumped imports. It will further result into higher production cost and as a consequence more losses to the domestic industry. With regards to the cash flow, it is contended that domestic industry is a multi product company. Impact of dumping on the cash flow situation of the domestic industry or impact of revocation of duty on cash flow may not be directly visible in the cash flow of the domestic industry. Cash profits of the domestic industry have shown very significant

deterioration over the injury period. As already stated that the exporter from Singapore is exporting the subject material at dumped price, which is compelling the domestic industry to reduce its prices to match the export price and in turn, resulting into losses to the domestic industry. If the anti dumping duty is withdrawn, the volume gained by the domestic industry so far will be lost and in addition to suppressed prices, this will result into the huge financial losses to the domestic industry. A perusal of data compiled from exporters record clearly demonstrates that landed prices of imports (without the Anti dumping duty) are significantly lower as compared to non-injurious price. The landed price of the imports is also lower than the domestic selling price of the company. The domestic industry appears to be forced to sell the subject goods well below the proposed non-injurious price in the domestic market. The landed price of the imports from subject country is still under cutting the prices of the domestic industry even when anti dumping duty is in force and the extent of price undercutting is considered significant. This has caused material injury to the domestic industry. In the event of cessation / revocation of anti dumping duty, the imports of subject country would intensify the under cutting the prices of domestic industry, thereby leading to continuation of injury.

68. Most of the above injury parameters except the production, sales and productivity shows that the imports from the subject country is still causing material injury to the domestic industry. The landed price of imports is far below the proposed non-injurious price. The average domestic sales realization is also well below the proposed non-injurious price. Thus the imports of subject material from the subject country is giving a price effect i.e. price under cutting and price suppression. The volume of imports from subject country has also increased resulting to the loss of market share of the domestic industry (volume effect). Thus, on the basis of the above examination, it is held that domestic industry continues to suffer material injury on account of dumped imports from subject country and injury is likely to continue if anti dumping duty from subject country is withdrawn. Thus, on the basis of the above examination, the authority holds that a continuation of material injury has been determined on account of dumped imports from Singapore.

Recurrence of injury

69. The present investigations are the mid term review investigations initiated at the behest of the exporter. It is noted that recurrence of injury to the domestic industry is required to be

examined in the context of the requirements under Mid Term Review. In this regard, it is noted that the dumped imports from Singapore are already undercutting the prices of the domestic industry to a very significant extent and should the present duties be revoked, the extent of price undercutting would further increase, which would most likely result in further increased injury to the domestic industry. Further, the performance of the domestic industry was already adverse during the period under consideration and it is likely that without anti dumping measures in place considerable increased volumes of the product concerned would be shipped in the Indian market at very low prices, undercutting the domestic industry prices. It is also noted that the domestic industry is already suffering injury as a result of dumped imports from China and Singapore and removal of present Anti dumping duty from Singapore would cause a further price depression on the Indian market, as the domestic industry has no other option but first to try to maintain its market share rather than reduce its production. This would in turn further erode the profitability of the domestic industry.

70. It is noted that the Authority is required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing country. However, given that the present investigation is mid term review what is relevant to examine here is whether the imports at dumped prices would continue in significant volume in the event of revocation of Anti-dumping duty. This is the most likely situation given the surplus capacity with exporter from Singapore in view of the fact that there is no domestic sale of the subject material in the domestic market and exports to India continue to small as compared to their exports to other markets. It is also noted that the level of their the export prices to India also continue to depress the domestic industry's prices.

71. On the basis of the above examination, it is held that domestic industry continues to suffer material injury on account of dumped imports from subject country and injury is likely to continue if anti dumping duty from subject country is withdrawn.

72. The Authority has, after considering the foregoing, come to the conclusion that:

- (a) The subject goods have been exported to India from the Singapore below its normal value resulting into dumping and there is a likelihood of continued dumping of subject goods from Singapore if anti dumping duty from subject country is withdrawn.
- (b) The Domestic Industry continues to suffer material injury on account of the dumped imports of the subject goods from Singapore.
- (c) The Authority considers it appropriate that anti dumping duties is required to be continued as modified in respect of imports from Singapore, as withdrawal thereof would lead to continuation of dumping and injury.

73. The Authority therefore considers it appropriate to recommend the continuation of anti-dumping duty on imports of PHPG Base originating in or exported from Singapore. The amount of anti-dumping duty shall be equal to the margin of dumping or margin of injury, whichever is less and which if levied would remove the injury to the domestic industry. For the purpose of determining injury margin, the landed price of imports has been compared with the non-injurious selling price of the domestic industry determined for the period of investigation. The anti dumping duty shall be the difference between the amounts mentioned in column 9 below and the landed value of imports in US\$/Kg provided the landed price per Kg is less than the amount specified in the column 9 below.

S. No	Sub-Heading	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	2942.00	PHPG Base	All grades	Singapore	Any Country	Any Producer	Any Exporter	11.25	Kg	US\$
2	2942.00	PHPG Base	All grades	Any Country	Singapore	Any Producer	Any Exporter	11.25	Kg	US\$

74. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962

and all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

75. An appeal against the order of Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Act, supra.

(Christy L.Fernandez)

ADDITIONAL SECRETARY & DESIGNATED AUTHORITY