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**No. 14/5/2009 - DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES**

New Delhi, the 23rd August 2010

Final Findings

Subject: Anti-Dumping Investigation concerning imports of Polypropylene originating in or exported from Oman, Saudi Arabia and Singapore-- Final Findings

No. 14/5/2009-DGAD- Whereas the Designated authority, having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the AD Rules); recommended imposition of Anti Dumping duty on the imports of ‘Polypropylene’ originating in or exported from Oman, Saudi Arabia and Singapore.

A. Background of the Case

2. Having regard to the Act and the AD Rules, the Designated Authority (hereinafter referred to as the Authority), received a written application from M/s Reliance Industries Ltd. on behalf of the domestic industry, alleging dumping of ‘Polypropylene (i.e., homo polymers of propylene and co-polymers of propylene and ethylene)’ (hereinafter also referred to as the subject goods); originating in or exported from Oman, Saudi Arabia and Singapore (hereinafter also referred to as subject countries).
3. The Authority on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation concerning imports of the subject goods from the subject countries. The Authority notified High Commission/Embassies of the subject countries in India about the receipt of the application claiming, *inter alia*, allegations of dumping and consequent injury to the domestic industry before proceeding to initiate the investigation in accordance with Rule 5(5) of the AD Rules. The Authority issued a public notice dated 24th February, 2009 published in the Gazette of India, Extraordinary, initiating Anti-dumping investigation concerning imports of the subject goods originating in or exported from the subject countries, in accordance with the Rule 6(1) of the AD Rules to determine the existence, degree and effect

of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

4. The Authority recommended imposition of provisional Anti-dumping duty on the imports of 'Polypropylene' originating in or exported from Oman, Saudi Arabia and Singapore falling under Sub-headings 39021000 and 39023000. The Preliminary findings were notified vide Notification No 14/5/2009-DGAD dated 15th June 2009.

B. PROCEDURE

5. In these proceedings the procedure described herein below has been followed:

- i. The High Commission/Embassies of the subject countries in India were informed about the initiation of the investigation, in accordance with Rule 6(2) of the AD Rules.
- ii. The Designated Authority sent copies of the initiation notification dated 24th February 2009 to the High Commission/Embassies of the subject countries in India, known exporters from the subject countries, known importers and other interested parties, and the domestic industry, as per the information available with it. Parties to this investigation were requested to file the questionnaires' responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters were also sent to the High Commission/Embassies of the subject countries along with a list of known exporters / producers with a request to advise the exporters/ producers from the subject countries to respond to the questionnaires within the prescribed time.
- iii. Copy of the non-confidential version of the application filed on behalf of the domestic industry was made available to the known exporters and the High Commission/Embassies of the subject countries in accordance with Rule 6(3) of the AD Rules.
- iv. Questionnaires were sent to the following known exporters from the subject countries in accordance with Rule 6(4) of the AD Rules to elicit relevant information:
 1. Advanced Polypropylene Company, Saudi Arabia
 2. SABIC Basic Industries Corporation, Saudi Arabia
 3. Tasnee – National Industrialization Company, Saudi Arabia
 4. ExxonMobil Chemical Co, Singapore 098633
 5. Oman Polypropylene LLC, Oman
- i. In response to the initiation notification, the following exporters / producers from subject countries have responded:

1. M/s Oman Polypropylene LLC, Oman
2. M/s Advanced Polypropylene Company, Saudi Arabia
3. M/s Vinmar International Ltd.
4. M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)
5. M/s Saudi European Petrochemical Company (IBN ZAHAR), Saudi Arabia
6. M/s Saudi Yanbu Petro-Chemical Company (YANPET), Saudi Arabia
7. M/s Saudi Polyolefins Company, Saudi Arabia
8. M/s National Petrochemical Industrialization Marketing Company, Saudi Arabia
9. Basell International Trading FZE,
10. M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia
11. M/s Exxon Mobil Chemical Asia Pacific, Singapore
12. M/s Itochu Plastics Pte. Ltd.
13. M/s Marubeni Chemical Asia Pacific PTE Ltd., Singapore
14. M/s Sumitomo Chemical Asia Pte Ltd., Singapore
15. M/s Sumitomo Corporation Asia Pte Ltd., Singapore
16. M/s The Polyolefin Company (Singapore) Pte. Ltd.
17. M/s Toyota Tsusho (Singapore) Pte Ltd., Singapore
18. M/s Inabata Singapore Private Limited
19. M/s Mitsubishi Chemical (Thailand) Co. Ltd.

ii. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4):

1. Organization of Plastics Processors Of India, Mumbai
2. All India Plastics Manufacturers Association, Mumbai
3. All India Flat Tape Mfrs. Association, New Delhi
4. P.P. Products Pvt. Ltd., Kolkata
5. Tarajyot Polymers Ltd., Kolkata
6. ITC Ltd., Kolkata
7. Paharpur Cooling Towers Ltd., Kolkata
8. Time Packaging Ltd., Mumbai
9. Petro Plast Industries Limited, Chennai
10. The Supreme Group, Mumbai
11. Big Bags (India) Private Ltd., Bangalore
12. Paramount Communications Ltd., New Delhi
13. Packaging India Pvt Ltd., Chennai
14. Flex Industries Limited, Noida
15. Bishan Saroop Ramkishan Agro, delhi
16. Blow Packaging (India) Ltd. , Chennai
17. Chennai Polypack Private Ltd., Chennai
18. Hydro S & S Industries Ltd., Chennai
19. Exide Industries Ltd., Kolkata
20. Pentadaewha Auto Parts Ltd., Chennai

21. Veekay Polycoats Ltd., New Delhi
22. Machino Plastics Ltd., Gurgaon
23. Dow Chemical International Ltd., Mumbai
24. Hitech Plast Ltd., Mumbai
25. General Commodities Pvt. Ltd., Bangalore
26. Balmer Lawrie-Van Leer Ltd., Mumbai
27. Baxter India Pvt. Ltd., Gurgaon

iii. In response thereof, following have responded:

1. Trichy & Pudukkottai Districts Plastic Manufacturers, Traders' Association (TRIPPMA),
2. M/s. P.P. Products Private Limited, Bangalore
3. M/s. Rajyot Polymers Ltd., Bangalore,
4. Chennai Plastics Manufacturers & Merchants Association,
5. Coimbatore Plastic Manufacturers & Trader's Association, Tamilnadu,
6. The Coimbatore District Plastics Manufacturer's Association,
7. PLASMA, Pondy Plastic Manufacturers & Merchants Association,
8. Sivakasi Plastic Manufacturers Association (SIPMA),
9. Tirupur Plastics Manufacturers Association (TIPMA),
10. Veekay Polycoats Limited, Gurgaon/New Delhi,
11. North Orissa Chamber of Commerce & industry,
12. Dindigul District Polythene Bag Manufactures
13. Dealers Welfare Association
14. Exide Industries Ltd., Kolkata
15. Salem Plastic Sellers' & Manufacturers' Association.
16. All Pondicherry Plastic Traders & Manufacturers Association (APPTMA)
17. M/s Kanpur Plastipack Ltd.
18. M/s Jolly Containers, India
19. M/s Daman Polyfabs, India
20. M/s Essel Propack Ltd., India
21. All India Plastic Manufacturers' Association (AIPMA)-Mumbai,
22. All India Flat Tape Manufacturers' Association (AIFTMA)-Bangalore,
23. All India Syringes and Needles Manufacturer's Association
24. Indian Plastics Federation (IPF)-Kolkata,
25. Organisation of Plastic Processors of India (OPPI)-Mumbai,
26. Gujarat State Plastics Manufacturers' Association (GSPMA)-Ahmedabad,
27. The Tamil Nadu Plastics Manufacturers' Association (TAPMA)-Chennai.
28. Andhra Pradesh Plastics Manufacturers' Association (APPMA), Hyderabad
29. Ms/ Blow Packaging (India) Ltd. , India
30. M/s Jumbo Bag Ltd., Chennai
31. M/s Hitech Plast Ltd., India
32. M/s Paracoat products Limited

- iv. 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 for the period of investigation.
- v. 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;
- vi. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic Industry.
- vii. Investigation was carried out for the period starting from 1st April 2008 to 31st December 2008 (hereinafter also referred to as the POI). The examination of trends, in the context of injury analysis, covers the periods April 2005-March 2006, April 2006-March 2007, April 2007-March 08 and the POI.
- viii. The Authority, having regard to the Act and the AD Rules; vide Notification No. 14/5/2009-DGAD dated 15th June 2009 recommended imposition of provisional Anti Dumping duty on imports of the subject goods from the subject countries. The provisional Anti-dumping duty on imports of subject goods from the subject countries was imposed vide Customs notification No. 82/2009-Customs dated 30th July 2009.
- ix. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 10th December 2009. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally. Interested parties were provided opportunity for rejoinder submissions on the views expressed by opposing interested parties.
- x. The arguments made in the written submissions / rejoinders received from interested parties have been considered, wherever found relevant, in these final findings;
- xi. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry and the co-operating producers/exporters.
- xii. In accordance with Rule 16 of the AD Rules, the essential facts considered by the Authority were disclosed to the known interested parties and comments received on the same have been duly considered, wherever found relevant, in these final findings.

- xiii. Information provided by 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.
- xiv. 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 has recorded these findings on the basis of the facts available.
- xv. *** in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

Submissions made by Oman PP as regards de-minimis imports from Oman

- 6. It has been contended by Oman PP that the volume of imports from Oman are negligible and well below three percent of the imports. In support of their claim, they provided the import data downloaded from the Ministry's website (<http://commerce.nic.in>) for the year 2008-09 and for the POI and stated that it has been computed proportionately for 9 months from the data for the whole financial year 2008-09. Besides, they also provided the import data obtained from Info-drive for the whole financial year 2008-09. Based on the two data, it has been claimed that imports of the subject goods from Oman is below the *de-minimis* thresholds. It has been further contended that since the product under consideration includes compounds the imports under HS Code 39029000 (Other Polymers of Propylene in Primary Forms) would be covered by the scope of the present investigation. This means that the imports under HS Code 39029000 are also required to be taken in to account of in the present investigation.

Examination by the Authority

- 7. The Authority has carefully examined the contention of the exporter from Oman regarding their *de minimis* share in the total imports of the subject goods. The Authority has received the transaction-wise details of the actual imports from DGCI&S for the POI i.e. April 2008 to December 2008 and thus is of the view that the consolidated data of imports for the POI from the whole financial year downloaded from the Ministry of Commerce website submitted by the exporter is not required to be considered.
- 8. An examination of the DGCI&S data pertaining to the subject goods shows that the actual imports of the product under consideration from Oman are well above the *de minimis* thresholds. Besides, the Authority also examined the transaction-wise import data obtained by the respondent from Info-drive. An examination of the same revealed that the import data, *inter alia*, contains transactions which did not relate to product under

consideration. It was further noted that there were particularly three entries in the import data where the price per MT was shown as abnormally low. The matter was also discussed with the representatives of Oman PP. A scrutiny of these entries showed that the import volume for one transaction was about 16000 MT and for the other two it was about 32000 MT which is not possible to be shipped under one invoice. Besides the values associated were not reflective of the prices at which the imports were being made at the time and these values were abysmally low. Apparently, the error with regard to these transactions was because of incorrect mention of the unit of measurement in the import data. The Authority therefore corrected the unit of measurement for these transactions from MT to KG and analysed the rectified data. Even on the basis of rectified but unsorted data it was noted that the imports from Oman were well above the *de minimis* thresholds and the share of imports from Oman would be higher, if it is seen on the basis of sorted import data. With regard to consideration of imports under HS Code 39029000, it is noted that the same have also been considered while undertaking the analysis.

9. In view of the above, the Authority concludes that the imports from Oman are above the *de minimis* thresholds and Oman is not required to be excluded from the ambit and scope of the present investigation.

C. Period of Investigation

Submissions made by the Interested Parties

10. It has been contended that the period of investigation in the present case is too short and includes the months during which the movement of raw materials and polypropylene prices was erratic due to global recession. The period of investigation should be fixed for a period of 18 months for a fair and proper analysis.

Examination by the Authority

11. The Authority notes that no new submissions have been made after the preliminary findings by the interested parties on the period of investigation. The Authority, therefore, confirms the preliminary findings that the period of investigation in the instant matter has been appropriately chosen, covering the most recent available data on the subject.
12. However, considering significant movements in the prices of raw-materials and that of the subject goods during the POI, the analysis of the data has been undertaken on a month-wise basis; to the extent the same was feasible.

D. Product Under Consideration and Domestic Like Article

13. The product under consideration is 'Polypropylene (i.e., homo-polymers of propylene and co-polymers of propylene and ethylene)'. The subject goods are used as woven sacks for

cement, food-grains, sugar, fertilizer, bags for fruits & vegetables, TQ & BOPP films, containers etc.

14. The subject goods are classified under Custom Headings 39021000 and 39023000. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.

Submissions made by the Interested Parties

15. It has been contended that the Application covers two products i.e. Propylene homo-polymer and Propylene co-polymers as classified under the sub-heading 39021000 and 39023000 of the Customs Tariff Act and that these two products are different from each other. Propylene co-polymer is ***% expensive than Polypropylene homo-polymer and is technically superior to Polypropylene.
16. M/s TPC has stated that the COSMOPLANE grades AZ564G – specially designed for industrial parts, BRA61 453B, BRA61 454B, & BRA61 used for automotive compounding or injection molding of automotive, CPS188 454B - used for automotive interior parts that requires good surface appearance and FL7540L, FS5611L, FS6612L, FL7320L, FL7540L, FL7632L, FS5611L, FS6612L & FL7641L should be excluded from the purview of the product under consideration as the domestic industry does not produce equivalent to these grades of Polypropylene produced by TPC and exported.
17. M/s ExxonMobil has stated that the grades namely PP7033N, AP3N, PP7555KNE1 & PP 7684 are not manufactured by the domestic industry. M/s ExxonMobil believes that the specialised products such as Achieve 6936G1, Vistamaxx 3000, Vistamaxx 3020FL, Vistamaxx3980FL, Vistamaxx 6102, Exxon IT0316, Exxtral compounded and filled polypropylenes do not fall within the scope of the product under consideration.
18. M/s Toyota Tsusho India has stated that the equivalent domestic grade B400MN is not as per the TSM standards and also do not meet some of the chemical characteristics with that of grade for PP2 or AZ564G on the basis of the test report of ARAI.
19. M/s Paracoat products Limited has stated that no one is manufacturing EPP beads (Expanded Polypropylene) in India and hence EPP beads (Expanded Polypropylene) should be excluded from the scope of this investigation and no anti-dumping duty should be levied against it. They have supported their claim by attaching an E-mail correspondence with M/s Reliance Industries Limited to this effect.
20. Some of the interested parties have stated that the homo-polymer and co-polymers are two different products and the injury analysis therefore, is required to be carried out separately.
21. It has been contended that ter-polymer and compounds cannot be included within the purview of the investigation and that the scope of product in the initiation notification

was homopolymers of propylene, and co-polymers of ethylene and propylene. It did not cover other polymers. A ter-polymer is a co-polymer consisting of 3 distinct monomers by using propylene, ethylene and butene. It is distinct and different from the co-polymers of propylene and ethylene. Some of the interested parties have stated that the polypropylene compounds are also required to be excluded from the investigation.

Submissions made by the domestic industry

22. The domestic industry has stated that the interested parties have claimed exclusion of certain grades on the basis of mere statements and have not provided sufficient details with regard to technical specifications, chemical composition, commercial and technical substitutability, etc. The domestic industry submits that in the absence of such basic details about the products concerned, it is impossible for any party to offer its comments.
23. The interested parties have not given any cogent basis to establish that the stated grades/types/nomenclatures are not like articles to the product under consideration. Since the onus of proof of exclusion is entirely on the parties claiming such exclusion, no grade or type should be excluded until such interested parties provide sufficient legal and factual basis along with evidence.
24. The domestic industry has contended that it has been the consistent practice of the Designated Authority to consider exclusion of certain grades/types from the purview of the product under consideration by adopting the following tests:
 - a. That the domestic industry does not produce the said product and is also not capable of producing the same.
 - b. That the grades which are sought to be excluded are not technically or commercially substitutable with the grades produced by the domestic industry.
 - c. That the onus of proving that any product type is to be excluded is entirely on the party which seeks such exclusion.
 - d. That the exclusion of certain grades/types should not lead to a situation whereby the effect of duty is diluted or becomes ineffective.
25. As long as the goods produced by the domestic Industry can commercially and technically be substituted for the grades/types produced by the exporters, the same cannot be excluded. It has also been submitted that the domestic industry is capable of producing any grade of the subject goods and the claims of exclusion need to be rejected summarily.
26. It has been contended that in Fully Drawn Yarns from Indonesia, Korea, Malaysia and Taiwan case, under the similar circumstances the exporters had disputed inclusion of certain grades or types of fully drawn yarn under the purview of product under consideration, the Authority had then held that there is no significant difference in the dumped goods and the product under consideration manufactured by the domestic industry. The imported goods are used by the user industry interchangeably with the goods produced by the domestic industry. The subject goods produced by the domestic industry and produced by the subject countries, being technically and commercially

substitutable, are 'like articles' under the Anti-dumping Rules. The Authority, therefore, included all types of the grades and types of fully drawn yarns as part of the investigation.

27. The domestic industry is manufacturing the equivalent grades for FL7320L, FL7540L, FL7632L, FS5611L, FS6612L, FL7641L, PP2 or AZ564G, BRA61453B, BRA61454B, BRA61 and CPS188454B as SR070NS, SR80NS, SR072NS, SR60N, SR50NS, SRO71NS, B400MN, B650MN-BN84302X, B650MN-FPT20FR, B550MN-AN70992Y and C320MN-PPSN3 respectively. The equivalent grades of the DI mentioned above are appropriately reflected in the product brochures.
28. It has been contended that the TSM standards are user specific standards and are not internationally recognized standards. Therefore, to state that the grade manufactured by the domestic industry does not meet TSM standards is inconsequential. Further, the importer never provided to them any test report earlier. It has been submitted that importer is trying to mislead the Authority by arbitrarily stating about three characteristics namely MFI, HDT & Elongation at break as important ones. There are various technical parameters and the most important of them are izod impact and flexural modulus, which meet the criteria laid down by the importer.
29. No interested party has disputed about the fact that both homo-polymer and co-polymer are indeed Polypropylene only. Since the product under consideration covers all types of Polypropylene, it cannot be argued that a distinction has to be made out merely because there are some differences in the products. It is further submitted that there are bound to be some differences between the various grades/types of Polypropylene but this should have no bearing on the scope of investigations. It is further submitted that as far as the Domestic Industry is concerned, there is no difference in the cost of production of the two types of Polypropylene. The price difference is also minimal (1 to 2%) as can be seen from the information from Platts. It is further submitted that wherein butene is also used for making the co-polymers along with ethylene, the difference in cost is insignificant as the butene is only about 1-2% of total raw materials used.
30. Ter polymers are indeed covered under the product under consideration as the ter polymers contain both the raw materials propylene and ethylene. Further any co-polymer is covered under the product under consideration as long as the same is produced by using propylene and ethylene and it is immaterial whether any other additive / raw material is used or not.
31. With regard to compounding, it is submitted that it is a process of adding additives to change the properties of the grade which include colour, tensile strength, temperature resistance, impact strength etc. before using the subject goods for the manufacture. However, the basic form and the product does not change which remains polypropylene only. Therefore, compounds are not to be excluded as the product essentially continues to remain Polypropylene.
32. Under the Customs Rules of Interpretation, where a product contains two or more materials, the same would be classified based on the majority contents of a raw material

and ignoring the other raw materials. Therefore, on this ground also, the compounds cannot be excluded from the purview of investigation.

Examination by the Authority

33. **Product under Consideration:** The Authority notes that the scope of the investigation was clearly defined while initiating the investigation viz. 'Polypropylene (i.e., homo-polymers of propylene and co-polymers of propylene and ethylene)' and thus 'ter-polymer' is not within the ambit and scope of the investigation. However, it would not be correct to state that compounds are not part of the product under consideration.
34. The Authority has taken note of the claims and counterclaims made by the interested parties with respect to PUC, including those in respect of exclusion of certain grades/types. Some of the interested parties have contended that there is a significant price difference between the homo-polymer and the co-polymer. These claims have, however, been disputed by the domestic industry. However, it has not been disputed by any party that co-polymers of propylene and ethylene are not Polypropylene.
35. The Authority further notes that the claims regarding exclusion of certain grades of polypropylene have been contested and refuted by the domestic industry. In a reference made to them on the subject, the domestic industry has categorically asserted that they indeed offer the subject goods of the specified grades claimed to be not manufactured by the domestic industry as per the assertion of the exporters. They have also provided the details of the equivalent grades. It is, further noted that the interested parties have not substantiated their claims regarding exclusion with any scientific literature or technical evidence.
36. However, considering the submissions made by M/s Paracoat products Limited in respect of EPP beads (Expanded Polypropylene) and the relevant facts available on record; EPP beads (Expanded Polypropylene) is excluded from the ambit and scope of this investigation.
37. With regard to like article, Rule 2(d) of the AD Rules provides as under: -

"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation"

38. After considering the information on record, the Authority notes that there is no significant difference in product under consideration exported from the subject countries and the product produced by the Indian industry. Product under consideration produced by the domestic industry are comparable to the imported subject goods in terms of characteristics such as physical & chemical characteristics, functions & uses, in respect of manufacturing process & technology, product specifications, distribution & marketing

and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

39. Thus, the Authority is of the view that the subject goods produced by the applicant domestic industry are like article to the product under consideration in accordance with the AD Rules.

E. SCOPE OF DOMESTIC INDUSTRY & STANDING

40. At the time of the initiation of this investigation, Rule 2(b) of the AD Rules read as follows:-

“domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry”.

41. This Rule has been recently been amended as follows:

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

42. According to the applicant, there are only two producers of the like Article in the country. The Application has been filed by M/s Reliance Industries Ltd. on behalf of the domestic industry. The other producer, that is, M/s Haldia Petrochemicals Ltd. has supported the application.

43. As per the evidence available on record, production of M/s Reliance Industries Ltd. accounts for a major proportion of the domestic production of like article, being significantly more than 50% of Indian production. The application thus satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. The Authority notes that no interested party has disputed the ‘standing’ of the applicant. Therefore, the applicant M/s Reliance Industries Ltd. is being treated as ‘domestic industry’ within the meaning of Rule 2(b) read along with Rule 5 of the AD Rules for the purpose of the present investigation.

F. CONFIDENTIALITY

Submissions made by Interested Parties

44. It has been contended that the Designated Authority must come to a categorical conclusion that confidentiality contended in the petition is bona fide and germane to the rights of the domestic industry. A bare perusal of the petition indicates that confidentiality has been claimed as a rule rather than exception.

Submissions made by the domestic industry

45. The exporters have claimed excessive confidentiality without any proper justification. Further, non-confidential version of the questionnaire response has not been given for all the information contained in the confidential version without assigning proper reasons. It is not in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. From the non-confidential version of the questionnaire responses, it is not clear whether they have given the information separately for each type of Polypropylene. In this context, it is submitted that all the exporters have claimed confidentiality on even the quantum of imports which is not admissible since the Domestic Industry has been made to provide quantity related information even in the non-confidential version of the application.
46. In their post disclosure statement comments, the domestic industry has stated that the confidentiality claims of the cooperating exporters relating to their data have been accepted and data / information has been kept confidential as claimed by them in this investigation. It is submitted that the exporters by not providing the non-confidential response in accordance with the Trade Notice No. 4/27/2007 dated 25th March 2009 and the practice and guidelines being followed by the Authority have got away with the minimal information whereas the domestic industry was put under extra burden to give details in its non-confidential version in accordance with the aforesaid trade notice and guidelines. It is further submitted that in the absence of such details the domestic industry is not in a position to assist the Authority to arrive at the correct results. They have accordingly requested that the exporters may be asked to provide their complete response in accordance with the aforesaid trade notice and the guidelines or else they may be treated as non-cooperative and their dumping margin be determined based on the facts available.

Examination by the Authority

47. The Authority has taken note of the above submissions. The information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information

on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. 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 has recorded these findings on the basis of the 'facts available'.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Normal Value

48. The Authority sent questionnaire to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. Response to the questionnaires were received from the following companies –

1. M/s Oman Polypropylene LLC, Oman
2. M/s Advanced Polypropylene Company, Saudi Arabia
3. M/s Vinmar International Ltd., USA
4. M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)
5. M/s Saudi European Petrochemical Company (IBN Zahr), Saudi Arabia
6. M/s Saudi Yanbu Petrochemical Company (Yanpet), Saudi Arabia
7. M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia
8. M/s Saudi Polyolefins Company, Saudi Arabia
9. M/s Exxon Mobil Chemical Asia Pacific, Singapore
10. M/s The Polyolefin Company (Singapore) Pte. Ltd., Singapore
11. M/s Itochu Plastics Pte. Ltd. , Singapore
12. M/s Marubeni Chemical Asia Pacific PTE Ltd., Singapore
13. M/s Sumitomo Corporation Asia Pte Ltd., Singapore
14. M/s Toyota Tsusho (Singapore) Pte Ltd., Singapore
15. M/s Sumitomo Chemical Asia Pte Ltd., Singapore
16. M/s Mitsubishi Chemical Thailand (Co.) Ltd., Thailand
17. M/s National Petrochemical Industrialization Marketing Company, Saudi Arabia
18. Basell International Trading FZE,
19. M/s Inabata Singapore Private Limited

Submissions made by Domestic Industry

49. The responding exporters have failed to fulfill their obligation under the Indian law by not providing the meaningful summary of the response to exporters' questionnaire and claimed excessive confidentiality without any proper justification.
50. The raw material prices for the producers in Oman and Saudi Arabia are not reliable as the same are not determined based on the market conditions. All the feedstock is sourced from State-owned enterprise and the pricing of the same is State controlled.

51. Saudi Arabia admittedly follows a dual price policy with respect to feedstock prices which are admittedly fixed significantly lower than the comparative export prices. This fact has also not been denied by any of the interested parties to the best of their knowledge. It may be appreciated that the pricing of feedstock in such a manner does not reflect the true costs nor does it allow a proper and fair comparison. Wherever the Authority notes in terms of the provisions of Section 9A (1) (c) of the Custom Tariff Act that the domestic prices are not reliable and the same do not permit a fair and proper comparison on account of a particular market situation, the domestic sales are required to be rejected and normal value for the producers is to be constructed. It has been further stated that because of the feedstock prices being significantly lower as compared to the export prices; a particular market condition has been created by Saudi Arabia, wherein the domestic costs and prices of the subject goods would always be significantly lower than the export price. The producers located in Saudi Arabia would always be in an unfairly advantageous position as against the other producers across the globe entirely on account of the government intervention of controlling the prices for domestic consumption.
52. In this context, the domestic industry has also drawn attention of the Authority to the Australian Guidance on Market Situation, wherein it has been laid down that the term 'particular market situation' potentially covers a variety of situations including the situation where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing domestic normal values.
53. Referring to the provisions of Para 1 of Annexure I to Anti-dumping Rules, the domestic industry has stated that as the feedstock prices are admittedly State-controlled and heavily subsidized in Saudi Arabia, the same cannot be considered to reasonably reflecting the cost associated with the production. They have also cited the decision of the Authority in the case of Rubber Chemicals from China and Korea (Case No.14/5/2007-DGAD) and EC findings (Council Regulation No. 1050/2006 of 11th July 2006) in the case of Potassium Chloride from Belarus and Russia in support of their contention.
54. The domestic industry in their comments to the disclosure statement has stated that M/s Itochu in its response has mentioned that it has supplied the subject goods directly to the customers and through traders. In the absence of complete information from the said trader, M/s Itochu cannot be granted an individual treatment or separate dumping margin as information relating to the complete chain of exports to India cannot be established. Such exporters ought to be treated as non-cooperative. It is also submitted that other exporters who have failed to provide information for the full chain of exports to India also be treated as non-cooperative and may not be granted an individual treatment or separate dumping margin. It is further submitted that the exporters may take a plea that their dumping margin and duty be determined based on the information of their direct exports and exports through other traders may be ignored. It is stated that the dumping margin and duty determination based on their direct exports to customers in India only would be completely contrary to the legal position and the consistent practice of the Authority besides the fact that it would give undue and unfair advantage to the exporters

for non-adherence to law. It would also deny effective protection to the domestic industry despite injury and causal link being proved. Under such a situation, the entire information of all such exporters is required to be rejected in case the same are not supported with the information of the traders to India.

55. It has been stated that the late responses of M/s Sabic, M/s IBN Zahr and M/s Yanpet have been accepted for individual treatment and the determination of dumping margin. It has been submitted that the responses of the said producers and exporter cannot be taken on record as the same have been filed at a very late stage i.e. after preliminary findings and such acceptance is not only against the principles of natural justice but also against the specific provisions of the AD Rules. Moreover, the non-confidential version of the documents of the said parties was also not in accordance with the aforesaid Trade Notice and the guidelines laid down by the Authority.
56. It has been stated that with regard to the determination of the cost of production for Saudi Arabian producers, they understand that the Authority proposes to consider the cost of production determined on the basis of the market prices of the feedstock during any particular month. The feedstock prices of the Saudi producers are based on a formula-based pricing. It is the price of the feedstock used in the formula which is not reflective of the market prices. Therefore, it is imperative that while arriving at the true cost of the feedstock, the Authority should simply substitute the market values of feedstock in the formula for arriving at the real market value for the concerned month.
57. It is also submitted that M/s Sabic has not provided the information for all the related companies who are engaged in the activity of the subject goods whereas legally they are required to give the information for all the related parties. They have not given any information for M/s Yansab Yanbu National Petrochemical Company and M/s Saudi Kayan who are also engaged in the activity of the subject goods. In this connection, relevant pages from M/s Sabic's website and the annual report have already been provided to the Authority. It clearly indicates that these companies are indeed related to M/s Sabic and are engaged in the activity of product concerned. It is also submitted in case of anti-dumping investigation before the several other authorities in EU, USA, Brazil etc., the exporter is required to give information for each related party which is engaged in the activity of the product concerned. The response from M/s Sabic ought to be rejected on this ground alone as per the consistent practice of the Designated Authority.

Submissions made by exporters / producers in subject countries

58. It has been contended that the Authority should not rely on the dumping calculation given in the application. The exporters have charged fair export prices which are in line with world and Indian prices for the like products type, specifications and quality. As such, the Applicant's dumping allegations, based on normal value calculated in the application are in accordance with their figment of imagination and are entirely baseless and that the Authority should refer to the respective questionnaire responses in this regard.

59. The exporter M/s Inabata Singapore Private Limited has stated that the normal value for TPC should be determined based on its export price to other markets with sufficient volume.
60. M/s Advanced Petrochemical Company (APPC) has stated that the existence of regulated prices for certain products in Saudi Arabia only reflects the agreement reached by WTO members concerning the right of the Saudi Government to maintain such regulated prices for a limited number of products. APPC has further stated that the extracts of the Working Party Report on the accession of Saudi Arabia to the WTO make it clear that the domestic price for Natural Gas Liquids (NGLs) in Saudi Arabia reflects the market value to producers of local sales and is based on the full recovery of costs and a reasonable profit. The claim of the domestic industry that such domestic prices do not reflect market conditions and would operate as a form of subsidization should therefore be dismissed. There is no basis in the WTO Agreements to disregard costs which reflect the market conditions in Saudi Arabia as it is undisputed among WTO members that Saudi Arabia is a market economy, and that it should also be treated as such for the purpose of anti-dumping investigations.

Treatment of Saudi Arabia as MET

- It has been contended by some exporters/producers from Saudi Arabia that Saudi Arabia should be given market economy status for the purpose of the present investigation for the following reasons:
 - i. On a plain reading of paragraph 8(3)(a) to Annexure I to the Anti Dumping Rules, it is amply clear that a firm can be declared to be working on market economy principles if all the following are satisfied: a) The decisions of the concerned firms are based on market principles; b) The decisions of the concerned firms are made without significant state interference; c) Costs of major inputs substantially reflect market values. The Domestic Industry in its submission has failed to prove non-existence any of the above mentioned conditions and hence the assertions made by the Domestic Industry falls flat on its face.
 - ii. The claim of the domestic industry is based on an incorrect reading of the content of “Report of working party on the accession of the Kingdom of Saudi Arabia to the WTO”. The same makes it evident that feedstock prices in Saudi Arabia are reflective of the trends in the prices of the propane in the international market and is in no manner influenced or controlled by the Saudi Government. Such commercial pricing formula ensures that domestic propane prices ensure the recovery of reasonable profits and costs for the production of propane.
 - iii. In past, the Hon’ble Authority in various investigations has treated Saudi Arabia as a market economy and therefore similar treatment should be given to exporters of the subject goods.

iv. Without prejudice to the submissions above, allegations of the subsidized prices, if any, cannot be raised in an Anti Dumping

61. M/s Saudi Polyolefins Company has acknowledged that there are differences in the price at which propane is procured by SPC from Saudi Aramco and the international spot prices but it has claimed that the same is on account of certain factors, namely cost savings in infrastructure; cost savings in marketing; commercial advantage associated with long-term contracts; commercial value of reduced volatility and commercial value of large-volume purchases. It has been submitted by them that whilst comparing the international prices of propane with the prices at which propane has been procured by SPC, the Authority should keep the factors abovementioned to do an apple to apple comparison.

Submissions made by interested parties after the Disclosure statement

62. Subsequent to the disclosure statement, some of the exporters/producers from Saudi Arabia and as well as the Government of Kingdom of Saudi Arabia have filed their submissions which, *inter alia*, include the following:

- (i) Section 9A(1)(c)(ii) and Article 2.2 of the WTO Anti-Dumping Agreement do not confer power on the Authority to modify the cost of production, under any circumstances, except in the case of a non-market economy. Section 9A(1)(c)(ii) on which reliance has been placed by the Authority talks about the price of the like article / subject goods and not the price of the raw material / component that is used in the production of the subject goods.
- (ii) As far as the Saudi Arabian producer is concerned, his cost of production for the polypropylene is the same, whether intended for export or domestic sale. An advantage arising from a lower cost of production cannot by itself be construed as dumping by the producer.
- (iii) The Authority's conclusion that since the feedstock prices are government controlled there exists a "particular market situation" in Saudi domestic market as a result of which the domestic costs and prices of the producers / exporters in Saudi Arabia should not be accepted, is incorrect.
- (iv) Interpretation of Accession of Kingdom of Saudi Arabia to the WTO makes it evident that the prices of propane in Saudi Arabia are market driven. Reference in this regard may be made to the "Report of working party on the accession of the Kingdom of Saudi Arabia to the WTO" and it has been contended that it is evident that prices of Natural gas liquid feedstock in Saudi Arabia, including propane, are determined as per market principles. Based on the above mentioned report, it has been submitted that feedstock prices in Saudi Arabia are reflective of the trends in the prices of the propane in the international market and is in no manner influenced or controlled by the Saudi Government. Rather, the commercial pricing structure

applied in Saudi Arabia was “*negotiated between producer and consumers*”. Saudi government merely supports a commercial pricing structure for sales of propane in Saudi Arabia. Such commercial pricing formula ensures that domestic propane prices enables recovery of reasonable profits and costs for the production of propane. The said formula, as detailed in the “Report of working party on the accession of the Kingdom of Saudi Arabia to the WTO”, ensures that domestic selling price of propane are based on international market prices, adjusted to reflect the following commercial factors:

- cost of savings in infrastructure required for exports,
 - cost of savings in marketing requisite for exports,
 - commercial advantage associated with long term domestic contracts
 - commercial value of reduced volatility
 - commercial value of large volume purchases.
- (v) On-spot international market prices of the Propane cannot be compared with the price at which Saudi producers procure propane. It has been stated that they entered into a long term (30 years), bulk supply agreement with the Saudi Aramco for supply of Propane. It is a known fact that prices of goods procured on long term and bulk supply basis are always less as compared to the on-spot prices of the goods. The Authority by comparing the actual price of propane paid by Saudi producers with the on-spot prices of propane in the international market is not doing an apple to apple comparison. The Authority should consider the price at which Saudi producers procure propane and should not compare the same with the on-spot prices of propane in the international market, even if the Authority seeks to factor in the price of the propane paid by another entity, it should not consider the on-spot price of propane and should only consider the price at which a similarly placed entity procures propane.
- (vi) There is no warrant to replace the actual cost with the notional cost as stated above. Propane is a part of NGL (Natural Gas Liquids) group. The Council of Ministers Resolution No.68 of 1991 set NGL prices 30% lower than the export prices charged for those products. However, KSA Council of Ministers Resolution No.260 dated 7 January 2002 cancelled the earlier resolution No.68 of 1991. In terms of the new Resolution No.260 of 2002, Saudi Arabia applied commercial pricing to NGLs used as feedstock in Saudi Arabia. Further, Decision No.15 of the KSA Supreme Council for Petroleum Affairs implemented the Council of Ministers Resolution No.260 and reflected a negotiated pricing structure that ensured full recovery of production costs and a reasonable profit. Decision No.15 read with Resolution No.260 set out a detailed formula for ensuring that domestic NGL prices are based on international market prices adjusted for certain cost-based and other commercial considerations. Thus, the sale prices prevailing in Saudi Arabia for propane reflect international prices determined on commercial principles and negotiated between the producers and consumers.

- (vii) Saudi Arabia's WTO accession and that all WTO Members, including India, supported the adoption of the "Report of working party on the accession of the Kingdom of Saudi Arabia to the WTO", which clearly contradicts the approach taken by the Authority in the captioned investigation.
- (viii) The Authority in past has always treated Saudi Arabia as a Market Economy. It is pertinent to note that in none of the past investigations Saudi Arabia has been treated as a non-market economy; therefore, treating Saudi Arabia as a non market economy by the Authority would be contrary to the past practice of the Authority.
- (ix) Assuming but not admitting that the prices of Propane in Saudi domestic market is government controlled, the same cannot be a ground that can be raised in an anti-dumping investigation. In the event the cost of production of a particular entity is lower than the cost of production for the Indian producers on account of factors such as government control over the prices or exemption / subsidy given by the government of exporting entity, injury, if any, caused to the domestic Indian entity, can be examined in an appropriate investigation i.e. in an anti-subsidy / countervailing measures investigation.
- (x) The Australian guidelines are not concerned with the costs of raw materials but their purpose is to address the issue of domestic selling prices which are unsuitable for use in establishing normal values in the first place. Similarly, the reference to the Designated Authority's findings in the case of Rubber Chemicals from China and Korea omits to specify that the relevant findings in this case were specific to China which is also subject to the specific provisions of paragraph 15 of its Protocol of Accession in the context of anti-dumping investigations.
- (xi) Article 2.3 of the EC basic anti-dumping Regulation, which deals with the concept of "market situation", makes clear that such market situation relates to sales of the like product in the country of origin, and not to input and cost items. Further, the Authority cannot ignore that the countries cited as examples of the EC practice, i.e. Russia and Kazakhstan, are all non-WTO Members.
- (xii) Chapter 8 of the US AD manual, which deals with the establishment of normal value, also makes clear that the concept of "market situation" relates to the selling price of the like product on the domestic market.
- (xiii) The approach proposed to be taken by DGAD does not have any legal basis in the WTO Anti dumping Agreement. As per Article 2.2.1.1 of ADA when domestic prices are constructed, for the purpose of such construction costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration.

- (xiv) There is no reason why records kept by the Saudi producers should be disregarded for the purpose of determining raw material costs in so far as they can be verified and reflect the costs actually incurred by the producers concerned for the production of poly propylene. The WTO Anti dumping Agreement (Article 2.2) gives the importing country right to construct normal value only by calculating the cost of the final product and not by constructing the costs of raw materials.

Examination by the Authority

63. The issues raised by the interested parties from Saudi Arabia including by Government of Saudi Arabia have been examined as follows:

64. Section 9A (1) (c) (ii) reads as:

“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 to 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 subsection (6):...”*

Article 2.2 of WTO’s Anti-dumping Agreement reads as:

When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits

Article 2.2.1 of the Agreement reads as

2.2.1 Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus selling, general and administrative costs may be treated as not being in the ordinary course of trade by reason of price and may be disregarded in

determining normal value only if the authorities determine that such sales are made within an extended period of time in substantial quantities and are at prices which do not provide for the recovery of all costs within a reasonable period of time. If prices which are below costs at the time of sale are above weighted average costs for the period of investigation, such prices shall be considered to provide for recovery of costs within a reasonable period of time.

65. It is seen that the while Article 2.2.1 of the Anti-Dumping Agreement itself provides for a method for determining whether sales below cost are ‘in the ordinary course of trade’, that provision does not purport to exhaust the range of methods for determining whether sales are ‘in the ordinary course of trade’. The provision does not even provide the range of possible methods for determining whether sales are ‘in the ordinary course of trade’. This reasoning is fully borne out from the Appellate Body ruling on the subject in the case of *US — Hot-Rolled Steel [WT/DS184/AB/R (Para 147)]*, wherein it was held that the said provision does not purport to exhaust the range of methods for determining whether sales are “in the ordinary course of trade”:

“We note that Article 2.2.1 of the Anti-Dumping Agreement itself provides for a method for determining whether sales below cost are ‘in the ordinary course of trade’. However, that provision does not purport to exhaust the range of methods for determining whether sales are ‘in the ordinary course of trade’, nor even the range of possible methods for determining whether low-priced sales are ‘in the ordinary course of trade’. Article 2.2.1 sets forth a method for determining whether sales between any two parties are ‘in the ordinary course of trade’; it does not address the more specific issue of transactions between affiliated parties. In transactions between such parties, the affiliation itself may signal that sales above cost, but below the usual market price, might not be in the ordinary course of trade. Such transactions may, therefore, be the subject of special scrutiny by the investigating authorities.”

66. The above provisions clearly seek to address a situation arising as a result of the particular market situation which in turn may have an impact on the relevant costs and prices of the subject goods. In such situations, the Authorities can resort to other information which is unaffected by such distortions. The basic purpose of the said clause is to enable the Authority to arrive at the fair and proper “Normal Value”.
67. Since the feedstock prices i.e. propane (the major raw material) prices are significantly lower as compared to their market value and further because this difference is on account of the policy decision of the Govt. of Saudi Arabia, a particular market condition can be said to exist in Saudi Arabia wherein the domestic costs and prices of the subject goods would always be significantly lower than the export price. Under the circumstances, the producers / exporters located in Saudi Arabia would always have an unfair advantage vis-à-vis the other producers situated overseas entirely on account of the Saudi Government intervention of maintaining dual prices for domestic consumption and exports. Thus, the facts and circumstances of this case are covered by the scope of “particular market situation”. The term “a particular market situation” has also been interpreted by

authorities of some of the WTO Members in a similar manner. In particular, the Attention of the Authority has also been drawn to the following references on the issue:

- The Australian Guidelines on “Particular Market Situation” lays down that the term ‘particular market situation’ potentially covers a variety of situations including the situation where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing domestic normal values.
- Designated Authority in the case of Rubber Chemicals from China and Korea (Case No.14/5/2007-DGAD) held that the prices of raw materials cannot be accepted as the same are not reflective of cost reasonably associated with the production.
- The EC has amended the law to provide for such an eventuality, which indicates that such a methodology is WTO compliant. The EC has applied this rationale at least in a number of cases involving Russia and Kazakhstan wherein EC has rejected the procurement price of gas by the exporter from the local supplier on the ground that the cost for the purchase when compared to the export price of gas did not reasonably reflect the costs associated with the production.
- In addition, the US authorities in their Chapter 8 of the AD Manual mentions that “a particular market situation might exist where there are such extensive government controls over pricing in a foreign market that prices in that market cannot be considered competitively set

68. The contentions of the Domestic Industry and the exporters regarding the determination of Normal values in respect of exporters/producers from Saudi Arabia have been examined. It is noted that there is no dispute about the fact that the feedstock prices in Saudi Arabia are priced considerably lower when they are sold for domestic consumption within Saudi Arabia as compared to the price at which they are exported from Saudi Arabia. Some of the producers/exporters have also admitted that prices of propane are lower than the prevailing international prices in their written submissions as well. However, it has been contended by some of them that the feedstock prices in Saudi Arabia are priced lower due to the inherent benefits such as cost savings in infrastructure; cost savings in marketing; commercial advantage associated with long-term contracts; commercial value of reduced volatility and commercial value of large-volume purchases. However, existence of the dual/differential pricing, and the fact that the domestic prices are considerably on lower side has remained undisputed. It has been vehemently argued by the Domestic Industry that any adjustments on account of the cost or price difference between the domestic and export markets have to be demonstrated with actual information in terms of paragraph 6(i) of Annexure I to the AD Rules or the Article 2.4 of the WTO Agreement on Anti-dumping. No adjustment can be allowed on the basis of mere statements and assertions. The Authority notes that none of the interested parties has provided any positive evidence to the Authority in support of their claim for such adjustments. Throughout the investigation as well as at the time of spot verification, the

exporters were given ample opportunity to identify reasons for such differences and quantify the same. However, the respondents concerned have not substantiated their submission regarding reasons of the price difference.

69. The Authority notes that none of the Saudi respondents have substantiated the claim with any evidence that the prices of propane in Saudi Arabia were determined on the basis of “negotiations between producer and consumers. Even a copy of the KSA Council of Ministers Resolution No.260 dated 7 January 2002 and Decision No.15 of the KSA Supreme Council for Petroleum Affairs has not been provided to enable the Authority to examine their claim. The Authority further notes that the prices of propane in the domestic market are significantly lower than its export prices. As mentioned earlier, the claims of the Saudi respondents that the price of propane in Saudi Arabia is lower on account of certain factors like transportation costs, infrastructure, marketing, long-term contracts, large volume purchases etc., have not been substantiated, despite opportunities provided. The Authority considers that any adjustment could have only been made, if the same was substantiated and quantified by the respondents from Saudi Arabia.
70. As regards the contention that it is no longer open to challenge the regulated pricing regime for NGLs, the Authority is of the view that there is no direct or even indirect suggestion in the Accession Protocol which restricts the powers or curtails the scope of investigation being conducted by the authorities under anti-dumping provisions. In any case, the Authority is required to give its findings in terms of the Indian laws having full regard to the WTO Agreement on Anti-dumping.
71. As regards the applicability and relevance of the practices and case laws, the Authority notes that the Australian Guidance on Market Situation lays down that the terms ‘particular market situation’ potentially cover a variety of situations including the situation where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing domestic normal values. As regards the contention that the Australian guidelines refer only to domestic prices and not to the costs, the Authority is of the view that such a reading is not borne out of the text of the said guidelines inasmuch as it is an admitted fact that the domestic prices of the subject goods are getting materially affected by the government administered prices of the major raw material.
72. It has further been submitted that the EC findings (Council Regulation No. 1050/2006 of 11th July 2006) in the case of Potassium Chloride from Belarus and Russia are in the context of countries which are not members of the WTO. The Authority notes that this argument is devoid of substance as there is no indication that the issues in question can be applied differentially between the WTO members and non-members. Moreover, the Indian laws do not make any such distinction in the context of the provisions in question.
73. With regard to the Authority’s own decision in the case of Rubber Chemicals from China and Korea (Case No.14/5/2007-DGAD) it was held that the prices of raw materials cannot be accepted as the same are not reflective of cost reasonably associated with the production having been procured from non-market economy country and the Authority

instead used the market prices of the raw material for the determination of cost of production. The ratio of the above-cited decision is directly applicable to the facts and circumstances of this case as the basic rationale of the said decision was that if the cost in a market economy is not reflective of the true costs (for whatever reason), then the cost of such raw material prices can be rejected. The fact that the price has been rejected on account on the ground that the raw material was from a non-market economy country is of no consequence as the provision relating to NME treatment (para 7 of Annexure I of the AD Rules) is not applicable for a market economy like Korea RP.

74. In view of the aforesaid, the Authority is of the view that the above references have been correctly made in the context of 'particular Market situation'. Moreover, for the purposes of determining the Normal value, the Authority considers that it is obligated to examine whether the costs claimed to produce the product under consideration by the Saudi producers reasonably reflect the costs associated with the production and sale of the product under consideration. Axiomatically, the costs claimed to produce the product under consideration would include the prices of raw materials or other inputs used to produce the product under consideration. It is not disputed that prices of propane in Saudi Arabia are significantly lower than its export prices. No justification along with evidence has been provided by any Saudi respondent for such a difference. Thus, the Authority considers that a particular market situation exists in Saudi Arabia by virtue of which the prices of the subject goods cannot be stated to be competitively set, impacting the proper and fair determination of Normal values of the subject goods in Saudi Arabia.
75. It has been contended that the issue of dual pricing can be addressed only under the Agreement on Subsidies and Countervailing Measures. In this context, the Authority notes that the issue in the present case is not whether or not the price differential regime of KSA is a countervailable subsidy under the ASCM. The Authority is concerned with the scope of the express provisions of the WTO Agreement on Anti-dumping and the corresponding Rules under the Indian laws.
76. With regard to the scope of Article 2.2.1.1 (Para 1 of Annexure I of the AD Rules), it has been argued that there is no reason why records kept by the Saudi producers should be disregarded for the purpose of determining raw material cost actually incurred by the producers concerned for the production of polypropylene. In this context, the Authority is of the view that the limited and restricted interpretation proposed by the exporters and the Saudi Arabian government is not borne out from the plain reading as well as the jurisprudence on the subject. The relevant Articles and provisions of the Indian laws are reproduced below:

Article 2.2.1.1 of the Anti-dumping Agreement:

For the purpose of paragraph 2 of this Article, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect

the costs associated with the production and sale of the product under consideration.

Para 1 of Annexure I of the AD Rules :

The elements of costs referred to in the context of determination of normal value shall normally be determined on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country, and such records reasonably reflect the cost associated with production and sale of the article under consideration. (Emphasis added)

77. It is noted that the obligation under Article 2.2.1.1 or para 1 of Annexure I of the AD Rules is not absolute. The Panel on US — Lumber V [WT/DS264/R (Para 7.237)] took the following view:

“In our view, Article 2.2.1.1 imposes certain positive obligations on investigating authorities, including the obligation to calculate costs on the basis of records kept by the exporter or producer under investigation and to consider all available evidence on the proper allocation of costs. Neither of these obligations is absolute, however, as in both cases the obligations apply only if (‘provided’) certain conditions are met. The role of these conditions is therefore not to impose positive obligations on Members, but to set forth the circumstances under which certain positive obligations do or do not apply. Thus, Article 2.2.1.1 does not in our view require that costs be calculated in accordance with GAAP nor that they reasonably reflect the costs associated with the production and sale of the product under consideration. Rather, it simply requires that costs be calculated on the basis of the exporter or producer’s records, in so far as those records are in accordance with GAAP and reasonably reflect the costs associated with the production and sale of the product under consideration. Similarly, Article 2.2.1.1 does not require that all allocations made by an investigating authority have been historically utilised by the exporter or producer; rather it simply provides that investigating authorities must consider all available evidence on the proper allocation of costs, including that made available by respondents, insofar as such allocations have been historically utilised by the exporter or producer. Bearing this in mind, we shall examine Canada’s arguments relating to Article 2.2.1.1.”

78. The Panel on US — DRAMS [WT/DS99/R (Para 6.66)] addressed Korea’s claim that the United States’ authority had acted inconsistently with the first sentence of Article 2.2.1.1 by disregarding cost data which met with the two requirements set forth in the proviso of that Article, namely, “in accordance with generally accepted accounting principles” and “reasonably reflect costs”.

79. In Egypt — Steel Rebar [WT/DS211/R (Para 7.393)] the Panel noted that both Articles 2.2.1.1 and 2.2.2 “*emphasize two elements, first, that cost of production is to be calculated based on the actual books and records maintained by the company in question so long as these are in keeping with generally accepted accounting principles but that second, the costs to be included are those that reasonably reflect the costs associated with the production and sale of the product under consideration*”. In view of the above, it is clear that the two requirements of the said Article have to be read in a disjunctive manner.
80. Because of existence of dual pricing policy prevailing in Saudi Arabia in respect of propane, the domestic selling prices of the subject goods cannot be considered as competitively set. It is seen that the cost of propane to the Saudi producers of the subject goods when compared to the export price of propane, does not reasonably reflect the costs associated with the production of the subject goods.
81. In respect of the claim of the domestic industry to treat Saudi Arabia as operating under Non-Market Economy conditions for the PUC, the authority is of the considered view that the claim of the domestic industry cannot be accepted as the ingredients of Para 7 and 8 of the Annex-1 of the Rules are not satisfied. However, in view of the above, the domestic costs and prices of the producers / exporters in Saudi Arabia cannot be accepted on their face value due to the ‘particular market situation’ prevailing there in the context of the Product under Consideration. And in view of the fact that the costs do not reasonably reflect the costs associated with the production and sale of the product under consideration. The Authority is of the considered view that any comparison based on such normal value would not be fair and proper.
82. Therefore, for conducting a fair and proper comparison, the Authority considered it appropriate to modify the cost of production in respect of Propane prices. After this modification, where the domestic selling prices are above the cost of production, the Normal value has been determined on the basis of the domestic selling price in the ordinary course of trade for the like article meant for consumption in the exporting country. However, where the domestic prices fall below the cost of production, the normal value has been determined in terms of the options provided under Section 9A (1) (c)(ii). In such cases, the Authority has resorted to its consistent practice to construct the Normal Value wherever the domestic prices were found not acceptable.

Methodology adopted for determination of Normal value

83. The Authority has determined individual dumping margin in respect of co-operative exporters / producers who have provided the requisite information. Besides the issue mentioned above regarding the determination of Normal value in respect of exporters/producers from Saudi Arabia, the general methodology adopted for determination of Normal value is as follows:

84. It was first seen, whether the domestic sales of the subject goods by the responding exporters/producers in their domestic markets were representative and viable for permitting determination of Normal values on the basis of their domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents. Wherever the respondents have provided transaction-wise details of the sales of the like article in their home markets, the information so provided has been relied upon to determine the Normal value for the subject goods after carrying out the ordinary course of trade test and sufficiency test. Further, in view of the fact that there were significant fluctuations in the prices of the subject goods and raw materials within the POI; the Authority has computed the normal value on month-wise basis for each co-operative exporter/producer.
85. Wherever, there were no domestic sales or no sufficient domestic sales, the costs of production as claimed by the respondent and verified by the Authority have been accepted, subject to re-computation as stated in para 84 above. And where it was not feasible, the Normal value has been determined by the Authority on the basis of 'facts available' in terms of Rule 6(8) of the AD Rules.
86. Wherever the data in respect of homo-polymers and co-polymers was available on segregated basis, the analysis & determination of the dumping margins have been determined accordingly.

Normal Value

OMAN

M/s Oman Polypropylene LLC

87. OPP has contended that the Authority ought to reconsider its finding that loss making transactions are more than 20% of the total sales. It is submitted that the Authority is erring in thus determining normal value based on profitable sales and by excluding a large number of transactions as being loss-making. The Authority in so doing has failed to bear in mind that the changes in the cost of production in a given time period impact the question whether a transaction related to that time period is actually loss making or not. For example fluctuations in the cost of oil and related fluctuations in the cost of propylene from month to month during POI will have a bearing on the price of the product from month to month and whether the sales price of the product recovered the cost connected with it.
88. The issue raised has been examined and the Authority is of the view that considering fluctuations in the costs and prices of the subject goods during the POI, the normal value for the company has been correctly determined based on the monthly cost data provided by it.

89. The information/data filed by the respondent and verified has been relied upon for the determination of the Normal value. During the course of verification, the respondent claimed certain adjustments and the same were verified and accepted. The Authority has carried out the ordinary course of trade (OCT) test based on the month-wise cost details as provided in Appendix 8 of the response. It has been noted that the loss-making transactions in the POI were more than 20% of the total sales in the domestic market. Therefore, the Authority has proceeded to determine the Normal value based on the profitable sales in terms of the provisions of Annexure I of the AD Rules. The Normal value has been determined on a month-wise analysis of the data due to fluctuations in the prices of the subject goods during the POI.

Non-cooperative exporters/Producers

90. No other exporter and producer from Oman has responded to the Questionnaire. The Authority has determined their Normal value based on the facts available on record.

SAUDI ARABIA

M/s Advanced Polypropylene Co., Saudi Arabia

91. From the perusal of the response of the company it is seen that the subject goods produced by the company have been exported to India by M/s Vinmar International Limited and M/s Mitsubishi Corporation Singapore. However, only M/s Vinmar International Limited has filed the questionnaire's response and hence individual dumping margin has been determined only in respect of M/s Advanced Polypropylene Co., Saudi Arabia and M/s Vinmar International Limited.

92. During the course of the investigation, it was pointed out by the company that the name of the Company has been changed to Advanced Petrochemical Company in 2009, however, there was no accompanying change in ownership or management (Board of Directors) and no merger or acquisition was involved. The List of Shareholders and Directors was furnished. It was explained that SAGIA refers to the Industrial Investment License(s) of the Company, which also records the names of the major shareholders. The respective Articles/ Byelaws were also furnished with translation. The Company has separately filed an Attestation by its external Saudi Counsel, Dr. Waleed Al-Nuwaier, (with a copy of the License and its English translation), stating that the name change is in accordance with the provisions of Saudi Law and that the name change took place on 17th March 2009 and involved no accompanying changes in ownership or management. Supporting documents to this effect were also submitted and a copy of the same was placed in the public file. Accordingly, the Authority has taken the change in name of the company on record for the purposes of this investigation.

93. The information/data submitted by the company was examined and verified. A perusal of the company's response showed that the respondent had sold the off-spec material in the domestic market whereas the subject goods exported to India were of various grades. The details relating to off-spec material sold in the domestic market has been provided in

Appendix 1 of the response. Besides, it has been noted that the respondent has exported the subject goods to India during May 2008 till December 2008, whereas its domestic sales have been made only in November and December 2008 period. Considering the fact that the prices of petroleum products in general and as well as of the subject goods fell significantly during this period when the domestic sales were made; hence, the Authority considers that the domestic sale made by the respondent cannot be deemed as comparable and representative for the purposes of determination of the Normal value and dumping margin. It has been noted that the company has requested for monthly determination of the Normal Value due to high volatility in the POI. The same has been accepted and data has been analysed on a monthly basis.

94. In response to the Disclosure Statement, it has been contended by APPC that DGAD's decision not to use its domestic sales as a basis for normal value, that it has, throughout the investigation, underlined the fact that while "off-spec" products sold in the domestic market and the two grades exported to India have different chemical characteristics which would make them suitable for different types of applications, the production process for those different grades remains the same and the minor variations in the chemical composition of the product do not alter its fundamental nature, i.e. polypropylene. Thus, the Company maintains that the decision of DGAD to disregard the Company's domestic sales on that basis does not seem to be justified. Further, should the Authority confirm its methodology based on constructed normal value for APPC, the Company submits that, as a matter of fairness, additional adjustments should be operated to the normal value. Indeed, at the present, the Company's full cost of production used for the constructed normal value includes handling charges at the plant, which have been deducted from the export price. As a result, in order to operate a fair comparison between constructed normal value and export price, it is necessary to deduct the same from the constructed normal value. APPC has calculated that the amount of these handling charges, as reported in Appendix 1, represents 0,90% of the invoice value net of credit notes. The Company proposes to apply the same ratio as a deduction to the constructed normal value
95. The Authority is of the view that off spec material is priced lower than the standard material, which would not lead to a fair and proper comparison. Therefore, considering the facts of the case, the Authority is of the view that its decision to determine the normal value for the exporter on the basis of constructed cost is correct. However, as regards claim for the adjustment of 0.90% for handling the goods, the same has been accepted and the normal value and consequently the dumping margin have been re-computed accordingly.
96. The Authority has accordingly proceeded to construct the Normal value on the basis of the unit cost to make and sell as reported by them in Appendix 8 on a month-wise basis (subject to re-computation of the cost of production data as explained in **para 84 of these findings**) and has added profit margin @ 5%.

M/s Saudi Polyolefins Company (SPC)

97. M/s Saudi Polyolefins Company vide its letter dated 26.08.2009 has, inter alia, stated that due to an inadvertent mistake at their end, the name of one of the exporter of the subject goods manufactured by the SPC was wrongly mentioned and the same was also reflected in the preliminary finding. It has been pointed out that the correct name of the exporter is 'Basell International Trading FZE, Dubai' instead of 'Basell Polyolefins Company'. This claim has been substantiated by the Company by submitting a set of documents, a copy of which was also placed in the public file. Therefore, the Authority has rectified the name in these findings.
98. The questionnaire' response submitted by SPC was perused and verified. It was found that the respondent has provided selling price details of the subject goods in relevant Appendixes of their response. The information/data filed by the company has been accepted subject to re-computation of the cost of production data as explained in **para 84 of these findings**. Accordingly, the Normal value has been determined after carrying out the OCT test. The adjustments as claimed by the exporter have been accepted. It is found that more than 20% of domestic transactions have been found to be loss making. Therefore, the normal value for the exporter has been determined on the basis of profit-making sales on a month-wise basis due to significant fluctuations in the prices of the subject goods during the POI. Wherever there were no profitable sales in a particular month, the normal value for that month has been constructed on the basis of the unit cost to make and sell and has added profit margin @ 5%.
99. It has been contended by Saudi Polyolefin Company that the Authority has not shared with them the price of Propane considered by the Authority for the purpose of computing cost of production for SPC. In the absence of the price of Propane, considered by the Authority for the purpose of construction of cost of production, they are not in a position to comment upon Normal Value considered by the Authority.
100. The Authority has given sufficient disclosure of the propane prices considered. The details relating to propane prices considered were also placed in the public file.
101. It has also been contended by Saudi Polyolefin Company that the data / submissions were based on the data as per the records of SPC. For instance, for a particular transaction if the Invoice was raised by SPC during the POI, the same was considered in the data even though the sale was executed by BIT or NPIMC after the POI. Similarly, if during the Period of Investigation, a particular transaction was executed for which an Invoice had been raised by SPC prior to Period of Investigation, such sales had been excluded from the submissions before the Authority. The Authority in the Disclosure Statement whilst computing dumping margin for SPC through BIT has excluded the transactions for which Invoice was raised by SPC in December, 2008 but the same were executed by BIT in January, 2009. It has been requested that these transactions be also considered for the purpose of computation of dumping margin for SPC through BIT.
102. The Authority is of the view that while computing dumping margin for SPC through BIT, it has correctly excluded the transactions for which Invoice was raised by SPC in December, 2008 but the same were executed by BIT in January, 2009, that is, post POI.

M/s Saudi European Petrochemical Company (IBN Zahr), Saudi Arabia through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)

103. It is seen that Ibn Zahr and Yanpet, the two manufacturers of polypropylene, are affiliates of SABIC. The polypropylene produced by both these producers is sold by SABIC, both in the domestic market and in the export market.
104. Both the producing companies transfer the polypropylene produced by them to SABIC and the transfer is recorded as sale at a provisional price. Since all the transfers are to SABIC within Kingdom of Saudi Arabia, the transaction is shown as one of domestic sales by these producing companies. From the actual final price charged by SABIC to the buyer, the expenses on account of logistic/distribution are deducted. The amount so arrived at is the FOB value. From the FOB value, 5%/6% is deducted as Marketing Fee of SABIC for marketing the goods. The FOB minus the marketing fee is called Net Back, which is then remitted to the producing affiliate.
105. It has been contended in response to the Disclosure statement that in arriving at the normal value for IBN Zahar, the Authority has ignored loss making sales for all those months even in the cases where the loss making sales of a month are lower than the 20% of the sales of that particular month and that such exclusion is contrary to para 2(i) of Annexure – I to the AD Rules. The sources of consumption norm and conversion cost from propylene to polypropylene have not been disclosed.
106. It has been further contended that the Authority has made double deductions towards logistics expenses for arriving at the normal value and requested for its correction. It is further contended by SABIC that for a fair comparison dumping margin is to be determined for those grades only which have been exported to India.
107. As regards the OCT test, the Authority notes that the same is required to be carried out in respect of total sales made in the POI. Therefore, wherever the loss making sales for the whole POI were more than 20% of the total sales, the normal value has been determined on the basis of the profit making sales. As regards the sources of the consumption norm and conversion cost from propylene to polypropylene, the same are based on the response of other cooperative producers. The Authority has re-computed normal value and the dumping margin, taking into account the submissions provided by the company in respect of logistic expenses. As regards the contention that for a fair comparison dumping margin is to be determined for those grades only which have been exported to India, it is noted that the producer has not submitted grade-wise costing data to carry out the OCT test and hence the Authority is constrained to determine the dumping margin on the basis of information/data provided.
108. The information/data filed by the respondents has accordingly been examined. The same has been accepted subject to re-computation of the cost of production data as explained in **para 84 of these findings**. The adjustments claimed by the exporter have been accepted and an adjustment for credit cost was also made as the sales in the domestic market were

on credit. Accordingly, the Normal value has been determined after carrying out the OCT test. It is found that more than 20% of domestic transactions have been found to be loss making. Therefore, the normal value for the exporter has been determined on the basis of profit making sales on a month-wise basis due to significant fluctuations in the prices of the subject goods during the POI. Wherever there were no profitable sales in a particular month, the normal value for that month has been constructed on the basis of the unit cost to make and sell (subject to re-computation of the cost of production data as explained in **para 84 of these findings**) and profit margin @ 5% has been added.

M/s Saudi Yanbu Petrochemical Company (Yanpet), Saudi Arabia through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)

109. SABIC's response was perused and it was noted that SABIC sells the subject goods produced by two related entities namely, M/s IBN ZAHR and M/s YANPET. Initially, the respondent had provided details only in the Appendixes 1 & 2, 3A and 3B and subsequently the other details have been provided in respect of other appendixes viz. Appendixes 4-9. It is also seen that M/s Saudi Yanbu Petrochemical Company (Yanpet) sells the subject goods in the domestic market only through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC). However, the subject goods produced by it have been exported to India by M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC) and as well as by M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia.
110. It has been contended in response to the Disclosure statement that in arriving at the normal value for Yanpet, the Authority has ignored loss making sales for all those months even in the cases where the loss making sales of a month are lower than the 20% of the sales of that particular month and that such exclusion is contrary to para 2(i) of Annexure – I to the AD Rules. The sources of consumption norm and conversion cost from propylene to polypropylene have not been disclosed.
111. It has been further contended that the Authority has made double deductions towards logistics expenses for arriving at the normal value and requested for its correction. It is further contended by SABIC that for a fair comparison dumping margin is to be determined for those grades only which have been exported to India.
112. As regards the OCT test, the Authority notes that the same is required to be carried out in respect of total sales made in the POI. Therefore, wherever the loss making sales for the whole POI were more than 20% of the total sales, the normal value has been determined on the basis of the profit making sales. As regards the sources of the consumption norm and conversion cost from propylene to polypropylene, the same are based on the response of other cooperative producers. The Authority has re-computed normal value and the dumping margin, taking into account the submissions provided by the company in respect of logistic expenses. As regards the contention that for a fair comparison dumping margin is to be determined for those grades only which have been exported to India, it is noted that the producer has not submitted grade-wise costing data to carry out the OCT test and hence the Authority is constrained to determine the dumping margin on the basis of information/data provided.

113. The information/data filed by the respondents was accordingly examined and the same has been accepted subject to re-computation of the cost of production data as explained in **para 84 of these findings**. The adjustments claimed by the exporter have been accepted and an adjustment for credit cost was also made as the sales in the domestic market were on credit. Accordingly, the Normal value has been determined after carrying out the OCT test. It is found that more than 20% of domestic transactions have been found to be loss making. Therefore, the normal value for the exporter has been determined on the basis of profit-making sales on a month-wise basis due to significant fluctuations in the prices of the subject goods during the POI. Wherever there were no profitable sales in a particular month, the normal value for that month has been constructed on the basis of the unit cost to make and sell (subject to re-computation of the cost of production data as explained in **para 84 of these findings**) and profit margin @ 5% has been added.

M/s Saudi Yanbu Petrochemical Company (Yanpet), Saudi Arabia through M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia.

114. It is seen that M/s Saudi Yanbu Petrochemical Company (Yanpet) sells the subject goods in the domestic market only through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC). However, the subject goods produced by it have been exported to India by M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC) and as well as by M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia.
115. As the domestic sales have been effected only by SABIC, the same Normal value has been adopted for comparing the Export price of M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia for the purposes of determination of the dumping margin.

Non-cooperative exporters/Producers

116. No other exporter and producer from Saudi Arabia has responded to the Questionnaire. The Authority has determined their Normal value based on the facts available on record.

SINGAPORE

M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC)

117. The information/data provided by the company was examined and verified. It is noted that the company has not directly exported the subject goods to India during the POI. However, the subject goods produced by the company have been exported to India during the POI by the following companies:

1. M/s Itochu Plastics Pte. Ltd., Singapore
2. M/s Marubeni Chemical Asia Pacific PTE Ltd., Singapore
3. M/s Sumitomo Corporation Asia Pte Ltd., Singapore
4. M/s Sumitomo Chemical Asia Pte Ltd., Singapore
5. M/s Toyota Tsusho (Singapore) Pte Ltd., Singapore

6. M/s Inabata Singapore Private Limited

118. All these exporters have provided information in the exporter's questionnaire except M/s Inabata which has provided the information very late. Despite the delayed response, the information/data filed by the exporter was examined. It was noted in the Disclosure statement that M/s Inabata has not exported the subject goods in commercial quantities and that M/s Inabata has not made any domestic sales of the particular grades of the subject goods exported by them. It was further understood that M/s Inabata further processes the goods after obtaining the same from TPC. TPC has also not provided the data in respect of the relevant grades in their Appendix 8B of the response.
119. It has been contended by Inabata that export of non-commercial quantity during the POI is no ground for discarding the issues raised by Inabata as the levy of anti-dumping duty (if levied at all) would not just affect the previous export but also the future exports of Inabata as well. Therefore, it is relevant and important to show, if Inabata has dumped their products and as a result requires any anti-dumping duty. To further substantiate the stand taken by Inabata, their supplier TPC has issued a testimony, whereby they have categorically mentioned that Inabata has not done any further processing on the goods supplied by TPC for trading purposed.
120. The Authority notes that as per the export details provided by TPC in Appendix 2, there are only 3 transactions which have been exported through Inabata whereas there are 5 transactions reflected in the Appendix 2 provided by Inabata. The two shipments reportedly made by Inabata in September 2008 and November 2008 are not reflected in TPC's data; thus the exports to India as reported by TPC and Inabata do not reconcile. In the absence of reconciliation between the exports to India reported by them, the Authority cannot also determine a separate export price for Inabata and dumping margin.
121. Besides, it is also noted that though TPC had sold the subject goods to M/s Sumitomo Chemical Asia Pte Ltd. in Singapore but M/s Sumitomo Chemical Asia Pte Ltd. in turn has exported some of the quantity of the subject goods so procured from TPC to India without the prior knowledge of TPC.
122. A perusal of the data of TPC shows that no grade-wise costing details have been provided by the company, however the same has been provided on a month-wise basis. Therefore, for carrying out the OCT test, the data as provided by the company in respect of homo-polymers and co-polymers have been adopted. It is seen from the data that the loss-making sales for homo-polymers and co-polymers are ***% and ***% respectively and for the PUC as a whole the loss-making sales are about ***%. Therefore, only profitable domestic sales have been considered for determining the normal value.
123. It is also noted that TPC has also stated in its response that it sells to unrelated parties except M/s Sumitomo Chemical Asia Pte. Ltd. Therefore, the sales prices to M/s Sumitomo Chemical were examined vis a vis the sales prices to unrelated parties. No significant difference is found between such sales and sales made to unrelated parties.

Therefore, all profitable sales made by TPC in its domestic market have been considered for the purpose of determination of normal value.

124. The adjustments have been made for freight, commission and bank charges as claimed and verified by the Authority. As stated above, the normal value has been determined on a month-wise basis due to significant fluctuations in the prices of the subject goods during the POI.

M/s ExxonMobil Chemical Asia Pacific, Singapore

125. It is noted that the company besides directly exporting the PUC to India exports the subject goods through M/s Mitsubishi Chemical Thailand (Co.) Ltd. as well.
126. The data provided by the company was examined and verified. It is noted that the company has not provided the details for the domestic sales in Appendix 1, inter alia, stating that it sells less than 5% of the export sales to India. Therefore, it claimed that its normal value should be determined based on third country information. It is, however, noted that the discretion regarding the option to choose the method for determination of normal value does not lie with the producer/exporter, in case the Normal value's determination cannot be made on the basis of domestic sales transactions. Under such a situation, the choice lies with the Authority as to how the normal value is to be determined. Therefore, it is considered appropriate to construct the Normal value for the exporter on the basis of construction method viz. 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.
127. It is seen that the company has also not provided any separate cost details for homopolymers and co-polymers. Therefore, the normal value for the exporter has been constructed based on the cost of production details as provided in Appendix 8B after adding 5% profit to it. The normal value has been determined on a month-wise basis due to significant fluctuations in the prices of the subject goods during the POI.

Non-cooperative exporters/Producers

128. No other exporter and producer from Singapore has responded to the Questionnaire. The Authority has determined their Normal value based on the facts available on record.

Export Price:

OMAN

M/s Oman Polypropylene LLC

129. The information/data filed by the company was verified and has been accepted for determination of the export price. The exporter has claimed adjustments on account of

commission, service charge and transportation and the same have been accepted. The Export price has been so determined on a month-wise analysis of the data.

Non-cooperative exporters/Producers

130. No other exporter and producer from Oman has responded to the Questionnaire. The Authority has determined their Export price based on the facts available on record.

SAUDIA ARABIA

M/s Advanced Polypropylene Co., Saudi Arabia through M/s Vinmar International Ltd., USA

131. The information/data filed by the respondents was verified in Saudi Arabia and has been accepted for determination of the export price. The adjustments have been claimed on account of ocean freight, insurance, finance charges and marketing fee and the same have been accepted. The Export price has been so determined on a month-wise analysis of the data.

M/s Saudi Polyolefins Company through M/s National Petrochemical Industrialization Marketing Company, Saudi Arabia

132. The information/data filed by the respondents was verified and has been accepted for determination of the export price. The respondents have claimed adjustments on account of inland freight, overseas freight, clearance & handling charges and Credit Cost and the same have been accepted. The Export price has been so determined on a month-wise analysis of the data.

M/s Saudi Polyolefins Company through M/s Basell International Trading FZE,

133. The information/data filed by the respondents was verified and has been accepted for determination of the export price. The respondents have claimed adjustments on account of inland freight, overseas freight, clearance & handling charges and credit cost and the same have been accepted. The Export price has been so determined on a month-wise analysis of the data.

M/s Saudi European Petrochemical Company (IBN Zahr), Saudi Arabia through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)

134. A perusal of SABIC response shows that sales to Bhutan and Nepal were also indicated against India, since all these consignments were routed through the Haldia / Kolkata Port. The bills of lading in respect of export to Bhutan and Nepal clearly showed that the goods were meant for these countries as the final destination and were in transit to these

countries through Haldia /Kolkata Port. Hence, the transactions in respect of export to Bhutan and Nepal have not been considered for determination of the export price.

135. It has been contended by SABIC in response to the Disclosure statement that the Authority has made double deductions towards logistics expenses for arriving at the export price and requested for its correction. It is further contended by SABIC that for a fair comparison dumping margin is to be determined for those grades only which have been exported to India.
136. The Authority has re-computed export price and the dumping margin, taking into account the submissions provided by the company in respect of logistic expenses. As regards the contention that for a fair comparison dumping margin is to be determined for those grades only which have been exported to India, it is noted that the two producers of SABIC have not submitted grade-wise costing data to carry out the Ordinary Course of Trade test and hence the Authority is constrained to determine the dumping margin on the basis of information/data provided.
137. Thus, the information/data filed by the respondents as verified, has been accepted for determination of the export price. The adjustments for expenses such as ocean freight, insurance, bank charges, clearance expenses etc. have been allowed. It was noted that even though the payment terms were on credit basis, no deduction had been made for the cost of credit in Appendix-2. Thus, in order to make this deduction, the rate of interest on short-term borrowing as obtained during the verification in Saudi Riyal and US\$, for the period of investigation has been used to make necessary amendments to Appendix-2. The Export price has been so determined on a month-wise analysis of the data.

M/s Saudi Yanbu Petrochemical Company (Yanpet), Saudi Arabia through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)

138. A perusal of SABIC response shows that sales to Bhutan and Nepal were also indicated against India, since all these consignments were routed through the Haldia / Kolkata Port. The bills of lading in respect of export to Bhutan and Nepal clearly showed that the goods were meant for these countries as the final destination and were in transit to these countries through Haldia /Kolkata Port. Hence, the transactions in respect of export to Bhutan and Nepal have not been considered for determination of the export price.
139. The information/data filed by the respondents was verified and has been accepted for determination of the export price. The adjustments for expenses such as ocean freight, insurance, bank charges, clearance expenses etc. have been allowed. It was noted that even though the payment terms were on credit basis, no deduction had been made for the cost of credit in Appendix-2. Thus, in order to make this deduction, the rate of interest on short-term borrowing as obtained during the verification in Saudi Riyal and US\$, for the period of investigation has been used to make necessary amendments to Appendix-2. The Export price has been so determined on a month-wise analysis of the data.

M/s Saudi Yanbu Petrochemical Company (Yanpet), Saudi Arabia through M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia

140. The information/data filed by the respondents has been accepted for determination of the export price. The Export price has been so determined on a month-wise analysis of the data.

Non-cooperative exporters/Producers

141. No other exporter and producer from Saudi Arabia has responded to the Questionnaire. The Authority has determined their Export price based on the facts available on record.

SINGAPORE

M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Itochu Plastics Pte. Ltd.

142. The information/data filed by the company was verified and has been accepted for determination of the export price. The adjustments for commission and interest as claimed by the exporter in Appendix 2 and verified by the Authority have been allowed. The other adjustments for packing, inland freight, insurance, storage, handling, overseas freight, overseas insurance and shipping charges verified from TPC response have also been made. The Export price has been so determined on a month-wise analysis of the data.

M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Marubeni Chemical Asia Pacific PTE Ltd., Singapore

143. The information/data filed by the company was verified and has been accepted for determination of the export price. The adjustments for packing, inland freight, insurance, storage, handling, overseas freight, overseas insurance and shipping charges verified from TPC response have been made. The Export price has been so determined on a month-wise analysis of the data.

M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Sumitomo Corporation Asia Pte Ltd., Singapore

144. The submissions regarding exclusion of Ter-polymer from the analysis have been accepted. Accordingly, the information/data filed by the company has been accepted for determination of the export price. The adjustments for commission, interest and bank charges have been claimed by the exporter in Appendix 2 and the same are allowed. The other adjustments for packing, inland freight, insurance, storage, handling, overseas freight, overseas insurance and shipping charges verified from TPC response have also been made. The Export price has been so determined on a month-wise analysis of the data.

M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Sumitomo Chemical Asia Pte Ltd., Singapore

145. It has been stated by the exporter that, it appears from the confidential disclosure statement that certain homo-polymers have been wrongly considered as co-polymers and that grades such as FS3011E, FS2011E, FY2011ER, and Y101E, have been considered to be co-polymers, whereas these grades are homo-polymers. The Authority has accepted the claims made by the exporter and recomputed the export price accordingly.
146. The information/data filed by the company has been accepted for determination of the export price. The adjustments for inland freight, storage, documentation, overseas freight, and overseas insurance have been claimed by the exporter and the same have been allowed. The Export price has been so determined on a month-wise analysis of the data.

M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Toyota Tsusho (Singapore) Pte. Ltd. (TTSP)

147. It has been contended by TTSP that the sales of TTSP for export to India, were against long term contracts, whereas sales of TPC in the domestic Singapore Market were on spot prices and that during the period of investigation, for April to September 2008, the prices were fixed based on the prevailing prices in the previous 6 months, as per the Platt's Price List. Similarly, for the period October to March, 2008, they were fixed on the basis of prevailing prices, in July to September, 2008. By undertaking a weighted month to month comparison, artificial margins of dumping and injury, are created. The comparison at best can be done either with the weighted averages for the entire period, as has been done in many cases by the Authority, and also in the preliminary findings, or on the basis of the weighted averages for the period April – September 2008 and October – December, 2008, respectively. TTSP submits that there is no justification, for the proposed change in the methodology adopted for determination of the dumping and injury margin in the preliminary finding.
148. The Authority has taken note of the submissions of the TTSP that the sales of TTSP for export to India, were against long term contracts, whereas sales of TPC in the domestic Singapore Market were on spot prices.
149. In view of the above, the Export price has been determined on the basis of claims of long term contracts while exporting the subject goods to India during the POI. The information/data filed by the company has been accepted for determination of the export price. The adjustments for packing, inland freight, insurance, storage, handling, overseas freight, overseas insurance and shipping charges verified from TPC response have also been made to arrive at the net adjusted export price.

M/s ExxonMobil Chemical Asia Pacific, Singapore

150. It has been contended by EMCAP Singapore that for the calculation of the export price, the transactions have been grouped based on the order date, instead of the date of shipment. EMCAP believes that for a fair comparison, the monthly export price should be determined with regard to the date of export or date of shipment and not the order date.
151. The Authority notes that in terms of the anti-dumping provisions; normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale. During the verification also, the date of invoice was considered as establishing the material terms of sale. Besides, the company has not established and substantiated that the date of the shipment establishes the material terms of sale. Thus, Authority is of the view that the export price and the dumping margin calculations have been correctly determined.
152. The information/data filed by the company was verified and has been accepted for determination of the export price. The adjustments for expenses such as packing, commission and overseas freight claimed have been allowed. The Export price has been so determined on a month-wise analysis of the data.

M/s ExxonMobil Chemical Asia Pacific, Singapore through M/s Mitsubishi Chemical Thailand (Co.) Ltd.

153. The response filed by the company was examined. The response of the exporter could not be fully verified due to turmoil in Thailand. Therefore, the information filed and to the extent verified has been considered. The adjustments for expenses such as packing, commission and overseas freight from the response of ExxonMobil have been considered. The Export price has been so determined on a month-wise analysis of the data.

Non-cooperative exporters/Producers

154. No other exporter and producer from Singapore has responded to the Questionnaire. The Authority has determined their Export price based on the facts available on record.

H. DUMPING MARGIN

155. Considering the Normal values and Export prices as determined above, the dumping margins have been determined as follows:

Name	Country	Dumping Margin	
		USD / MT	%
M/s Oman Polypropylene LLC	Oman	***	21.49%

Non-cooperative Producers and Exporters	Oman	***	36.90%
M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Sumitomo Corporation Asia Pte. Ltd.	Singapore	***	14.42%
M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Sumitomo Chemical Asia Pte Ltd., Singapore	Singapore	***	17.33%
M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Toyota Tsusho (Singapore) Pte. Ltd.	Singapore	***	22.79%
M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Marubeni Chemical Asia Pacific Pte. Ltd.	Singapore	***	9.93%
M/s The Polyolefin Company (Singapore) Pte. Ltd. (TPC) through M/s Itochu Plastics Pte. Ltd.	Singapore	***	24.56%
M/s Exxon Mobil Chemical Asia Pacific, Singapore	Singapore	***	13.39%
M/s Exxon Mobil Chemical Asia Pacific, Singapore through M/s Mitsubishi Chemical Thailand (Co.) Ltd.	Singapore	***	9.00%
Non-cooperative Producers and Exporters	Singapore	***	43.06%
M/s Advanced Polypropylene Co.Saudi Arabia through M/s Vinmar International Ltd., USA	Saudi Arabia	***	20.92%
M/s Saudi European Petrochemical Company (IBN Zahr), Saudi Arabia through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)	Saudi Arabia	***	20.45%
M/S Saudi Yanbu Petrochemical Company (Yanpet) through M/s Saudi Basic Industries Corporation, Saudi Arabia (SABIC)	Saudi Arabia	***	6.37%
M/S Saudi Yanbu Petrochemical Company (Yanpet) through M/s Exxon Mobil Chemical Asia Pacific, Saudi Arabia	Saudi Arabia	***	16.30%
M/s Saudi Polyolefins Company through M/s National Petrochemical Industrialization Marketing Company, Saudi Arabia	Saudi Arabia	***	7.01%
M/s Saudi Polyolefins Company through Basell International Trading FZE, Dubai	Saudi Arabia	***	4.00%

Non-cooperative Producers and Exporters	Saudi Arabia	***	39.42%
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I. Injury

Submissions made by the interested parties

156. The submissions made by the exporters/importers and other interested parties are summarized as follows to the extent they have been found to be relevant. It has been, inter alia, stated that:
- (i) The market share of the Indian industry has increased from 91.34% in 2005-06 to 92.16% during POI. Hence, it cannot be said that the imports from the subject countries have taken over the entire increase in demand and the fall in domestic industry market share is due to the increase in imports.
 - (ii) Domestic industry has claimed that the capacity utilization has come down over the injury investigation period due to the severely dumped imports from subject countries. In this regard, it should be noted that the Reliance Industries Ltd. has informed BSE India that it has closed some of its polyester plants for routine maintenance and enhancing product capabilities during the month of Nov'08 and repair for approximately four weeks. Due to this, the capacity utilization has come down during the period of investigation.
 - (iii) The domestic industry has claimed that it has suffered loss during the Oct-Dec'08 as compared to the April-June '08 due to the increase in the imports. In this regard, it should be noted that the Reliance Industries has informed that its Patalganga site had announced a voluntary retirement scheme on October 05, 2008 as part of its normal cost optimization exercise and over 400 people had opted for the same.
 - (iv) There is no fall in the sales value as well as volume during the period of investigation as sales volume has increased from 100 indexed units in 2005-06 to 131 indexed annualized units in 2008-09. An analysis of the increase in the sales quantity and sales value indicates that the sales realization per MT has also increased as increase in sales value is more than the increase in sales volume.

- (v) The Applicant admits that there is no negative impact on the number of employees and wages paid to them over the injury investigation period. Thus, there is no adverse impact on this factor also.
- (vi) The Hon'ble Authority has itself, in the preliminary finding, concluded that during the period of investigation the demand of the subject goods has increased and despite the same, the market share of the imports have fallen vis-à-vis the previous years i.e. from 6.4% to 5.8%. Further, the Hon'ble Authority in its finding has come to the conclusion that sales volume, cash flow, employment and wages, productivity of the Domestic Industry has improved during the period of investigation.
- (vii) Injury, if any, to the domestic industry is self-inflicted and is not caused due to import of the subject goods from the subject countries. It is pertinent to note that for one month during the POI (9 months) the Domestic Industry resorted to planned shutdown. This shut down was to increase the capacity to meet the difference between total demand and total domestic production. Any loss of business caused to the domestic industry as a result of the planned shut down is solely due to the acts of the domestic industry and the imports of the alleged dumped goods cannot be held responsible for the same.
- (viii) Injury, if any to the domestic industry during the period of investigation was temporary in nature which does not justify imposition of definitive anti-dumping duty against the import. During the period of investigation due to global slowdown and due to variation in the prices of crude, the producers and marketers of the subject goods were adversely affected world over.
- (ix) Imports of the subject goods are inevitable to meet the entire demand. It is submitted that even at 100% capacity utilization, the domestic industry would fail to cater to the total demand in the market. Therefore, imposition of anti dumping duty is not in the interest of domestic consumers.

Submissions made by the domestic industry

157. The domestic industry has stated the following:

- (i) As regards the issue of Market Share, the interested parties have failed to appreciate that the Domestic Industry has filed the application exactly in the prescribed format and the submissions with regard to the injury are also in line with the legal provisions with regard to injury analysis. The

Domestic Industry has submitted that its market share has declined. It has not been their claim that the share has declined after taking into account the sales of the other producer. The allegation of making false and misleading claims is, therefore, baseless. Besides, the market share movement in either case (i.e., after or before including the entire domestic producers) is not very significant on the basis of the data available to the Domestic Industry in public domain.

- (ii) As regards the submission of the interested parties that the output and capacity utilization has come down due to the planned shutdown at RIL, it has been submitted that:
- a) The shutdown was only at the Jamnagar complex whereas RIL has as many as five production facilities.
 - b) The month-wise inventory position of the product under consideration shows that the inventories had gone up from *** MT in April 2008 to *** MT at the end of September 2008, which further rose to *** MT at the end of October 2008. Thus, there was an increase in the closing stocks of more than two times from April to October 2008.
 - c) The rise in the inventories led to serious practical problems in storing their goods in as much as there was a paucity of physical space for storage of goods on account of the increased imports on dumped prices. It was in this context that a planned shutdown was advanced as RIL was unable to sell the product in the domestic market due to surge in imports at dumped prices.
 - d) As regards the contention of the interested parties that the loss was on account of the “planned” shutdown, it is submitted that the number of days which can be attributed to a maintenance shutdown is less than one day. As explained above, the shutdown for the rest of the period was necessitated due to a huge and unmanageable build-up of inventories at Jamnagar complex. In support of their contention that the number of days of shutdown attributable to planned maintenance, the details of the planned maintenance shut down over the years needs to be seen.
 - e) The typical maintenance shut down over the years has been less than 7 days spread over the full year which can be easily verified by the Authority from the detailed daily records being maintained in their plants. Therefore, the contention that that the production and capacity utilization has suffered on account of the planned shutdown is completely misplaced. It is apparent from the records that the shutdown was on account of the burgeoning inventories and the dumped imports.
- (iii) As regards the Voluntary Retirement Scheme at Patalganga, it is submitted that the contention of the interested parties is baseless as no Polypropylene is produced in the Patalganga complex and the costs associated with the

voluntary retirement scheme, howsoever small, are also not connected with the production of the subject goods i.e., Polypropylene.

- (iv) As regards the sales volume and sales value, price effect and the claim of the Domestic Industry that prices have not increased commensurate to the increase in the costs, the Domestic Industry has submitted that the interested parties have analyzed the indexed numbers to arrive at some self-serving conclusions. The actual numbers given by the Domestic Industry in their application clearly prove the point of the Domestic Industry that the increase in costs has not been covered by the increase in prices during the period of investigation.
- (v) As regards the inventories, it has been submitted that they have provided the basic information in Proforma IVA as per the prescribed format which calls for the point to point information on stocks. The monthly stocks position of the Domestic Industry given along with the Part VI information clearly demonstrates that the inventories of the Domestic Industry rose to an unprecedented level during the months of September and October and thereafter the stock level came down after the Domestic Industry had no option but to liquidate their stocks at loss. This fact is clearly reflected in the financial performance of the Domestic Industry which shows that the Domestic Industry had suffered losses during October-December 2008 as compared to the period April-September 2008.
- (vi) The information on the profitability provided in the table on page 14 is consistent with the Proforma IV A.

Submissions made by Interested parties in response to the Disclosure Statement

- 158. It has been contended that the adoption of 22% Threshold ROCE would be unreasonable, inconsistent with market realities, and would unfairly place the domestic industry in a position better than if there was no dumping. It is further submitted that the threshold ROCE should be fixed based on industry norms and / or on historical levels of return on capital employed taking into consideration the economic peculiarities prevailing during the POI.
- 159. It has been contended that there is no injury caused to the domestic industry. The same is evident from the fact that the Authority has itself concluded that during the period of investigation the demand of the product under consideration has increased significantly (32%) and despite the said increase in the demand, the market share of the imports remains almost the same and the majority of the market share is controlled by the Domestic Industry (73%). Market share of the other domestic producers has increased significantly i.e. from 89% to 92%, which makes it evident that injury, if any, to the domestic industry is not on account of imports of the subject goods but is on account of increasing competition from other domestic producers. Further, the sales volume (increase by 20%), employment and wages (increase of 8%), productivity per employee

(increase by 27%), Inventory (decreased by 27%) of the Domestic Industry has improved during the period of Investigation. All these clearly establish that there is no injury caused to the Domestic Industry as alleged or at all.

160. Injury, if any, caused to the domestic industry is not because of any alleged dumped imports of the subject goods from the subject countries but is self inflicted. There is no causal link. It is pertinent to note that for one month during the POI (9 months) the Domestic Industry resorted to planned shutdown. This shut down was to increase the capacity to meet the difference between total demand and total domestic production. Any loss of business caused to the domestic injury as a result of the planned shut-down and solely due to the acts of the Domestic Industry and the imports of the alleged dumped goods cannot be held responsible for the same.
161. During the period of investigation, due to global slowdown variation in the prices of crude; the producers and marketers of the subject goods were adversely affected world over. Crude prices have ranged from US \$ 147/ barrel to US \$ 40/barrel in 2008. Crude derivative, Propylene makes up more than 3/4th of the cost of production. Hence, manufacturers had to first dispose off the higher value raw material. The cost of production was higher despite the reduction in the crude prices. Further, the price realizable from the market also went down for some time. However, the same has shown an upward trend once crude prices have settled. The said adverse impact on the sales and price of the subject goods was not restricted solely to the domestic industry. This clearly established that injury, if any, to the domestic industry was temporary in nature and would not justify imposition of the definitive anti dumping duty for a period of five years on the imports of the subject goods. This would adversely affect the other domestic producers and marketers of the subject goods in India. The domestic industry has willfully chosen the period of investigation for the purposes of the present investigation to mislead the Authority.
162. The imports of the subject goods are inevitable to meet the entire domestic demand. It is submitted that even at 100% capacity utilization, the domestic industry would fail to cater to the total demand in the market for the product under consideration. The incapability of the Domestic Industry to cater to the total domestic demand is further aggravated by the fact that M/s Reliance Industries Ltd., a significant component of the DI, being an EOU during the POI, was mandated to export substantial quantity and had been actually exporting substantial quantity of the subject goods.
163. An end point to end point comparison in determination of injury parameters is not only unreasonable but is also inconsistent with WTO law.

Examination by the Authority

164. The Authority has taken note of submissions made by various interested parties and have undertaken the injury analysis as under:
165. As regards the issue of adoption of 22% Threshold ROCE, the Authority notes that the return of 22% on capital employed (considering net fixed assets) is appropriate and has consistently been followed by the Authority. The Authority further notes that the domestic industry had earned as high as 35% return on capital employed. However, the Authority to be fair has restricted the return on capital employed to 22%.
166. Considering wide fluctuations in the raw material prices and the prices of the subject goods, the Authority has carried out month-wise analysis.
167. The Authority is of the view that the purpose of the levy of the anti-dumping duty is not to thwart imports but to restore conditions of fair trade. Besides, the Authority does not find any merit in the concerns expressed by the interested parties as regards inability of the domestic industry to meet the demand of the subject goods in the country as the same is not mandated under the law. Further, the Authority notes that the exports made by the domestic industry are of no consequence as the injury analysis in the present investigation has been restricted to the domestic operations.
168. A careful perusal of the findings would show that the analysis has been undertaken for the injury investigation period and the Authority also examined the changes in the POI in comparison to recent years.

Cumulative assessment

169. Attention is invited to Annexure II para (iii) of the AD Rules which provides that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that: -
- a. the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of like article or where the export of individual countries is less than three percent, the imports collectively accounts for more than seven percent of the import of like article and
 - b. cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
170. The Authority observes that

- i. The margins of dumping from each of the subject countries are more than the limits prescribed above;
- ii. The volume of imports from each of the subject countries is more than the limits prescribed;
- iii. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market. This is evident from the fact that the domestic product and imported product are like Article; imports from each of the subject countries are above the prescribed *de-minimis* limits ; the goods produced by the Indian Producers and the subject goods imported from the subject countries are in direct competition; common parties are resorting to use of imported material and domestic material; Indian Producers' customers are using the domestic material and imported material interchangeably; the exporters from the subject countries and the applicant have sold the same product in the same periods to the same set of customers, etc.

171. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from the subject countries.

172. Annexure-II of the AD 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 articles; and (b) the consequent impact of these imports on domestic producers of such product. While examining the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, **or** whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

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

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

Volume Effect of dumped imports and Impact on domestic industry

174. The details relating to imports from all the subject countries and other countries are given below in the following table:

	2005 - 2006	2006 – 2007	2007 - 2008	POI- Annuali zed
Imports from Subject Countries (MT)	61493	70164	110227	103677
Imports (Other Countries) MT	40242	42718	66966	35033
Total Imports (MT)	101735	112882	177193	138711
% Share of Subject countries	60%	62%	62%	75%
Trend in imports from subject countries	100	114	179	169
Year-by-Year change (%)		14	57	-6
Trend in Imports from other countries	100	106	166	87
Year-by-Year change (%)		6	57	-48
Trend in total Imports	100	111	174	136
Year-by-Year change (%)		11	57	(22)
Total Demand (MT)	1327308	1525077	1745061	1766985
% Share of Subject Countries in demand	5%	5%	6%	6%

175. It is noted that the imports from the subject countries in absolute terms have increased from 100 (2005-06) to 169 in POI over the injury investigation period. At the same time, the imports from other countries have declined from 100 in the base year to 87 in the period of investigation. The imports in relation to total demand in India have also increased over the injury investigation period particularly during POI from 5% in the base year to 6% in POI.

Demand and Market share

	2005 - 2006	2006 - 2007	2007 - 2008	POI- Annualized
Domestic Industry Sales (MT)	983572	1163196	1310868	1285607

Sales of Other Domestic Producer	242000	249000	257000	342667
Total Domestic Sales in India (MT)	1225572	1412196	1567868	1628274
Imports from Subject Countries (MT)	61493	70164	110227	103677
Imports from Other Countries (MT)	40242	42718	66966	35033
Total Imports (MT)	101735	112882	177193	138711
Total Demand (MT)	1327308	1525077	1745061	1766985
Domestic Industry's Market Share in demand	74%	76%	75%	73%
Market Share of Total Domestic Sales in demand	92%	93%	90%	92%
% Share of Subject Countries in demand	5%	5%	6%	6%

176. The Authority notes that there are only two known producers of the like articles in the country, one of whom is the applicant (the domestic industry). The trends in the sales of the domestic industry were rising till 2007-08 but fell during the POI. However, the demand for product under consideration went up nearly by 33% over the base year. The market share of the imports from the subject countries in total demand has gradually increased from 5% to 6%.

Capacity, production & capacity utilization

177. The details for the capacity and production for the injury investigation period are given in the following table

	2005 - 2006	2006 - 2007	2007 - 2008	POI- Annualized
Capacity (MT)	1400000	1700000	1700000	1725000
Production (MT)	1285511	1639199	1710002	1517688
Capacity Utilization%	92%	96%	101%	88%

178. It is noted that the capacity utilization of the domestic industry was rising till 2007-08 when it was able to use full capacity but it fell drastically during POI i.e. from 101% (2007-08) to 88%. In short, capacity utilization of the domestic industry during POI has come down as compared to both the base year (2005-06) and as well as previous year primarily due to the plant shut down at Jamnagar.

179. However, the domestic industry has claimed that the plant was primarily shut down on account of burgeoning inventory levels during the months of September and October 2008 and thereafter the stock level came down because the Domestic Industry liquidated their stocks at a loss.

Sales

180. As noted earlier, the product under consideration has witnessed rising demand in the country and domestic industry was able to enhance its sales volume in tandem with increase in demand. In fact, domestic industry enhanced its capacity during 2006-07 by over 20%.

	2005 – 2006	2006 - 2007	2007 - 2008	POI- Annualized
Total Sales Volume (MT) – Domestic	983572	1163196	1310868	1285607
Sales Value (Rs Lacs) – Domestic	***	***	***	***
Indexed	100	135	155	166

Effect of Dumped Imports on domestic prices

	2005 – 2006	2006 - 2007	2007 - 2008	POI- Annualized
Landed Value Rs. / MT	51163	58897	59565	67940
Indexed	100	115	116	133
Domestic Selling Price Rs. / MT	***	***	***	***
Indexed	100	114	117	127
Cost Rs. / MT	***	***	***	***
Indexed	100	109	112	151

181. The Authority notes that the landed value from the subject countries over the injury investigation period has increased from 100 (Base year 2005-06) to 133 during POI. The trends in the selling price of the domestic industry show similar rising trends. The landed prices of the imports from the subject countries have always been higher than the domestic selling prices of the domestic industry and hence imports were not undercutting the prices of the domestic industry. Negative price undercutting is seen throughout the injury period. In this context the domestic industry has contended that the comparison of the weighted average landed price with the weighted average selling price does not reflect the true

picture in view of the fact that the domestic prices have been pegged on the basis of the consignments coming to India at a lower price. Further, there is a time difference between orders booked by the exporter/producers from the subject countries and the time when these shipments landed into India. Considering that the prices of the subject goods significantly fluctuated during the course of the POI, any comparison on a weighted average basis is likely to give misleading picture. Domestic industry has further claimed that increase in the selling prices of the domestic industry could not be commensurate with the increase in costs. However, the trends in increase in the costs vis-à-vis corresponding increase in the selling prices show that the domestic industry has suffered price-suppression.

Price Underselling

182. The Authority notes that there is a positive price underselling for each of the subject countries. The price underselling for each of the subject countries has been carried out month-wise. The details relating to the price underselling are given in the following table:

Country	Month	MT	NIP-Rs. / MT	Landed Value (Rs. /MT)	Price Underselling-Rs. / MT	Price Underselling-(%)	
Subject Countries	Apr-08	***	***	***	***	-1% - 4%	
	May-08	***	***	***	***	3% - 8%	
	Jun-08	***	***	***	***	9% - 13%	
	Jul-08	***	***	***	***	14% - 18%	
	Aug-08	***	***	***	***	7% - 11%	
	Sep-08	***	***	***	***	0% - 5%	
	Oct-08	***	***	***	***	1% - 6%	
	Nov-08	***	***	***	***	-23% - -18%	
	Dec-08	***	***	***	***	-8% - -2%	
	Subject Countries-Total		***	***	***	***	8% - 13%
	Oman	Apr-08	***	***	***	***	-4% - 1%
		May-08	***	***	***	***	1% - 6%
Jun-08		***	***	***	***	30% - 35%	
Jul-08		***	***	***	***	10% - 15%	
Aug-08		***	***	***	***	3% - 8%	
Sep-08		***	***	***	***	-6% - -1%	
Oct-08		***	***	***	***	-14% - 9%	
Nov-08		***	***	***	***	100% - 105%	
Dec-08		***	***	***	***	3% - 5%	

Oman Total		***	***	***	***	9% - 14%
S. Arabia	Apr-08	***	***	***	***	-1% - 4%
	May-08	***	***	***	***	3% - 8%
	Jun-08	***	***	***	***	9% - 14%
	Jul-08	***	***	***	***	14% - 19%
	Aug-08	***	***	***	***	8% -13%
	Sep-08	***	***	***	***	1% - 6%
	Oct-08	***	***	***	***	-7% - 1%
	Nov-08	***	***	***	***	-21% - -15%
	Dec-08	***	***	***	***	-6% - -1%
S. Arabia Total		***	***	***	***	10% - 15%
Singapore	Apr-08	***	***	***	***	-3% - 2%
	May-08	***	***	***	***	1% - 6%
	Jun-08	***	***	***	***	7% - 12%
	Jul-08	***	***	***	***	12% - 17%
	Aug-08	***	***	***	***	4% - 9%
	Sep-08	***	***	***	***	-3% - 2%
	Oct-08	***	***	***	***	3% - 8%
	Nov-08	***	***	***	***	-30% - -24%
	Dec-08	***	***	***	***	-19% - -12%
Singapore Total		***	***	***	***	5% - 10%

Profitability

183. The details relating to profitability are given in the following table.

	2005 - 2006	2006 - 2007	2007 - 2008	POI- Annualized
Total Sales (MT)	983572	1163196	1310868	1285607
Indexed	100	118	133	131
Sales Value (Rs Lacs)	***	***	***	***
Indexed	100	135	155	166
Selling Price/Unit	***	***	***	***
Indexed	100	114	117	127
Cost (Rs. Lacs)	***	***	***	***
Cost /Unit	***	***	***	***
Indexed	100	109	112	151
Profit (Rs. Lacs)	***	***	***	***

Indexed	100	167	188	5
Profit/MT	***	***	***	***
Indexed	100	142	141	4
Profit/Loss (%)	***	***	***	***
Indexed	100	124	121	3

184. The Authority notes that the profitability of the domestic industry has been adversely affected during the period of investigation. During the Period of investigation, while the cost of Sales was 151 (indexed) as compared to 100 in the period 2005-06 but the selling prices could rise only from 100 to 127 during the corresponding period. In short, the domestic industry could not raise the prices commensurate with the increase in the costs during the period of investigation; as a consequence thereof there was a sharp decline in the profitability. The decline in profitability of the domestic industry is more severe as compared to immediately preceding year. The trend analysis demonstrates significant price suppression during the period of investigation.

Return on capital employed

185. It is noted that the ROCE of the domestic industry has also drastically come down over the injury investigation period.

	2005 – 2006	2006 - 2007	2007 - 2008	POI- Annualized
Capital Employed	***	***	***	***
Profit Before Interest	***	***	***	***
ROCE (%)	***	***	***	***
Indexed	100	151	170	7

Cash Flow

186. The Authority notes that the cash flow position of the domestic industry deteriorated during the period of investigation and followed the same trend as that of profitability and ROCE.

	2005 – 2006	2006 - 2007	2007 - 2008	POI- Annualized
Profit/ Loss (Rs. Lacs)	***	***	***	***
Add: Depreciation (Rs. Lacs)	***	***	***	***

Cash Flow (In Rs. Lacs)	***	***	***	***
Indexed	100	156	170	27
Cash Flow/Unit	***	***	***	***
Indexed	100	132	128	21

Employment and Wages

187. It is noted that the number of employees have marginally declined. However, the wages paid to them have increased over the injury investigation period.

	2005 – 2006	2006 - 2007	2007 - 2008	POI- Annualized
No of Employees	***	***	***	***
Indexed	100	97	97	93
Wages Total (Rs. Lacs)	***	***	***	***
Indexed	100	108	105	108

Productivity

188. The productivity per employee has also increased over the injury investigation period. It is noted that productivity is not a cause of injury to the domestic industry.

	2005 – 2006	2006 - 2007	2007 - 2008	POI- Annualized
Production (MT)	1285511	1639199	1710002	1517688
Employees	***	***	***	***
Production per Employee (MT)	***	***	***	***
Indexed	100	131	137	127

Growth

Growth as compared to the base year	2005 - 2006	2006 - 2007	2007 - 2008	POI- Annualized
Capacity Utilization	100	105	110	96
Market Share	100	103	101	98

Profitability	100	167	188	5
Cash Profit	100	156	170	27
Return on capital employed	100	151	170	7

189. It is noted that the demand in the country has increased during the injury investigation period whereas the market share of the domestic industry has not increased in tandem with the increase in demand. The market share of the domestic industry has remained stagnant as compared to the base year and has marginally come down as compared to the immediately preceding year. The capacity utilization, profitability, ROCE and cash flow have also deteriorated over the injury investigation period. It indicates that the growth the domestic industry has been affected.

Inventory

190. Based on the data contained in the application, the Authority notes that average inventories have declined from 100 (Base year 2005-06) to 73 in POI showing an improved off-take.

	2005 – 2006	2006 - 2007	2007 - 2008	POI
Opening Stock (MT)	***	***	***	***
Indexed	100	136	153	132
Closing Stock (MT)	***	***	***	***
Indexed	100	112	97	29
Average Stock (MT)	***	***	***	***
Indexed	100	122	121	73

191. The domestic industry has subsequently submitted month-wise stock position, which clearly demonstrates their claim that inventories had piled up significantly during the months of September and October 2008 and thereafter the stock level came down because the Domestic Industry liquidated their stocks at loss.

Months	Closing Stocks	Indexed
April 2008	***	100
May 2008	***	83
June 2008	***	61

July 2008	***	100
August 2008	***	142
September 2008	***	158
October 2008	***	204
November 2008	***	71
December 2008	***	28

Ability to raise capital / investment

192. The Authority notes that the domestic industry has increased its capacity. The capacity increase was last effected in the year 2006-07. The Authority also notes that since the demand of the subject goods in India is rising and is more than the capacity of the domestic industry, the imports are inevitable when domestic industry is also exporting the subject goods. But that does not mean that such imports should be at dumped prices.
193. In a scenario of demand outstripping the domestic capacity, the domestic industry would be keen to increase its capacity. However, the profitability parameters do not favourably support that the domestic industry would be able to raise capital from market for investments.

J. CAUSAL LINK

194. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It was found as follows:
- a. Imports from Third Countries: - The imports of subject goods from sources other than the subject countries except Korea RP are *de-minimis* during the period of investigation. However, the prices from Korea RP are more than the prices offered by the subject countries.
 - b. Contraction in Demand: - It is noted that there is no contraction in the demand during the period under consideration. On the contrary, the overall demand has increased by 32% over the injury investigation period.
 - c. Pattern of consumption: - No significant change in the pattern of consumption has been observed.
 - d. Conditions of competition: - The applicant has claimed that conditions of competition or trade restrictive practices are not responsible for the claimed injury to the domestic industry. No interested party has refuted this claim.

- e. Developments in technology: - The applicant has claimed that there is no significant change in technology, which could have caused injury to the domestic industry. No interested party has disputed this claim.
 - f. Export performance of the domestic industry: - The export performance of the domestic industry in no way has affected the financial and economic situation of the applicant in the domestic market. The injury analysis in the preceding paragraphs does not include the figures for export.
195. The Authority notes that while listed known other factors do not show injury to the domestic industry, following parameters show that injury to the domestic industry has been caused by dumped imports:
- a. Imports from subject countries have increased in absolute terms as well as in relation to total imports, total demand and domestic production in India.
 - b. b. Market share of the domestic industry has come down over the period of investigation while the demand has increased.
 - c. The prices of the domestic industry have been suppressed despite increase in demand.
 - d. There is a significant dumping margin from each of the subject countries and also there is a significant price underselling from each of the subject countries.

K. Conclusions:

196. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:
- (a) The product under consideration has been exported to India from the subject countries below their associated normal values.
 - (b) The domestic industry has suffered material injury in respect of the product under consideration.
 - (c) The material injury has been caused by the dumped imports of the subject goods from the subject countries.

L. Indian industry's interest & other issues

197. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate 'injury' caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the

Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the products to the consumers.

198. It is recognized that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. With a view to minimize the impact on the downstream industry, the Authority has considered it appropriate to recommend anti-dumping duty based on the lower of the dumping and injury margins. The Authority notes that the imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

M. Recommendations

199. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the Act and the AD Rules and having established definitively positive dumping margins concerning imports of the subject goods originating in or exported from the subject countries and as well as material injury thereof to the domestic industry caused by such dumped imports; the Authority is of the view that imposition of definitive duty is required to offset the dumping and 'injury' in the instant matter. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duties concerning imports of the subject goods from the subject countries in the form and manner described hereunder.
200. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed concerning all imports of the subject goods originating in or exported from the subject countries.

Sl. No	Heading / Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Oman	Oman	M/s Oman Polypropylene LLC	M/s Oman Polypropylene LLC	67.68	MT	US\$
2	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Oman	Oman	Any combination other than as specified at Sr. No.1		241.82	MT	US\$
3	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Oman	Any other than Oman	Any	Any	241.82	MT	US\$
4	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Any country other than countries attracting Anti-dumping duty	Oman	Any	Any	241.82	MT	US\$
5	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Saudi Arabia	Advanced Polypropylene Co.	Vinmar International Ltd., USA	166.20	MT	US\$
6	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Saudi Arabia	Saudi Polyolefins Company	National Petrochemical Industrialization Marketing company	89.23	MT	US\$
7	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Saudi Arabia	Saudi Polyolefins Company	Basell International Trading FZE	51.16	MT	US\$

8	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Saudi Arabia	Saudi European Petrochemical Company	Saudi Basic Industries Corporatio n	171.97	MT	US\$
9	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Saudi Arabia	Saudi Yanbu Petrochemical Company	Saudi Basic Industries Corporatio n	87.86	MT	US\$
10	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Saudi Arabia	Saudi Yanbu Petrochemical Company	M/s Exxon Mobil Chemical Asia Pacific	177.56	MT	US\$
11	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Saudi Arabia	Any combination other than as specified at Sr. No.5 to 10		322.57	MT	US\$
12	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Saudi Arabia	Any other than Saudi Arabia	Any	Any	322.57	MT	US\$
13	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Any country other than countries attracting Anti- dumping duty	Saudi Arabia	Any	Any	322.57	MT	US\$
14	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Sumitomo Corporatio n Asia Pte. Ltd.	121.28	MT	US\$
15	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Toyota Tsusho (Singapore) Pte. Ltd.	295.09	MT	US\$

16	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Marubeni Chemical Asia Pacific Pte. Ltd.	Nil	MT	US\$
17	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Itochu Plastics Pte. Ltd.	Nil	MT	US\$
18	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	The Polyolefin Company (Singapore) Pte. Ltd.	Sumitomo Chemical Asia Pte Ltd.	28.49	MT	US\$
19	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	Exxon Mobil Chemical Asia Pacific	Exxon Mobil Chemical Asia Pacific	38.77	MT	US\$
20	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	Exxon Mobil Chemical Asia Pacific, Singapore	Mitsubishi Chemical Thailand (Co.) Ltd.	Nil	MT	US\$
21	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Singapore	Any combination other than as specified at Sr. nos.14-20.		323.50	MT	US\$
22	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Singapore	Any other than Singapore	Any	Any	323.50	MT	US\$
23	39021000 and 39023000	'Polypropylene* (i.e., homo-polymers of propylene and copolymers of propylene and ethylene)'	Any country other than countries attracting Anti- dumping duty	Singapore	Any	Any	323.50	MT	US\$

*EPP beads (Expanded Polypropylene) is excluded from the ambit and scope of these recommendations.

205. 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 under Sections 3, 3A, 8B, 8C, 9 and 9A of the Customs Tariff Act, 1975.
206. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

P.K. Chaudhery
The Designated Authority