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**Government of India  
Ministry of Commerce & Industry  
Directorate General of Anti-Dumping & Allied Duties**

**Notification**

11<sup>th</sup> May 2011

**Subject: - Sunset Review Investigation of Anti-dumping duty imposed on imports of Certain Rubber Chemicals namely 'PX13' originating in or exported from Chinese Taipei, European Union; 'MOR' originating in or exported from China PR, European Union & USA; and 'TDQ' originating in or exported from Chinese Taipei and European Union,– Final Findings.**

**No. 15/14/2009--DGAD.** – Whereas 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 Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules), the definitive anti-dumping duty was originally imposed vide notification No. 94/2005-Customs dated 20<sup>th</sup> October, 2005 on import of Certain Rubber Chemicals (MOR, PX13 and TDQ) (hereinafter referred to as the subject goods) originating in or exported from China PR, Chinese Taipei, European Union & USA (hereinafter referred to as the subject countries/territory).

**A. BACKGROUND**

2. And whereas, in view of the order of the Hon'ble Delhi High court in the matter of Indian Metal and Ferro Alloys Ltd V/s Designated Authority, Writ Petition (Civil) No. 16893 of 2006 and in accordance with Section 9 A (5) of the Act, read with Rule 23 of AD Rules, the Authority issued a public notice dated 12<sup>th</sup> May 2010, published in the Gazette of India, Extraordinary, initiating the sunset review investigation to review the need for continued imposition of duties in force and to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.

3. And whereas, antidumping duty as notified vide Notification No. 94/2005- Customs dated 20<sup>th</sup> October,2005 was extended up to 11<sup>th</sup> May, 2011 vide notification No. 132 /2010-Customs dated 28th December, 2010 in terms of Section 9(A)(5) of the Act.

**Countries/territory involved:**

4. The countries/territory involved in this investigation are as follows:

- PX-13 - Chinese Taipei, European Union.
- MOR – China PR, European Union, USA
- TDQ - European Union, Chinese Taipei

## **B. PROCEDURE**

5. In this proceeding, the procedure described herein-below has been followed:
- The Office of Delegation of European Union/Embassies/ Economic & Cultural Centre of the subject countries in India were informed about the initiation of the investigation, in accordance with Rule 6(2) of the AD Rules.
  - The Authority sent copies of initiation notification dated 12<sup>th</sup> May 2010 to the Office of Delegation of European Union/Embassies/ Economic & Cultural Centre of the subject countries, known exporters from the subject countries/territory, 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 Office of Delegation of European Union/Embassies/ Economic & Cultural Centre of the subject countries along with a list of known exporters / producers with a request to advise the exporters/ producers from the subject countries/territory to respond to the questionnaires within the prescribed time.
  - Questionnaires were sent to the following known exporters from the subject countries/territory in accordance with Rule 6(4) of the AD Rules to elicit relevant information:

S.N.	Company's Name
1.	China Sunsine Chemical Holdings Ltd., China PR
2.	Puyang Willing Chemical Co., Ltd., China PR
3.	Rongcheng Chemical General Factory Co., Ltd., China PR
4.	Shenyang Northeast Auxiliary Chemical Industry Co., Ltd, China PR
5.	Meyors Chemical Inc Limited, China PR
6.	Linkwell Rubber Chemicals Co.,Ltd., China PR
7.	Nanjing Chemical Industry Corporation Chemical Plant, China PR
8.	Shandong Shanxian Chemical Co., Ltd., China PR
9.	Solutia Inc., USA
10.	Flexsys NV , Belgium
11.	LANXESS NV, Germany
12.	Duslo, a. s., Slovak Republic
13.	Chemtura Italy S.r.l.
14.	General Quimica S.A., Colombia
15.	Emerald Polymer Additives, LLC, USA

M/s Solutia Europe BVBA/SPRL filed their questionnaires' response. No other exporter/producer from the subject counties/ territory filed the questionnaires' response.

- iv. Questionnaires were sent to the following known importers, users and associations of the subject goods in India for necessary information in accordance with Rule 6(4) of the AD Rules:

S.N.	Company's Name
1.	J.K. Industries Ltd. Kolkata
2.	CEAT Limited, Mumbai
3.	Apollo Tyres Ltd., Kochi
4.	Birla Tyre, Kolkata
5.	MRF Limited, Chennai
6.	Metro Tyres Ltd., Ludhiana
7.	Poddar Tyres Ltd., Ludhiana
8.	Raison Ind. Ltd., New Delhi
9.	Rubber Products Ltd., Thane

S.N.	Association's Name
1.	Automotive Tyre Manufacturers Association (ATMA)

- v. The imports data for the period of investigation and preceding three years was called from Directorate General of Commercial Intelligence and Statistics (DGCI&S), which was received by the Authority.
- vi. The complete and authentic details of imports and domestic production of the subject items was called from Central Board of Excise and Customs, North Block, New Delhi. Besides, in response to the request made by the Authority, the Office of the Deputy Commissioner of Central Excise, Cochin made available the data regarding the production and sales of the companies.
- vii. In pursuance to the notification issued by the Authority dated 12<sup>th</sup> May 2010, the Authority received an application from M/s National Organic Chemicals Industries Ltd (NOCIL) requesting for the review, continuance and enhancement of anti-dumping duty in force against dumping of Rubber Chemicals (MOR, PX-13 and TDQ) in the Indian market by the producers and/or exporters from subject countries. Besides, the Authority also received questionnaires' response from Solutia Europe BVBA/SPRL, J.K. Industries Ltd. Kolkata and Apollo Tyres Ltd., Kochi, M/s Automotive Tyres Manufacturers Association (ATMA) filed their submissions in this regard. However, none of the producers/exporters from China PR, Chinese Taipei and USA have responded.

- viii. The Authority made available non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- ix. As stated, a request for continuation of the anti-dumping duty was received from M/s NOCIL, which is a major producer of the subject goods in India. It has submitted the information/data for undertaking the injury analysis. The Authority has examined the information furnished by the company to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to analyze the injury suffered and to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- x. 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 public hearings held on 29<sup>th</sup> October 2010 and 11<sup>th</sup> March 2011. The parties which presented their views in the public hearings were requested to file written submissions of the views expressed orally. The arguments made in the written submissions/rejoinders received from the interested parties have been considered, wherever found relevant, in these final findings.
- xi. The period of investigation for the purpose of the present review is April 2009 – March 2010 (POI). However, injury analysis covers the periods April 2006-March 2007, April 2007-March 2008, April 2008-March 2009 and the POI.
- xii. 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.
- xiii. In accordance with the Rule 16 of the AD Rules, the essential facts under consideration before the Authority in the instant investigation have been disclosed to the known interested parties. The comments received on the disclosure statement, to the extent considered relevant, have been duly considered in these findings.
- xiv. 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.
- xv. 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 the findings on the basis of the ‘facts available’.

xvi. \*\*\* In this statement represents information furnished by the interested parties on confidential basis and so considered by the Authority under the AD Rules.

5A. **Comments made by interested parties in response to the Disclosure statement**

The following comments, to the extent found pertinent, have been received from the interested parties:

**M/s Solutia Europe BVBA / SPRL**

M/s Solutia, in brief, in respect of PX 13 has contended as follows:

- Correction of name of the company from Solutia Inc. to Solutia Europe BVBA / SPRL: It has submitted that the name of the company should be corrected as M/s Solutia Europe BVBA / SPRL. It has attached a transfer document regarding the present name of the company.
- There has been an undue and unwarranted claim of confidentiality on the part of the domestic industry.
- There has been an incorrect conclusion of continued injury to the domestic industry: There has been no analysis of the effect of increase in unit cost due to increase in capacity and decline in exports.
- The domestic industry has filed incorrect and unsubstantiated information regarding capacity and surplus capacity in EU. There is no likelihood of increase in exports from EU.
- There are contradictory figures of injury margin in Para 54 *vis a vis* para 102.
- Re-determination of anti-dumping duties is not envisaged under Section 9A (5) of the Act.

**M/s Automotive Tyre Manufacturer's Association (ATMA)**

ATMA, in brief, has contended as follows:

- The finding of injury on import of PX 13 shall impact the user industry using the subject goods as the domestic industry cannot meet the demand of the user industry in India.
- Domestic Industry is not suffering from any injury on account of import of PX 13 from EU nor is there a likeliness of recurrence of injury
- In respect of TDQ, the undercutting and underselling by the imported products are not having any effect on the domestic industry as they have been able to realize a fair selling price. The profits of the DI for the purpose of TDQ has increased significantly.

- In respect of MOR, it has been observed that there is positive price undercutting & price underselling from imports from China PR. But though the prices from China PR might be undercutting/ underselling the prices of the Domestic Industry, the same is not resulting into any injury to the Domestic Industry as the Domestic Industry has been able to increase its prices. This is also reflected in the profits of the Domestic Industry.
- Mere undercutting and underselling does not tantamount to injury to the Domestic Industry. Thus profit posted by the Domestic Industry indicates the impact of the dumped imports.
- Despite that Domestic Industry is a multi-product company; wages and employment provide a general indication of the overall state of the Domestic Industry. Improved productivity of the Domestic Industry should be considered in the injury analysis.
- There is mis-match in the figures in as much as the closing stock of one year is not matching with the opening stock of the next year.
- The price undercutting and underselling have not lead to any negative effect on the domestic industry and thus there is no causal link.
- Non Injurious Price- for the calculation of NIP, a reasonable return of 22% (pre-tax) on capital employed was allowed. Such an assumption that the Domestic Industry should have a fixed return on capital every year is erroneous and contrary to norms of an open market as it seeks to create an artificial risk free environment for domestic industry.
- Imports under Advances License Scheme (ALS) should have been excluded from the volume analysis. If imports under ALS are excluded from determining the overall demand, then it should also be excluded from volume impact.
- The issue of Dual Remedy has not been adequately considered. The level of injury in a Safeguard investigation is “serious injury” which is at a higher pedestal than the level of injury caused under an AD investigation which is “material injury”. Thus a Safeguard petition initiated by the DI would invariably cover the injury caused due to dumped imports as the injury has occurred from the same POI.
- As regards cumulation, the wording of para 3, Annexure II of the AD Rules, cumulation is not permitted between 2 separate investigations.
- DI has been granted excessive amount of confidentiality. The data considered for Constructed Normal Value has not been provided.

- It is stated that despite the clarification issued by the Department of Revenue, the wording of Section 9A (5) is clear that the duty cannot be effective for more than 5 years. Assuming but not conceding that the explanation provided in the Disclosure Report is valid, it would only mean that the SSR investigation can extend beyond 5 years, however it would not allow or permit the extension of original duty beyond 5 years.

### **All India Rubber Industries Association (AIRIA)**

AIRIA, in brief, has contended as follows:

- The domestic Industry is not suffering from any injury nor is there any likelihood of recurrence of injury and therefore no question of injury arises. The domestic industry has posted significant growths on almost all of the injury parameters which includes production, domestic sales, capacity utilization, installed capacity, domestic profits, ROCE, NSR for all the 3 products.
- The disclosure report fails to provide the distinction between the injury caused due to increase in imports and injury caused due to dumped imports of PX 13. The domestic industry is claiming injury for the same period but in 2 different forums for the same product. Any imposition of Safeguard duty by the DG Safeguards would invariably cover the injury caused due to dumped imports as the standard of injury in a Safeguard investigation is at a much higher level than in the AD investigation.
- It is due to lack of capacity with the domestic industry that the user industry has been forced to import. Thus the imports made by the user industry are made out of compulsion and not by a choice.
- Reliance on IBIS data by the DGAD is erroneous.

### **Domestic industry**

The domestic industry, in brief, has contended as follows in response to the Disclosure statement:

- Referring to the dumping margin in respect of imports of MOR and TDQ from EU, it has contended that Constructed normal value as the basis of normal value is inconsistent with the law when there is evidence of normal value on the basis of price prevailing in EU available on record.
- It has been further contended that negative dumping margin in any case is insufficient to revoke anti-dumping duties. Significant price difference between EU and China during current period clearly shows likelihood of dumping of MOR in case of cessation of anti-dumping duty.
- The export price of MOR from Europe may be compared with the cost of production of the domestic industry. It would be seen that in the event of cessation of anti-

dumping duty on EU, the profitability of the domestic industry shall decline significantly. Consequently, return on investment and cash profits shall also decline.

- Use of MOR has been banned in Europe. Therefore, the only purpose of production of this product in Europe is to export to various countries. Under the circumstances, cessation of current anti dumping duties shall lead to significant injury to the domestic industry.
- The domestic industry provided evidence showing existence of capacities in Europe.
- Price adjustments in case of Solutia should have been made for commission/ profit of the Indian office, as M/s Solutia is selling through an Indian agent or through its own office in India.
- Non injurious price may kindly be reviewed
- Form of duty: the anti dumping duty may be imposed only on fixed amount basis.
- Difference in technology: It has contended that there is no dispute that the technology adopted by Solutia is different from the technology adopted by the domestic industry. However, difference in technology and development in technology are two different factors altogether. It has further contended that it has an approved international technology for the production of the product under consideration, which is being employed for the last several years. Further, there are other plants in the world with this technology.

#### **Examination by the Authority**

- The Authority has noted the request for correction of name of the company from Solutia Inc. to Solutia Europe BVBA / SPRL and has carried out the concomitant changes.
- The Authority notes that the instant SSR investigation was, *inter alia*, initiated in accordance with Section 9 A (5) of the Act, read with Rule 23 of the AD Rules, to review the need for continued imposition of the duties in force in respect of the subject goods and to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. Rule 23 of the AD Rules enables the Authority not only to examine the need for continuation of the anti-dumping duty but also to determine the quantum thereof that needs to be recommended based on information/data available on record. Thus, the contention that there is no legal authority to change, alter or modify the level of duties already imposed is devoid of any merit and hence is rejected.
- As regards the allegation that there has been no analysis of the effect of increase in unit cost due to increase in capacity and decline in exports; the Authority notes that the same is devoid of any merit as the information/data of the domestic industry as verified has been considered for undertaking the analysis.



- As regards the issue of surplus capacity in EU as claimed by the domestic industry; in absence of proper evidence, the same has not been considered for the purpose of the present determination.
- The Authority notes that the allegation regarding the contradictory figures of injury margin in Para 54 *vis a vis* para 102 are devoid of facts as the denominator in the two figures is different, viz the NIP and the Landed value.
- As regards the issue of likelihood of increase in exports from EU; the Authority notes that despite the existence of the anti-dumping duty, the imports of PX 13 increased marginally over the injury period. More importantly, these imports are at dumped prices and they are undercutting and underselling the prices of the subject goods of the domestic industry. Hence, the Authority notes that cessation of the anti-dumping duty, is likely to lead to continuation of dumping and consequent injury to the domestic industry.
- The Authority reiterates that AD Rules do not require that the domestic industry must meet the demand of the user industry for getting redressal to its injury on account of dumping.
- As regards the issue of dual remedy, the Authority reiterates that no dual remedy is sought to be provided for the same situation on account of Anti-dumping duty or the Safeguard duty. However, the two may co-exist on merits of each case, provided the relevant parameters as are enshrined in the respective laws are satisfied. It is further noted that no Safeguard duty is in force on imports of PX 13 from the subject countries.
- As regards imports effected under the Advance licences/authorisation; the Authority reiterates that an Advance license/authorisation holder has a choice either to import the inputs on a duty free basis or procure the same from indigenous sources by using the mechanism of Advance release order. Besides, imports under ALS have not been excluded for determining the overall demand.
- As regards confidentiality issue, 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. Besides, the Authority made available non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- As regards the cumulation issue, the Authority reiterates that para 3 of Annexure II of the AD Rules permits cumulation while undertaking the injury analysis in cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, subject to conditions specified therein regarding the de-minimis criteria and that conditions of competition exist between the imported article

and the like domestic articles. As regards the data of CNV, the CNV is based, *inter alia*, on the data of the domestic industry. Besides, the importers are not in a position to assist the Authority in computing the normal value. This view has also been buttressed by the CESTAT in its decision of *AIIGMA v/s. Designated Authority* dated 9.2.2000.

- As regards the computation of Non Injurious Price, the Authority has followed its consistent practice for determination of the same in line with the relevant rules on the subject.
- As regards mis-match in the figures in the closing stock *vis avis* the opening stock; the allegations are devoid of any merit as they are not based on facts because what has been considered is the average stock position and not the closing/or the opening stock.
- The Authority further notes that there need not be injury on account of each and every parameter. More importantly, the Authority in a SSR investigation has to assess whether the cessation of the anti-dumping duty is likely to lead to continuation or recurrence of dumping and consequent injury or not.
- As regards the reliance on IBIS data; the Authority on facts of the case found the same as more credible and hence has accepted the same for its analysis.
- As regards the domestic industry' claim regarding dumping margin in respect of imports of MOR from EU on the basis of Constructed normal value, the Authority notes that merely \*\*\* tons were sold by the domestic industry to EU during the POI and hence the same could not be considered as representative data for determination of the normal value. Hence, the Authority was constrained to proceed on the basis of construction of the normal value as none of the exporters from EU cooperated in this investigation.
- However, as regards TDQ, the Authority notes that the domestic industry has sold \*\*\* MT of TDQ to EU during the POI. The volumes sold to EU during the POI are representative in nature and could be relied upon to determine the Normal value. The Authority finds merit in the contention of the domestic industry that their sales of the subject goods to EU would indeed reflect the prices prevailing of the subject goods in EU during the POI. In fact, the prices in the EU would be higher as these would include inland freight, commissions, and profits of the sellers in EU. Notwithstanding these additional costs, the normal value in EU could be determined at least on the basis of their selling prices which are on CIF basis.
- As regards the export price of MOR from Europe to be compared with the cost of production of the domestic industry; the Authority notes that it has already compared the landed value with the NIP and NSR for the domestic industry and found a negative price undercutting as well as negative price underselling. Besides, sufficient evidence has not been provided by the domestic industry to demonstrate likelihood of recurrence of dumping and consequent injury to them in the event of cessation of anti-dumping duty in force. The Authority further notes that it has not been substantiated by any evidence that use of MOR has been banned in Europe.

- As regards the domestic industry's claim that it has provided evidence showing existence of capacities in Europe; the same is not correct and has not been substantiated at all.
- As regards the price adjustments in case of Solutia, the Authority notes that it has relied upon the verified data of the company and further that the exports have been directly made by the company to its customers.
- Apart from the above, the Authority has considered all the issues have been raised by the interested parties that were found pertinent to this case, in the appropriate sections of these findings.

**C. Product under consideration and Like article**

**Submissions made by NOCIL**

6. The domestic industry has made following submissions
  - (i) The product under investigation in the original investigation and present review is Rubber Chemicals (MOR, PX-13 and TDQ). These rubber chemicals are extensively used in treating natural rubber, synthetic rubber (SBR, Butadiene Rubber, Nitrile Rubber, Carboxylated Rubber) and other synthetic rubber based compounds used for manufacture of various rubber products.
  - (ii) The Authority in the original investigations noted that there is no dedicated ITC HS Classification for the subject goods and products under consideration are classified under various subheadings of customs classification heads 38.12.10, 38.12.20 and 38.12.30 as well as under 29.34.20 and 29.25.20 (at six digit levels) of the Customs Tariff Act and ITC HS classification. However, the Authority also noted that the products are known by their respective trade names and the chemical descriptions as indicated above.
  - (iii) The goods produced by the domestic industry are like article to the imported product. There is no known difference in product under consideration produced by the Indian industry and subject goods exported from subject countries. The issue of product under consideration and like article was examined in detail by the Designated Authority in the original investigations and it has been held that the imported and domestic products are like article.
  - (iv) Present review investigation being a sunset review investigation, product under consideration remains the same as has been defined in the previous investigations.

**Submissions made by other interested parties**

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

- 7.1 However, M/s Solutia Europe BVBA/SPRL has, *inter alia*, claimed that it has a unique and patented technology to produce the subject goods.

### **Examination by the Authority**

8. The Authority notes that since present review investigation is a Sunset review investigation, product under consideration remains the same as has been defined in the previous investigations. The Authority in its preliminary findings (which was reiterated in its final findings) vide Notification No. 14/13/2004-DGAD dated 8<sup>th</sup> April 2005 held as follows:

*“The products under consideration are three specific rubber chemicals used in manufacture of rubber products, namely: i) Anti-Degradants: PX 13 ii) Accelerators: MOR iii) Antioxidant: TDQ*

*Detailed chemical names of the products are as follows:-*

*MOR: N-oxydiethylene-2-benzothiazole sulphenamide (2-Morpholinothiobenothiazole) (MBS). MOR Mercapto benzothiazole disulphide is reacted with morpholine and sodium hypochlorite. The reaction is carried out in presence of isopropyl alcohol. The product is filtered, washed and extruded to form pellets, which are dried and packed. The isopropyl alcohol is recovered and recycled.*

*PX 13: N-1, 3-dimethyl butyl-N'Phenyl paraphenylenediamine (6 PPD). PX-13 Px- 13 is produced by hydrogenation of a mixture of 4-nitrodiphenylamine and methyl isobutyl ketone in an autoclave at moderately high pressure in presence of a noble metal catalyst. The resulting reaction mass, which contains unreacted ketone, by-products, etc., is filtered to remove the catalyst, which is then recycled. The filtrate is distilled to remove low boilers and is then flaked to give the finished product. The low boilers are redistilled to recover the unreacted ketone. Catalyst is recycled until the activity is reduced. It is then removed from the system.*

*TDQ: Polymerized 2,2, 4-Trimethyl-1, 2 di-hydroquinoline. TDQ Acetone and aniline are condensed at high temperature in presence of an acid catalyst. The resultant mass is then polymerised to the required degree; the excess acid is neutralized with caustic solution and washed with water. The material is then stripped at high temperature under vacuum to recover low boilers. The product is then pastilized and bagged.*

*These rubber chemicals are extensively used in treating natural rubber, synthetic rubber (SBR, Butadiene Rubber, Nitrile Rubber, Carboxylated Rubber) and other synthetic rubber based compounds used for manufacture of various rubber products*

*The Authority notes that there is no dedicated ITC HS Classification for the subject goods and products under consideration are classified under various subheadings of customs classification heads 38.12.10, 38.12.20 and 38.12.30 as well as under 29.34.20 and 29.25.20 (at six digit levels) of the Customs Tariff Act and ITC HS classification. The Delegation of the European Union has also submitted that the European classification of the above products do not conform to the classification used in the European Union. However, the Authority notes that the products are known by their respective trade names and the chemical descriptions as indicated above, Therefore, the Customs and*

*ITC HS classifications shown above are indicative only and are in no way binding on the scope of the present investigation.”*

- 8.1 As regards M/s Solutia Europe BVBA/SPRL claim that it has a unique and patented technology to produce the subject goods, the Authority notes that technology or the process used to manufacture the subject goods is of little significance as long as the resultant product is the same. Besides, for computation of their Dumping margin, their data as verified during the on-the-spot investigation has been accepted and hence any claim of improved technology is automatically addressed.

**D. Scope of the Domestic Industry**

**Submissions made by the domestic industry**

9. The present investigation has been undertaken *suo motu* by the Authority. NOCIL is a major producer of each of the subject rubber chemicals in the Country. As regards the production of subject goods by other producers, no published information is available. The applicant satisfies the requirement of standing within the meaning of the anti dumping rules.

**Submissions made by other interested parties**

10. None of the interest parties have made any submission in respect of “domestic industry”.

**Examination by the authority**

11. Rule 2(b) under the AD Rules provides 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.*

12. In the present review investigation, M/s NOCIL Ltd. has responded to the initiation notification. The Authority also sought details of production of the subject goods from the concerned Excise authorities. The response to the same was received from the O/o Dy. Commissioner of Central Excise, Cochin. As per the information on record, the production of M/s NOCIL as a percentage of total Indian production accounts for 84% in case of PX13, 77% in case of TDQ and 86% in case of MOR. Thus, the Authority notes that M/s NOCIL Ltd. is a major producer of the subject goods in India as in total Indian production of the rubber chemicals under investigation in the instant matter. Therefore, M/s NOCIL Ltd satisfies the requirement of ‘domestic industry’ within the meaning of the AD Rules for the subject goods.

13. **Other issues raised by some interested parties**

- It has been contended that in the light of the amendment introduced by the Budget 2011-12 in respect of AD Rules *vide* Notification No. 15/2011-Customs (N.T) dated March 1<sup>st</sup>, 2011, the present proceedings have lapsed, and the present hearing is without the authority of law. It appears that under the said amendment, the power of the Designated Authority has been curtailed inasmuch as the Designated Authority is now bound to pass an order for continuation of Anti-dumping duty before the expiry of the five-year period from the date of imposition of the Anti-dumping Duty.
- It has been contended that as per the order of the Hon'ble Delhi High court in the matter of Indian Metal and Ferro Alloys Ltd V/s Designated Authority, there was no requirement of initiating the investigation on *suo motu* basis.

**Examination by the Authority**

14. The Authority is of the view that the above interpretation of the amendment is not appropriate as proviso to Section 9A (5) of the Customs Tariff Act, *inter alia*, stipulates that where a SSR has been initiated before the expiry of the period of five years but has not come to a conclusion before such expiry, the Central Government may extend the duration of the anti-dumping duty in force pending the outcome of such a review for a further period not exceeding one year.
15. Apparently, the above interpretation of the interested party has emerged because of inadvertent insertion of a comma as highlighted herein below:

*(1B) Notwithstanding anything contained in sub-rule (1) or (1A), any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of **the domestic industry**, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”*

16. The Matter was taken up with the Department of Revenue, which has issued a corrigendum dated 6<sup>th</sup> April 2011 that reads as follows:

*In the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 15/2011-Customs (N.T), dated the 1st March, 2011 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 154 (E), dated the 1st March, 2011, in sub paragraph (1B) in paragraph (4), for the words “on behalf of the domestic industry,”, read “on behalf of the domestic industry”.*

In view of the corrigendum, the contention raised by the interested party is automatically addressed.

17. A regards the contention regarding the order of the Hon'ble Delhi High court in the matter of Indian Metal and Ferro Alloys Ltd v/s Designated Authority, the Authority is of the view that it has rightly initiated this SSR investigation considering the relevant rules and regulations on the subject and is in line with the decision of the Hon'ble High Court.

**E. Dumping Determination**

**Normal Value**

**Submissions made by the Domestic Industry**

18. The domestic industry has contended as follows:
- 18.1 The preferred methodology for the determination of Normal Value is the selling price of the exporter concerned for sale in the domestic market. However, such information is available with the exporters concerned only. There is no public information available in this regard. It is not the argument of any interested party that such selling price of the foreign producers in their domestic market was readily available and the petitioner chose to ignore the same. It is also relevant to point out that the petitioner can be expected to provide such information as is reasonably available to the petitioner. In fact, in a large number of cases, the Designated Authority has considered the prices published in trade journals. Such prices need not be the prices of the domestic producers. Such prices generally are the prices at which the product has been purchased for consumption in the exporting countries.
- 18.2 It would thus be seen that the Rules emphasis on 'the price when meant for consumption' and the same must be distinguished with 'the price at which goods has been sold'. "In the original investigations, the Designated Authority has determined the normal value of the subject goods in the subject market economy countries on the basis of the data available on the selling price as well as the cost of production of the subject goods in the subject counties after allowing the admissible adjustments to arrive at ex-works prices. Since the present application is for the review of the existing measures, petitioner requests the Authority to consider the same methodology to calculate the normal value for the purposes of market economy countries.
- 18.3 The petitioner has adopted its export price to Europe to determine the price at which Rubber Chemicals are being sold for consumption in European market.
- 18.4 Petitioner submits that Rubber Chemicals constitutes specialty chemicals and have extremely limited market globally. These are not widely traded commodities, nor the prices of these products are published/tracked by trade journals. In fact, globally there are very few producers (probably below 10), who sell the product directly to the customers (at least tyre segments). Therefore, the price at which the European producers have sold the product in the domestic market is not at all publicly available. In fact, even the responding exporter has considered its selling price as an extremely business sensitive information and has provided the same on confidential basis. In fact, so sensitive is the information relating to the business operations in the present

products that the responding exporter has refused to divulge any information with regard to its capacity, production, sales, inventories etc in the public version of its questionnaire response.

- 18.5 In view of the above, and considering that the actual information is in possession of the foreign producers, the Authority should consider the evidence of the price at which goods have been sold for consumption in the domestic market of Europe for the determination of normal value. Such a methodology is not only legally permissible, but is also appropriate. Notwithstanding, given the argument/objection raised by the interested parties, the Authority may kindly determine normal value on the basis of estimates of cost of production for the purpose of proposed determination.
- 18.6 It was suggested by ATMA that the prices from Trade Journal could have been adopted. The petitioner submitted that there is no Trade Journal which reports prices of these products. If such prices were indeed available; nothing prevents ATMA from providing this information to the Designated Authority. Anti-dumping investigations cannot be seen as an investigation where only the domestic industry would provide information and evidence and all other parties' role would be restricted to mere rejoinder. Nothing prevented ATMA from providing relevant information, if ATMA considers that such information is readily available.

#### **Submissions made by other interested parties**

19. These interested parties have, *inter alia*, contended as follows:

As per the petition of the Domestic industry, the Normal Value for all the subject market economy countries i.e. EU, Taiwan and USA is based on the export price of the DI which is flawed and is against the Anti-dumping Agreement and the AD Rules. Thus, the very basis of the petition that dumping is taking place from the subject countries has been wrongly arrived by the Domestic industry and the reliance of the Authority on such a unlawful determination is "insufficient" within the purview of Indian AD Act and Rules and the WTO Agreement.

#### **Examination by the Authority**

20. As regards the issue of Constructed Normal Value is concerned, the Authority notes that this investigation was initiated on *suo motu* basis.
- 20.1 However, as regards ATMA's contention that refer to the submissions of the domestic industry, the Authority notes that the domestic industry is required to provide information that is reasonably available to it, *inter alia*, on prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export (or, where appropriate, information on the prices at which the product is sold from the country or countries of origin or export to a third country or countries, or on the constructed value of the product) and information on export prices or, where appropriate, on the prices at which the product is first resold to an independent buyer in the territory of the importing Member.



- 20.2 Besides, the other interested parties are expected to file their questionnaires responses and thereby assist the Authority reach an impartial and objective findings. The Authority addressed all known interested parties to make available the relevant information. In the present investigation, wherever, the interested parties have submitted their actual data and have cooperated with the Authority; after verification of the information/data, the same have been adopted by the Authority for the purposes of determination of dumping, if any, by the concerned respondents, as would be evident from the following.

**PX-13**

M/s Solutia Europe BVBA/SPRL, Exporter/producer from EU

- 20.3 M/s Solutia Europe BVBA/SPRL has provided information on transaction-wise details of its sales of the subject goods in home market. For the purpose of determination of normal value, the domestic sales of the goods produced by the company have been taken into consideration. It was seen that the domestic sales could be adopted for determination of Normal value as it passed the sufficiency and the ordinary course of trade tests. The adjustments claimed concerning credit, inland freight and commission etc have been allowed as verified during the on-the-spot verification. After the adjustments, the Normal value has been determined as US\$ \*\*\* per Kg.

All other exporters/producers from EU

- 20.4 For the non-cooperative exporters from the European Union, the Authority has adopted the constructed Normal value based on the Normal Value determined for the co-operating exporter from EU, as the same represents the prices of the subject goods prevailing in the domestic market of EU. Accordingly, the Normal value so determined works out as US\$ \*\*\* per Kg.

All exporters/producers from Chinese Taipei

- 20.5 None of the exporters/producers from Chinese Taipei has co-operated with the Authority in this investigation. In view of non-cooperation by the exporters/producers in Chinese Taipei, the Authority has considered 'facts available' on record. The Authority notes that the claim of the domestic industry is based on its export price to EU as the prices of the subject goods prevailing in the domestic market of Chinese Taipei.
- 20.6 However, the Authority has constructed the Normal value for Chinese Taipei considering the international prices of major raw materials, consumption factor of domestic industry and conversion cost of domestic industry, the Normal value so determined works out as US\$ \*\*\* per Kg. The Authority has adopted the constructed Normal value so determined in the instant matter.

**MOR**

All exporters/producers from EU

- 20.7 None of the exporters/producers in EU has cooperated with the Authority in this investigation. In view of non-cooperation by the exporters/producers in EU, the Authority has considered ‘facts available’ on record. The Authority notes that the claim of the domestic industry is based on its export price to EU as the prices of subject goods prevailing in the domestic market of EU, which is US \$ \*\*\*.
- 20.8 However, the Authority considers that the claim of the domestic industry is not justified as the volume sold by it to EU is not representative. Thus, the Normal value for EU has been constructed considering international prices of the major raw materials, consumption factor of domestic industry and conversion cost of domestic industry, the Normal value so determined works out as US\$ \*\*\* per Kg.

All exporters/producers from USA

- 20.9 None of the exporters/producers in USA has co-operated with the Authority in this investigation. In view of non-cooperation by the exporters/producers in USA, the Authority has considered ‘facts available’ on record. The Authority notes that the domestic industry has requested to adopt its export price to EU as the normal value in USA.
- 20.10 However, the Authority has not acceded to their request and instead constructed the Normal value for USA considering the international prices of major raw materials, consumption factor of domestic industry and conversion cost of domestic industry, the Normal value so determined works out as US\$ \*\*\* per Kg. The Authority has adopted the same as constructed Normal value in the instant matter.

All exporters/producers from China PR

- 20.11 As no producer from China has co-operated in this investigation and provided any information for rebutting the non-market treatment as per para 8(2) of Annexure 1 of the AD Rules. Therefore, the presumption of non-market economy as per para 8(2) of Annexure 1 of the AD Rules remains un-rebutted. The Authority, therefore, has determined the Normal value in accordance with para 7 Annexure I of the AD Rules. In absence of sufficient information on record regarding the other methods as are enshrined in para 7 of Annexure I of the AD Rules, the Authority has determined the Normal value by adopting the method “ any other reasonable basis”.
- 20.12 The Authority has therefore constructed the Normal value for China PR considering the international prices of major raw materials, consumption factor of domestic industry and conversion cost of domestic industry, the Normal value so determined works out as US\$ \*\*\* per Kg.

**TDQ**

All exporters/producers from EU

- 20.13 None of the exporters/producers in EU has co-operated with the Authority in this investigation. In view of non-cooperation by the exporters/producers in EU, the

Authority has considered ‘facts available’ on record. The Authority notes that the claim of the domestic industry is based on its export price to EU as the prices of subject goods prevailing in the domestic market of EU, which is US\$ \*\*\* per Kg.

- 20.14 The Authority notes that the domestic industry has sold \*\*\* MT of TDQ to EU during the POI. The Authority has noted the contention of the domestic industry that their sales of the subject goods to EU reflects the prices prevailing of the subject goods in EU during the POI. The Authority finds merit in the same as the volumes sold to EU during the POI are representative in nature and could be relied upon to determine the Normal value. In fact, the prices in the EU would be higher as these would include inland freight, commissions, and profits of the sellers in EU. Notwithstanding these additional costs, the normal value in EU could be determined at least on the basis of their selling prices which are on CIF basis which is US\$ \*\*\* per Kg. Thus, the Authority has adopted the same as the Normal value in the instant matter.

#### All exporters/producers from Chinese Taipei

- 20.15 None of the exporters/producers in Chinese Taipei has co-operated with the Authority in this investigation. In view of non-cooperation by the exporters/producers in Chinese Taipei, the Authority has considered ‘facts available’ on record. The Authority notes that the domestic industry has requested to adopt its export price to EU as the normal value in Chinese Taipei.
- 20.16 However, the Authority has not acceded to the request and instead constructed the Normal value for Chinese Taipei considering the international prices of major raw materials, consumption factor of domestic industry and conversion cost of domestic industry, the Normal value so determined works out as US\$ \*\*\* per Kg. The Authority has adopted the constructed Normal value in the instant matter.

#### Export Price

21. The Authority notes that except M/s Solutia Europe BVBA/SPRL, for PX 13, none of the exporters / producers from subject territory (EU) and other subject countries for the subject goods has co-operated with the Authority in this investigation. In view of non-cooperation by the exporters / producers, the Authority has considered the ‘Export price’ on the basis of ‘facts available’ on record.
- 21.1 In view of non-cooperation by other foreign exporters / producers, the Authority considered whether import statistics provided by IBIS and DGCI&S could be used to determine the Export price of the subject goods during the relevant period.
- 21.2 It is seen that the domestic industry has claimed volume, value and import price on the basis of information provided by IBIS. The Authority also called for the data from DGCI&S. The data from the two sources was corroborated and volume and value of imports as reported were compared. Its analysis revealed that the volume of imports as reported by the DGCI&S during the POI were substantially lower than the volume of imports reported by the IBIS. In view of the same, the Authority has adopted the import data as reported by IBIS in order to determine volume, value and

import price of imports for the purpose of present determination as the volume is much higher in the IBIS data, while the price per unit is almost similar in both the sources.

- 21.3 Thus, the Authority has determined weighted average import price for the products under consideration on the basis of information provided by IBIS. It is seen that the import prices as reported in the IBIS are on CIF basis. Therefore, price adjustments have been made with regard to ocean & inland freight, port expenses, marine insurance and commission. For non-cooperating foreign producers, the Authority has made price adjustments on the basis of best available information in order to arrive at ex-factory export price from subject countries.

### **PX13**

#### **M/s Solutia Europe BVBA/SPRL, Exporter/producer from EU**

22. M/s Solutia Europe BVBA/SPRL provided transaction-wise information on export sales to India. For determination of its net export price, the expenses incurred by M/s Solutia Europe BVBA/SPRL, on account of inland freight, overseas freight & insurance, credit and bank expenses, as verified have been adjusted. By making these deductions, the net export price has been calculated as US\$ \*\*\* per Kg.

#### **Export Price for Non-cooperating Exporters from EU**

23. For Non-cooperating exporters, the net export price has been calculated on the basis of lowest value export transactions of the co-operating producer/exporter. For non-cooperating exporter, the net export price has been calculated as US\$ \*\*\* per Kg.

#### **All exporters/producers from Chinese Taipei**

- 23.1 None of the exporters / producers from Chinese Taipei has responded to the initiation notification and provided information in the form and manner prescribed. Thus, none of exporters / producers have provided any other information that can be used for determination of export price.
- 23.2 The Authority notes that the information made available by IBIS and DGCI&S does not show imports of PX 13 from Chinese Taipei. Even transaction-wise data made available by IBIS and DGCI&S does not show imports of PX 13 during the POI and immediate previous two years. In absence of import data of PX 13 during the POI, export price could not be determined. Efforts were also made to trace the export price of PX 13 from Chinese Taipei to other countries. However, no such data was available from any source.
- 23.3 The domestic industry has claimed that the determination of export price for Chinese Taipei should be made on the basis of weighted average import price of PX 13 into India. However, the Authority notes that in absence of information on imports of subject goods from Chinese Taipei and in absence of any co-operation from the exporters / producers, it is difficult to determine the 'Export price' on a credible basis.

The export price determination on weighted average basis as suggested by the domestic industry may be misleading.

- 23.4 In view of no exports in the period of investigation, the Authority notes that there is no continued dumping of the product from Chinese Taipei.

### MOR

#### All exporters/producers from EU, USA and China PR

- 23.5 The Authority notes that none of the exporters / producers of MOR from EU, USA and China PR has responded to the initiation notification and provided information in the form and manner prescribed. Thus, none of exporters / producers has provided any information that can be used for determination of export price from the subject countries. In view of non-cooperation by the exporters / producers in EU, USA and China PR, the Authority has considered determined the 'Export Price' on the basis of 'facts available' on record.
- 23.6 The Authority notes that the information made available by IBIS shows imports of MOR as 1642 MT from EU and 683 MT from China PR. However, the information made available by IBIS does not show imports of MOR from USA. Even transaction-wise data made available by DGCI&S does not show exports from USA.
- 23.7 The domestic industry has claimed determination of export price from USA on the basis of weighted average import price of MOR into India. However, in absence of any co-operation from the exporters / producers and absence of any imports of MOR during the POI from USA; the Authority notes that, in absence of information on imports of subject goods (MOR) from USA, it is difficult to determine the 'Export price' on a credible basis. The export price determination on the basis of weighted average import price of MOR into India as suggested by the domestic industry may be misleading.
- 23.8 In view of the above, the Authority notes that there is no continued dumping of the MOR from USA.
- 23.9 For determination of 'Export price' from EU and China PR, all reported transactions have been taken into account and the export price has been calculated on weighted average basis. To calculate the net export price, expenses on internal freight, ocean freight and insurance, port charges and commission have been deducted. By this method, the net export price has been calculated as under:

Particulars	Unit	European Union	USA	China PR
Import volume	MT	1,642		683
Import value	Rs. Lacs	3,144.61		999.96
CIF import price	Rs./Kg	191.56		146.34
Exchange rate	Rs./US\$	48.30		48.30
CIF export price in US\$	US\$/Kg	3.97		3.03
Price adjustments	US\$/Kg	0.23		0.22

(total)			
Ex-factory export price	US\$/Kg	3.74	2.81

## **TDQ**

### All exporters/producers from EU and Chinese Taipei

- 23.10 The Authority notes that none of the exporters / producers of TDQ from EU and Chinese Taipei has responded to the initiation notification and provided information in the form and manner prescribed. Thus, none of the exporters / producers has provided any other information that can be used for determination of export price. In view of non-cooperation by the exporters / producers in EU and Chinese Taipei, the Authority has considered information on the basis of ‘facts available’ on record.
- 23.11 The Authority notes that the information made available by IBIS shows imports of 581 MT from EU. However, the information made available by IBIS does not show imports of TDQ from Chinese Taipei. Even transaction-wise data made available by DGC&S does not show exports from Chinese Taipei.
- 23.12 The domestic industry has claimed determination of export price from Chinese Taipei on the basis of weighted average import price of TDQ into India. However, in absence of any co-operation from exporters / producers and absence of any imports of TDQ during the POI and in absence of information on imports of TDQ from Chinese Taipei, it is difficult to determine the ‘Export price’ on a credible basis. The export price determination on the basis of weighted average import price of TDQ into India as suggested by the domestic industry may be misleading.
- 23.13 In view the above, the Authority notes that there is no continued dumping of the TDQ from Chinese Taipei.
- 23.14 For determination of export price from EU, all the reported transactions have been taken into account and export price has been calculated on weighted average basis. To calculate the net export price, expenses on inland freight, ocean freight and insurance, port charges and commission have been deducted. Thus, the net export price has been worked out as under:

Particulars	Unit	European Union
Import volume	MT	581
Import value	Rs. Lacs	525.44
CIF import price	Rs./Kg	90.45
Exchange rate	Rs./US\$	48.3
CIF export price in US\$	US\$/Kg	1.87
Price adjustments (total)	US\$/Kg	0.14
Ex-factory export price	US\$/Kg	1.74

## **F. Dumping Margin**

24. On the basis of the Normal values and net Export prices so determined at ex-factory level; the dumping margin during the POI for all exporters/producers from EU has been determined as follows:

**PX 13**

Sr. No.	Exporter	Country	Dumping Margin (US\$/Kg.)	Dumping Margin (%)
1	M/s Solutia Europe BVBA/SPRL	EU	***	20-25%
2	All other exporters/producers from EU except as mentioned above	EU	***	30-35%
3	All exporters/ producers from Chinese Taipei	Chinese Taipei	-	-

**MOR**

Sr. No.	Exporter	Country	Dumping Margin (US\$/Kg.)	Dumping Margin (%)
1	All exporters/ producers from EU	EU	Negative	Negative
2	All exporters/ producers from China PR	China PR	***	25-30%
3	All exporters/ producers from USA	USA	-	-

**TDQ**

Sr. No.	Exporter	Country	Dumping Margin (US\$/Kg.)	Dumping Margin (%)
1	All exporters/ producers from EU	EU	***	15-20%
2	All exporters/ producers from Chinese Taipei	Chinese Taipei	-	-

**Continuation or recurrence of dumping:**

Submissions made by the domestic industry:

25. The domestic industry has, *inter alia*, contended as follows:

**PX-13**

1. Dumping margin determined in the present investigation is not only above *de minimis* criteria but also significant. This is the situation when the Anti-dumping duty was in existence.
2. In the previously concluded investigation also, the Authority found significant dumping margin and concluded the investigation with the imposition of the antidumping duty on the imports of the subject goods from the subject countries. In spite of Anti-dumping duty in existence, the dumping from the subject countries has continued to be significant.
3. The prices prevailing in Indian market are quite attractive for the foreign producers to export significant volumes, in case anti dumping duty is revoked. The price undercutting is significantly positive even at the current level of anti dumping duties. The petitioner has calculated price undercutting without Anti-dumping duty which comes out to be significantly positive clearly showing that should the present anti dumping duties be revoked, the price attractiveness of Indian market would further increase for the foreign producers which would result in further increase in imports at dumped prices.
4. Considering the demand with the capacity in Europe, it is obvious that there is huge surplus capacity in Europe over demand. In the event of revocation of anti-dumping duty, these exporters are likely to divert huge volume of dumped exports to large and growing market in India thereby leading to continuation of dumping. The evidences as to the excess capacities have been provided along with the submissions filed.

### **MOR**

1. The price undercutting is positive even at the current level of anti-dumping duties. Should the present anti dumping duties be revoked, the price attractiveness of Indian market would further increase for the foreign producers and the Indian consumers.
2. Exporters in the subject countries have built capacities far in excess of their domestic demand. In the event of revocation of anti-dumping duty, these exporters are likely to divert huge volume of dumped exports to large and growing market in India thereby leading to continuation of dumping.
3. In the previously concluded investigation also, the Authority found significant dumping margin and concluded the investigation with the imposition of the anti-dumping duty on the imports of the subject goods from the subject countries. The imports from the subject countries have reduced due to anti-dumping duty in existence. In the event of revocation of anti-dumping duty these exporters are likely to resort to dumping, owing to surplus capacities and large Indian market.

### **TDQ**

1. The price undercutting is positive even at the current level of anti-dumping duties. Should the present anti-dumping duties be revoked, the price attractiveness of



Indian market would further increase for the foreign producers and the Indian consumers.

2. Exporters in the subject countries have built capacities far in excess of their domestic demand. In the event of revocation of anti-dumping duty, these exporters are likely to divert huge volume of dumped exports to large and growing market in India thereby leading to continuation of dumping.
3. In the previously concluded investigation also, the Authority found significant dumping margin and concluded the investigation with the imposition of the anti-dumping duty on the imports of the subject goods from the subject countries. The imports from the subject countries have reduced due to anti-dumping duty in existence. In the event of revocation of anti-dumping duty these exporters are likely to resort to dumping, owing to surplus capacities available with them and large Indian market

#### **Submissions made by ATMA**

26. ATMA has contended that there is no case for recurrence of dumping and injury and hence the SSR investigation should be terminated. It has further contended that:
  - The claim of confidentiality by domestic industry is unwarranted.

#### **Examination by the Authority**

27. The Authority notes that 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.

The Authority notes the following in respect of the subject goods:

#### **PX 13**

#### **EU**

- 27.1 The Authority notes that the information provided by M/s Solutia Europe BVBA/SPRL shows significant dumping margin in respect of PX 13 imports from EU. The Authority therefore notes that there is continued dumping of the product from EU and thus there is likelihood of continuance of dumping of PX 13 from EU in case the anti-dumping duty is allowed to expire.

#### **Chinese Taipei**

- 27.2 In view of no exports of PX 13 from Chinese Taipei in the period of investigation and last two years, the Authority notes that there is no case of continued dumping of the

product from Chinese Taipei. Further, no positive information/evidence has been submitted by any interested party to demonstrate the likelihood of recurrence of dumping from Chinese Taipei.

### **MOR**

#### **EU**

- 27.3 The information made available by IBIS shows significant imports of 1642 MT from EU. The Authority notes that although the imports of MOR from EU are significant, yet none of the exporters / producers of MOR from EU has responded to the initiation notification and provided information in the form and manner prescribed.
- 27.4 The Authority notes that the dumping margin from EU during the POI is negative, thus there is no case of continuation of dumping in case the anti-dumping duty is allowed to expire. The Authority further notes that sufficient evidence is not available on record to demonstrate the likelihood of recurrence of dumping from EU in the event the anti-dumping duties are allowed to expire.

### **China PR**

- 27.5 The Authority notes that none of the exporters / producers of MOR from China PR has responded to the initiation notification and provided information in the form and manner prescribed. However, the Authority notes that the information made available by IBIS shows imports of MOR as 683 MT from China PR. The Authority notes that there is a significant dumping margin in respect of exports of MOR from China PR and thus the Authority is of the view of that there is likelihood of continuance of dumping of MOR from China PR if the anti-dumping duty is allowed to expire.

### **USA**

- 27.6 It is seen that there have been no exports of MOR from USA during the period of investigation and previous year. Thus, the Authority notes that there is no continued dumping of the product from USA. Further, sufficient evidence has not been brought on record by any interested party before the Authority to demonstrate the likelihood of recurrence of dumping from USA if the anti-dumping duty is allowed to expire.

### **TDQ**

#### **EU**

- 27.7 The information made available by IBIS shows significant imports of 581 MT from EU. The Authority notes that although the imports of TDQ from EU are significant, none of the exporters / producers of TDQ from EU has responded to the initiation notification and provided information in the form and manner prescribed.
- 27.8 The Authority notes that dumping margin from EU is significant during the POI and hence, there is likelihood of continued dumping of the product from EU in case the antidumping duty in force is allowed to expire.

## **Chinese Taipei**

- 27.9 There have been no current exports of PX 13 from Chinese Taipei in the period of investigation and last two years. The Authority therefore notes that there is no case of likelihood of continuation of dumping of the product from Chinese Taipei. Further, sufficient evidence is not available on record to demonstrate that there is likelihood of recurrence of dumping from Chinese Taipei in case the anti-dumping duty is allowed to expire.

## **G. Injury**

### **Views of Domestic Industry**

28. The submissions made by the domestic industry with regard to injury and causal link, in brief, are as follows:
- a) Imports of the products under consideration have continued. In fact, the volumes have increased;
  - b) Imports of the products under consideration are undercutting the prices of the domestic industry in the market.
  - c) Landed price of imports for each of the products under consideration are below the non injurious price of the respective products under consideration.
  - d) Even when performance of the domestic industry has not deteriorated, the same is due to imposition of anti dumping duties. Further, performance of the domestic industry could improve further, but for dumped imports in the market. Further, performance has remained sub-optimal in view of continued presence of dumped imports.
  - e) The domestic industry has not been able to improve its market share to the extent it could in the absence of dumped imports.
  - f) The increase in imports is primarily the increase in dumped imports and the imports from the third countries are at higher prices therefore not causing injury.
  - g) Imports of TDQ and MOR increased further even beyond the levels of original case. Imports of PX-13 have declined when compared with previous case only because cost of dumped imports from other dumping countries (i.e., Korea) was low.
  - h) Volume of production lost by the domestic industry in the three products, over the years has increased.
  - i) The price undercutting without anti-dumping duty is significantly high. The domestic industry will be forced to reduce the prices to significant extent in the event of cessation of anti-dumping duty.
  - j) The petitioner has lost significant market share over the years. Should the domestic industry match the import price, it would suffer financial losses, negative cash profit, negative return on investment and negative profit before interest and depreciation.
  - k) Since imports are cheaper even after adding the anti-dumping duty, the consumers have resorted to imports. There is no force majeure reason for these imports.

### **Submissions made by other interested parties**

29. Submissions have been filed by M/s Solutia Europe BVBA/SPRL and ATMA. There is no response from any other interested parties in the instant matter.

: M/s Solutia Europe BVBA/SPRL, Producer/ exporter from EU

M/s Solutia Europe BVBA/SPRL has, *inter alia*, contended that:

- a. NOCIL has kept considerable information confidential without assigning any proper justification like Production Volume, Capacity & capacity utilization, Sales volume, Number of employees, Profitability in percentage, ROCE in percentage form, Adjustments to export prices etc. the applicant industry has not provided the non-confidential version which has to be an exact replica of their confidential version.
- b. There is complete lack of Causal Link. There is no injury due to imports from EU. The rise in market share of other countries, equal to the sum of decline in Market share of Subject Countries and Domestic Industry, establishes that the injury, if any, is clearly due to large quantity of imports from source of imports other than the subject countries.
- c. For PX-13, all injury factors are showing considerable improvement. All the factors of injury have shown a tremendous improvement in the past few year inspite of being hit by global recession. Therefore, with the markets having improved around the world, there is no case of likelihood of recurrence of injury also.
- d. For the very same POI, the Domestic Industry in their application for mid-term review (Initiation Notification No. 15/21/2010- DGAD) has claimed injury due to PX-13 imports from Korea. Thus, it is apparent that the Domestic Industry is merely playing around with words and figures to establish a case for continuation of duties against imports of PX-13 from EU where none exists. Designated Authority may examine Domestic Industry's application for the MTR claimed injury due to PX-13 imports from Korea as the same is necessary for analyzing and determining attributing factors of the Injury, if any.
- e. The Domestic Industry in its application has stated that the factors suggesting likelihood of recurrence of Injury are price attractiveness of the Indian market and excess production capacity in the subject countries. These statements are made by the Domestic Industry are completely misleading and without any merit or evidence.
- f. The applicant industry has stated that there is no significant change in the technology adopted by them and by others. This contention of the applicant industry is incorrect. There are many major differences in the process of manufacturing PX-13 developed by Solutia Europe BVBA/SPRL which give it a significant comparative advantage over NOCIL. The technology used by NOCIL results into higher cost due to the use of the PNCB route to 4A.

Therefore, the statements and claims made by the Domestic Industry regarding no development in technology in the context of the causal link are completely misleading.

- g. The cumulation of the simultaneous investigations is not borne out from the law as well as from the jurisprudence available on the subject.
- h. The Authority is required to separate the effects of other factors causing injury to the domestic industry. Thus, there is no merit in the submissions of the domestic industry and the Authority is requested to proceed as per law.

### **Submissions made by ATMA**

30. Automotive Tyre Manufacturers Association (ATMA) has, *inter alia*, contended that:
- DI does not have the capacity to meet the demand of the user industry in India for PX 13, TDQ and MOR.
  - The claim of DI for PX 13 is in the nature of Dual remedy which is against the AD Act and Rules - The DI is claiming injury from the import of PX 13 from EU and Taiwan. The DI in respect of same product is also claiming injury against the import from Korea RP in a MTR investigation. The same DI in a Safeguard investigation before DG Safeguards is claiming injury from import of PX 13 from all the exporting countries.
  - DI has not segregated the injury caused due to imports from EU and Chinese Taipei, injury caused due to imports from Korea RP and injury caused due to sudden increase in imports from all sources, including the alleged dumping countries.
  - As per the DI, same imports which are alleged to be dumped have also surged such that they are at the same time causing “serious” injury to the DI. Thus, two distinct factors are alleged to cause injury. Hence for the purposes of the AD investigation, injury on account of increased imports amount to “other factors” which injury should not be attributed to dumping.
  - Market Share:- Import of PX 13 from subject countries has decreased during the injury period. In regards to TDQ, the total import from subject countries is miniscule vis-à-vis imports from other countries. Thus any claim of injury to the DI must be attributed to the imports from other countries and not to the subject countries.
  - Capacity Utilization, Capacity & Production:-There has been an increase in Capacity utilization, Capacity and Production of the DI for PX 13, TDQ & MOR.
  - Any specific assessment on impact of imports on domestic sales is absent from the petition. Thus as per the figures of the DI itself, domestic sales of PX 13 and TDQ has increased thereby negating any injury to the DI.

- The domestic profits for all the products have increased significantly Reference in this regard has been made to CESTAT decision in the Kalyani Steel Ltd. v/s. DA, 2006 (110) ECC 676 para 15.3 case. It has been contended that in view of the observation of CESTAT, it negates the claim of DI in respect of injury being suffered from the dumped imports.
- The DI has made significant returns on capital employed on all the 3 products. it is hereby submitted that the DI is not suffering from any injury.
- The DI in their petition have failed to undertake any analysis on price suppression and depression due to alleged dumped imports. In this respect it is submitted that there has been no price suppression impact on the domestic industry due to alleged dumped imports.
- As per DI, the only parameter on the basis of which they are claiming injury is price undercutting. But even assuming though not conceding that the dumped imports are undercutting the prices of DI, the same has not lead to any price depression/suppression and negative effect on the performance of the DI.
- The claim of material injury by the domestic industry due to surplus production capacity of foreign producers is not valid because the source from which the information is derived is not provided and secondly it has been held by the Hon'ble CESTAT in the matter of *Indian Spinner Association v. Designated Authority* that mere surplus capacity with a exporter cannot lead to a conclusion that there is "imminent danger of material injury" such that the duty must be continued.
- Imports under Advance License Scheme (ALS) should be excluded from 'volume impact' in the injury analysis: -It has been submitted by the ATMA that Domestic Industry has argued that DA should exclude imports made under ALS from the total demand of the user industry. They further submitted that if the imported goods under the ALS are not directly relevant for determining the consumption of the goods in India, then they should also be excluded from the 'volume impact' of imports for injury purpose.
- The DI has extensive duty protection on several products from a large number of countries:- All sources of supply of rubber chemicals to India have been curtailed and this is in spite of the fact that DI does not have the capacity to meet the demand of the user industry in India.
- The change of base year by DI is misleading:- Notification no 15/14/2009-DGAD issued by the DGAD for initiating Sunset Review very clearly provides that injury analysis would cover the years 2006-07, 2007-08, 2008-09 and 2009-10 and wherein year 2006-07 has been considered as a base year. However the DI in their submissions has argued that a longer injury period should be taken into consideration by the Hon'ble DA for assessing injury to the DI. in view of the fact that Hon'ble DA as a practice has never allowed a longer injury period than

provided for in the notification and the same was also not opposed by the DI at the time of initiation, the argument of DI should be rejected

- The figures for MOR are static due to its available substitution:- It is hereby submitted that the user industry in India is gradually shifting to TBBP as a substitute to MOR. The same can also be seen from the static demand of MOR. Therefore it is submitted that the static demand of MOR should be attributed to the available substitute in the form of TBBP and not as an injury to the domestic industry.
- Domestic Industry has paid off all its loans and is also planning for capacity expansion:- It is quite ironical for a company to claim injury when the loans are being paid off and profits are rising over 100% from the base year.
- Imports by Lanxess India from its affiliates should be excluded:- It is hereby submitted that any import made by Lanxess India from its affiliates should be excluded from the overall import volume and injury analysis. The reason for the same is that such imports does not compete with the products of the domestic industry but is consumed by the Indian arm of Lanxess for their supply of various end products to the user industry in India. Thus imports made by Lanxess India from its affiliates should be excluded from the overall volume and the same should apply to the injury analysis as well. This also explains the reason for any increase in imports from EU as these imports are likely made by Lanxess India from its own affiliate.
- DGAD ought not to have suo motu initiated the sunset review investigation:-The present Sunset Review (SSR) has been initiated *suo motu* by DGAD relying on the judgment of the Hon'ble High Court of Delhi in the matter of *Indian Metal & Ferro Alloys Ltd.* wherein the Hon'ble court has made the SSR mandatory. However, it is hereby submitted that interpretation by the DGAD in regards to the above case law is not entirely correct. The Hon'ble High Court has made SSR mandatory but based on a duly substantiated request and following the procedure as provided under Rule 23(3) of the AD rules.

#### **Examination by the Authority**

31. The Authority notes that AD Rules do not require that the domestic industry must meet the demand of the user industry for getting redressal to its injury on account of dumping.
32. As regards the claim of dual remedy, the Authority notes that no dual remedy is sought to be provided for the same situation on account of Anti-dumping duty or the Safeguard duty. However, the two may co-exist on merits of each case, provided the relevant parameters as are enshrined in the respective laws are satisfied.
33. As regards the contention that imports effected under the Advance licences/authorisation should be excluded from the volume analysis; the Authority does not concur with this view, as an Advance license/authorisation holder has a

choice either to import the inputs on a duty free basis or procure the same from indigenous sources by using the mechanism of Advance release order.

34. As regards the cumulation issue, the Authority notes that para 3 of Annexure II of the AD Rules permits cumulation while undertaking the injury analysis in cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, subject to conditions specified therein regarding the *de-minimis* criteria and that conditions of competition exist between the imported article and the like domestic articles.
35. The Authority notes that it has adopted its consistent practice to examine and evaluate the injury data over the injury period. However, in a SSR investigation, the Authority assesses whether the cessation of the duties is likely to lead to continuation or recurrence of dumping and consequent injury.
36. As regards the claim that figures for MOR are static due to its available substitution. The Authority notes that this claim has not been substantiated by the interested party making this claim. The Authority has taken note of the other submissions made by interested parties and have addressed these issues raised at appropriate places.
37. As regards the claim that imports by Lanxess India from its affiliates should be excluded, the Authority does not find merit in the contention as any enterprise has a choice to procure the goods and would do so from a cheaper source, if other conditions are the same.
38. The Authority has examined the injury parameters objectively taking into account the facts and the submissions made by the interested parties as follows:
39. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the Anti Dumping 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.”*

40. 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 products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in



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

41. For the purpose of current injury analysis the Authority has examined the volume and prices effects of imports of the subject goods from the subject countries on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between dumping and injury, if any.

**Volume effect**

**a) Assessment of Demand**

42. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of the domestic industry and other Indian producer have been added to the total imports into India, which has been summarized as under:

**PX-13**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject countries	MT	670	279	651	689
European Union	MT	650	279	651	689
Chinese Taipei	MT	20	-	-	-
Trend	Index	100	42	97	103
Imports from Other countries	MT	4,982	6,581	4,955	9,139
Total Imports	MT	5,652	6,860	5,606	9,828
Trend	Index	100	121	99	174
Sales of Domestic Industry	MT	***	***	***	***
Trend	Index	100	138	133	198
Sales of Other Indian Industry	MT	***	***	***	***
Trend	Index	100	135	156	79
Total Demand	MT	8,753	11,095	10,053	14,311
Trend	Index	100	127	115	163

43. The Authority notes that the demand for PX13 has shown a positive trend and increased significantly in the period of investigation as compared to the base year. The growth in demand during period of investigation over base year was about 63.50 %.

**TDQ**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject	MT	70	308	368	581

countries					
European Union	MT	60	308	368	581
Chinese Taipei	MT	10	-	-	-
Trend	Index	100	440	526	830
Imports from Other countries	MT	1,254	1,199	1,171	1,747
Trend	Index	100	96	93	139
Total Imports	MT	1,325	1,507	1,539	2,328
Trend	Index	100	114	116	176
Sales of Domestic Industry	MT	***	***	***	***
Trend	Index	100	117	98	139
Sales of Other Indian Industry	MT	***	***	***	***
Trend	Index	100	119	160	94
Total Demand	MT	5,042	5,894	6,150	6,782
Trend	Index	100	117	122	135

44. The Authority notes that the demand for TDQ has shown a positive trend and increased significantly in the period of investigation as compared to the base year. The growth in demand during period of investigation over base year was about 34.51%.

### **MOR**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject countries	MT	722	910	527	683
China PR	MT	722	910	527	683
Trend	Index	100	126	73	95
Imports from USA	MT	104	52	-	-
Imports from EU	MT	1,354	1,535	1,334	1,642
Imports from Other countries	MT	42	15	-	-
Total Imports	MT	2,222	2,512	1,861	2,325
Trend	Index	100	113	84	105
Sales of Domestic Industry	MT	***	***	***	***
Trend	Index	100	111	99	97
Sales of Other Indian Industry	MT	***	***	***	***
Trend	Index	100	124	201	116
Total Demand	MT	4,383	4,963	4,420	4,503
Trend	Index	100	113	101	103

The Authority notes that the demand for MOR has remained more or less stagnant over the injury period and increased slightly in the period of investigation as compared to the base year. The growth in demand during period of investigation over base year was about 2.74%.

**b) Import volumes and market share**

45. Annexure-II (ii) of the AD Rules provides that “while examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports either in absolute term or relative to production or consumption in India .....”. Thus, with regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.
46. The table below summarises the factual position with regard to import volumes and market share -

**PX-13**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject countries	MT	670	279	651	689
European Union	MT	650	279	651	689
Chinese Taipei	MT	20	-	-	-
Trend	Index	100	42	97	103
Imports from Other countries	MT	4,982	6,581	4,955	9,139
Total Imports	MT	5,652	6,860	5,606	9,828
Trend	Index	100	121	99	174
Production	MT	***	***	***	***
Trend	Index	100	150	152	174
Demand	MT	8,753	11,095	10,053	14,311
Trend	Index	100	127	115	163
<b>Subject Imports in relation to</b>					
Total Imports	%	11.85	4.07	11.62	7.01
Production	%	15-20	3-8	8-13	8-13
Consumption	%	7.65	2.51	6.48	4.81
Market share of Domestic Industry in demand	%	***	***	***	***
Trend	Index	100	109	116	121

47. From the above, the Authority notes that:

- (i) The volume of imports from EU which declined in 2007-08, increased marginally in 2008-09 and the period of investigation. There were no imports of subject goods from Taiwan after 2006-07.
- (ii) The increase in volume of imports from EU is inspite of existing anti-dumping duties on imports.
- (iii) Imports from subject territory have declined in POI in relation to the total imports, production and consumption in India as compared to the base year.
- (iv) As a result of the decline in market share of imports, the market share of the domestic industry has increased from 100 (index) in base year to 121(index) in the POI.

### **TDQ**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject countries	MT	70	308	368	581
European Union	MT	60	308	368	581
Chinese Taipei	MT	10	-	-	-
Trend	Index	100	440	526	830
Imports from Other countries	MT	1,254	1,199	1,171	1,747
Total Imports	MT	1,325	1,507	1,539	2,328
Trend	Index	100	114	116	176
Production	MT	***	***	***	***
Trend	Index	100	106	107	97
Demand	MT	5,042	5,894	6,150	6,782
Trend	Index	100	117	122	135
<b>Subject Imports in relation to</b>					
Total Imports	%	5.29	20.41	23.89	24.95
Production	%	1-6	3-8	4-9	8-13
Consumption	%	1.39	5.22	5.98	8.57
Market share of Domestic Industry in demand	%	***	***	***	***
Trend	Index	100	100	81	103

48. From the above, the Authority notes that:

- (i) The volume of imports from EU increased significantly in the period of investigation. No imports from Taiwan were reported after 2006-07.
- (ii) The increase in imports is inspite of existing anti-dumping duties on imports from EU.
- (iii) Imports from subject territory have increased significantly in POI in relation to the total imports, production and consumption in India.
- (iv) In spite of increase in share of imports, the share of the domestic industry has increased during POI as compared to the base year.

## **MOR**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject countries	MT	722	910	527	683
China PR	MT	722	910	527	683
Trend	Index	100	126	73	95
Imports from USA	MT	104	52	-	-
Imports from EU	MT	1,354	1,535	1,334	1,642
Imports from Other countries	MT	42	15	-	-
Total Imports	MT	2,222	2,512	1,861	2,325
Trend	Index	100	113	84	105
Production	MT	***	***	***	***
Trend	Index	100	118	101	104
Demand	MT	4,383	4,963	4,420	4,503
Trend	Index	100	113	101	103
<b>Subject Imports in relation to</b>					
Total Imports	%	32.49	36.23	28.32	29.38
Production	%	37-42	40-45	27-32	35-40
Consumption	%	16.47	18.34	11.92	15.17
Market share of Domestic Industry in demand	%	***	***	***	***
Trend	Index	100	98	98	95

49. From the above, the Authority notes that:

- (i) The volume of dumped imports from China PR declined in the period of investigation as compared to the base year.
- (ii) Imports from China PR have declined in POI in relation to the total imports, production and consumption in India as compared to the base year.
- (iii) The share of the domestic industry has declined in POI.

### **H. Price effect of the subject imports on the Domestic Industry**

50. In order to ascertain the price effect of the imports of the subject goods from the subject countries on the domestic industry, the Authority has examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In order to assess the extent of price undercutting, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization was arrived, after deducting all rebates and taxes. The landed value of imports was compared with net

sales realization of the domestic industry, even after considering the anti-dumping measure in force.

### **Price Undercutting**

#### **PX-13**

	Net Sales Realisation of DI (Rs./Kg)	Landed value (Rs./Kg.)		Price Undercutting (Rs./KG) (%)	
		With AD Duty	Without AD duty	With AD Duty	Without AD duty
M/s Solutia Europe BVBA/ SPRL	***	***	***	***	***
				2-7%	13-18%
All other producers/exporters from EU	***	***	***	Negative	***
				Negative	15-20%
All producers/exporters from Taiwan	***	No Imports			

51. From the above, the Authority notes that the landed price of imports of PX 13 from EU is below the net selling price of the domestic industry. The imports from EU are significantly undercutting the selling prices of domestic industry. Even after adding the existing anti-dumping duties to the landed value, the price undercutting is positive in respect of the M/s Solutia Europe BVBA/SPRL from EU.

#### **TDQ**

	Net Sales Realisation of DI (Rs./Kg)	Landed value (Rs./Kg.)		Price Undercutting (Rs./KG) (%)	
		With AD Duty	Without AD duty	With AD Duty	Without AD duty
All producers/exporters from EU	***	114.28	98.49	***	***
				2-7%	15-20%
All producers/exporters from Taiwan	***	No Imports			

52. From the above, the Authority notes that the landed price of imports of TDQ from EU is below the net selling price of the domestic industry. The imports from EU are significantly undercutting the selling prices of domestic industry. Even after adding the existing anti-dumping duties to the landed value, the price undercutting is positive.

#### **MOR**

	Net Sales Realisation of DI (Rs./Kg)	Landed value (Rs./Kg.)		Price Undercutting (Rs./KG) (%)	
		With AD Duty	Without AD duty	With AD Duty	Without AD duty
All producers/exporters from EU	***	232.24	208.57	Negative	***
				Negative	7-12%
All producers/exporters from China PR	***	181.07	159.33	***	***
				20-25%	28-33%
All producers/exporters from USA	***	No Imports			

53. From the above, the Authority notes that the landed price of imports of MOR from the subject countries is below the net selling price of the domestic industry, if we determine it without the anti-dumping duty in force. Thus, the imports from subject countries are significantly undercutting the selling prices of domestic industry. However, after adding the existing anti-dumping duties to the landed value, the price undercutting by imports from China PR is still positive but it becomes negative in the case of EU.

### **Price underselling**

54. The Authority has assessed the extent of price underselling by comparing non-injurious price of the domestic industry with the landed price of imports, as shown below:

### **PX-13**

	Non-injurious Price (Rs./Kg)	Landed value (Rs./Kg.)		Price Underselling (Rs./KG) (%)	
		With AD Duty	Without AD duty	With AD Duty	Without AD duty
M/s Solutia Europe BVBA/SPRL	***	***	***	***	***
				***	***
All other producers/exporters from EU	***	***	***	***	***
				1-6%	15-20%
All producers/exporters from Taiwan	***	No Imports			

55. From the above, the Authority notes that

- a. The landed price of imports of PX 13 from EU is below the non-injurious price (NIP) of the domestic industry. Thus, the imports from EU are significantly underselling the NIP of domestic industry. Even after adding the existing anti-dumping duties to the landed value, the price underselling is positive.
- b. The NIP of the domestic industry is higher than the net selling price of the domestic industry. Thus, the domestic industry is not able to realize fair selling price (i.e., NIP) for the subject goods (PX 13).

**TDQ**

	Non-injurious Price (Rs./Kg)	Landed value (Rs./Kg.)		Price Underselling (Rs./KG) (%)	
		With AD Duty	Without AD duty	With AD Duty	Without AD duty
All producers/exporters from EU	***	114.28	98.49	Negative	***
				Negative	10-15%
All producers/exporters from Taiwan	***	No Imports			

56. From the above, the Authority notes that:

- The landed price of imports of TDQ from EU is below the non-injurious price (NIP) of the domestic industry without considering the anti-dumping duty in force. Thus, the imports from EU are significantly underselling the selling prices of domestic industry. However, after adding the existing anti-dumping duties to the landed value, the price underselling is negative.
- The NIP of the domestic industry is lower than the net selling price of the domestic industry. Thus, the domestic industry is able to realize fair selling price (i.e., NIP) for the subject goods (TDQ) when the duty is in place. However, this could be because of the presence of the anti-dumping duty in force.

**MOR**

	Non-injurious Price (Rs./Kg)	Landed value (Rs./Kg.)		Price Underselling (Rs./KG) (%)	
		With AD Duty	Without AD duty	With AD Duty	Without AD duty



All producers/ exporters from EU	***	232.24	208.57	Negative	Negative
				Negative	Negative
All producers/ exporters from China PR	***	181.07	159.33	***	***
				8-13%	20-25%
All producers/ exporters from USA	***	No Imports			

57. From the above, the Authority notes that
- The landed price of imports of MOR from EU, even with anti-dumping duty in force, is higher than the non-injurious price (NIP) of the domestic industry. The price underselling is therefore negative in respect of MOR as regards the imports from EU are concerned.
  - The landed price of imports of MOR from China PR is below the non-injurious price (NIP) of the domestic industry. Thus, the imports from China PR are significantly underselling the NIP of domestic industry. Even after adding the existing anti-dumping duties to the landed value, the price underselling is positive.
  - The NIP of the domestic industry is lower than the net selling price of the domestic industry. Thus, the domestic industry is able to realize fair selling price (i.e., NIP) for the subject goods (MOR).

### **Price suppression/depression**

58. In order to assess whether the imports from subject countries were suppressing/depressing the prices of the domestic industry, the Authority has compared the cost of production and net selling price of the domestic industry along with the landed price of imports over the injury period, which is given in the following table:

### **PX13**

	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Cost of Production	Rs./Kg	***	***	***	***
Trend	Indexed	100	96	122	109
Net Selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	91	125	114
Profit/Loss	Rs./Kg	***	***	***	***
Trend	Indexed	100	-9	167	207
Average Landed price of imports from EU	Rs./Kg	201.61	167.19	239.20	194.20
Trend	Indexed	100	83.12	118.93	96.5
Average Landed price of	Rs./Kg	182.76	-	-	-

imports from Taiwan					
Trend	Indexed	100.00	-	-	-

59. The Authority notes that whereas both the cost of production and net selling price of PX 13 increased over the injury period, the increase in the net selling price were more than the increase in the cost of production. Thus, apparently the price suppression/depression effect of the prices of the domestic industry is missing during the POI.

### **TDQ**

	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Cost of sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	104	126	101
Net Selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	94	132	103
Profit/Loss	Rs./Kg	***	***	***	***
Trend	Indexed	100	31	172	114
Average Landed price of imports from EU	Rs./Kg	102.55	88.42	131.23	96.28
Trend	Indexed	100	86.42	128.27	95.9
Average Landed price of imports from Taiwan	Rs./Kg	100.58	-	-	-
Trend	Indexed	100.00	-	-	-

60. The Authority notes that whereas both the cost of production and net selling price of TDQ increased over the injury period, the increase in the net selling price were more than the increase in the cost of production. Thus, apparently the price suppression/depression effect of the prices of the domestic industry is missing during the POI.

### **MOR**

	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Cost of Production	Rs./Kg	***	***	***	***
Trend	Indexed	100	99	128	99
Net Selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	96	134	113
Profit/Loss	Rs./Kg	***	***	***	***
Trend	Indexed	100	38	234	336
Average Landed price of imports from EU	Rs./Kg	199.03	157.69	250.73	207.85

Trend	Indexed	100.00	79.23	125.98	104.43
Average Landed price of imports from China PR	Rs./Kg	173.34	155.03	214.53	158.78
Trend	Indexed	100.00	89.44	123.76	91.60
Average Landed price of imports from USA	Rs./Kg	186.62	194.07	-	-
Trend	Indexed	100.00	103.99	-	-

61. The Authority notes that where the cost of production decreased in POI as compared to the base year, the net selling price of MOR increased over the injury period. Thus, apparently the price suppression/ depression effect of the prices of the domestic industry is missing during the POI.

**I. Economic Parameters relating to the Domestic Industry**

62. Annexure II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to determination of consequent impact of these imports on domestic producers of such products, the AD Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments.

**Production, sales, capacity and capacity utilization**

63. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below.

**PX-13**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Capacity	MT	***	***	***	***
Trend	Index	100	136	136	144
Production	MT	***	***	***	***
Trend	Index	100	150	152	174
Capacity Utilization	MT	***	***	***	***
Trend	Index	100	111	112	121
Domestic Sales	MT	***	***	***	***
Trend	Index	100	138	133	198
Demand	MT	8,753	11,095	10,053	14,311

Sales in % of demand	%	***	***	***	***
Trend	Index	100	109	116	121

64. It is noted from above that the production, capacity utilization and sales of the domestic industry of PX13 have gone up in absolute term. The domestic sales of PX13 have increased as in relation to demand/consumption of the product in India.

### **TDQ**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Capacity	MT	***	***	***	***
Trend	Index	100	101	101	101
Production	MT	***	***	***	***
Trend	Index	100	106	107	97
Capacity Utilization	MT	***	***	***	***
Trend	Index	100	105	105	96
Domestic Sales	MT	***	***	***	***
Trend	Index	100	117	98	139
Demand	MT	5,042	5,894	6,150	6,782
Sales in % of demand	%	***	***	***	***
Trend	Index	100	100	81	103

65. It is noted from above that the production and capacity utilization of TDQ of the domestic industry have slightly declined in absolute term. However, the domestic sales of TDQ have increased in absolute terms as well as in relation to demand/consumption of the product in India.

### **MOR**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Capacity	MT	***	***	***	***
Trend	Index	100	100	100	100
Production	MT	***	***	***	***
Trend	Index	100	118	101	104
Capacity Utilization	MT	***	***	***	***
Trend	Index	100	118	101	104
Domestic Sales	MT	***	***	***	***
Trend	Index	100	111	99	97

Demand	MT	4,383	4,963	4,420	4,503
Sales in % of demand	%	***	***	***	***
Trend	Index	100	98	98	95

66. It is noted from above that the production and capacity utilization of MOR of the domestic industry have increased in absolute term. However, the domestic sales of MOR have slightly declined in absolute terms as well as in relation to demand/consumption of the product in India.

#### Profitability

67. Cost of production, net sales realization & profit/loss of the domestic industry is shown below.

#### PX-13

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	96	122	109
Net Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	91	125	114
Profit/Loss	Rs/Kg	***	***	***	***
Trend	Indexed	100	(9)	167	207
PBT on domestic sales	Rs./Lacs	***	***	***	***
Trend	Indexed	100	(12)	222	410
PBIT on domestic sales	Rs./Lacs	***	***	***	***
Trend	Indexed	100	(3)	253	400

68. The Authority notes that performance of the domestic industry for PX13 has improved over the injury period and the domestic industry is in profits. The Authority examined profitability by considering the trends in the cost of production and selling prices over the injury period. It is found that both the cost of production and the selling prices increased throughout the injury period. But the increase in selling price is more than increase in cost of sales. Consequently, profitability of the domestic industry improved during the POI.

#### TDQ

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Cost of Sales	Rs/Kg	***	***	***	***

Trend	Indexed	100	104	126	101
Net Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	94	132	103
Profit/Loss	Rs/Kg	***	***	***	***
Trend	Indexed	100	31	172	114
PBT on domestic sales	Rs./Lacs	***	***	***	***
Trend	Indexed	100	36	169	158
PBIT on domestic sales	Rs./Lacs	***	***	***	***
Trend	Indexed	100	39	178	157

69. The Authority notes that performance of the domestic industry for TDQ has improved over the injury period and the domestic industry is in profits. The Authority examined profitability by considering the trends in the cost of production and selling prices over the injury period. It is found that both the cost of production and the selling prices increased throughout the injury period. But the increase in selling price is more than increase in cost of sales. Consequently, profitability of the domestic industry improved during the POI.

### **MOR**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	99	128	99
Net Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	96	134	113
Profit/Loss	Rs/Kg	***	***	***	***
Trend	Indexed	100	38	234	336
PBT on domestic sales	Rs./Lacs	***	***	***	***
Trend	Indexed	100	42	231	327
PBIT on domestic sales	Rs./Lacs	***	***	***	***
Trend	Indexed	100	48	250	320

70. The Authority notes that performance of the domestic industry for MOR has improved over the injury period and the domestic industry is in profits. The Authority examined profitability by considering the trends in the cost of production and selling prices over the injury period. It is found that where the cost of production declined, the selling prices increased over the injury period. Consequently, profitability of the domestic industry improved during the POI.

## Employment, Productivity and Wages

71. Position with regard to employment, wages and productivity as follows:

### **PX-13**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Employees	No.	***	***	***	***
Trend	Indexed	100	173	136	164
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	109	105	166
Productivity per day	MT/day	***	***	***	***
Trend	Indexed	100	150	152	174
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	87	111	106

72. The Authority notes that the productivity of the domestic industry for PX 13 improved with the improvement in production.

### **TDQ**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Employees	No.	***	***	***	***
Trend	Indexed	100	120	100	60
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	135	102	81
Productivity per day	MT/day	***	***	***	***
Trend	Indexed	100	106	107	97
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	88	107	161

73. The Authority notes that the productivity per day for TDQ remained relatively stable over the injury period and productivity per employee of the domestic industry improved.

### **MOR**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Employees	No.	***	***	***	***

Trend	Indexed	100	100	94	100
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	112	120	106
Productivity per day	MT/day	***	***	***	***
Trend	Indexed	100	118	101	104
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	118	107	104

74. The Authority notes that the productivity of the domestic industry for MOR improved with the improvement in production.

75. The Authority however notes the domestic industry is a multi-product company and hence the employment by the domestic industry and wages paid may not be a correct parameter to evaluate the injury in the instant matter.

#### Return on investments and cash flow

76. Position with regards to cash profits and return on investments are as follows:

#### **PX13**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
ROI - NFA basis	%	***	***	***	***
Trend	Indexed	100	(3)	231	274
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	41	185	314

77. The Authority notes that return on investment made by the domestic industry for PX 13 improved significantly over the injury period. Similar is the situation of cash profit as well.

#### **TDQ**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
ROI - NFA basis	%	***	***	***	***
Trend	Indexed	100	47	234	157
Cash Profit	Rs.Lacs	***	***	***	***
Trend	Indexed	100	45	161	158



78. The Authority notes that return on investment made by the domestic industry for TDQ improved significantly over the injury period. Similar is the situation of cash profit as well.

**MOR**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
ROI - NFA basis	%	***	***	***	***
Trend	Indexed	100	42	213	285
Cash Profit	Rs.Lacs	***	***	***	***
Trend	Indexed	100	61	193	261

79. The Authority notes that return on investment made by the domestic industry for MOR improved significantly over the injury period. Similar is the situation of cash profit as well.

**Inventories**

**PX13**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Average Inventory	MT	***	***	***	***
Trend	Indexed	100	181	171	189

80. The inventories of PX13 have shown increasing trend over the injury period as compared to the base year.

**TDQ**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Inventory	MT	***	***	***	***
Trend	Indexed	100	67	51	75

81. The inventories of TDQ have shown a declining trend till 2008-09 but increased thereafter during the POI.

**MOR**

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Inventory	MT	***	***	***	***
Trend	Indexed	100	65	47	67

82. The inventories of MOR have shown a declining trend till 2008-09 but increased thereafter during the POI.

Magnitude of Margin of Dumping

**PX13**

83. The Authority notes that the dumping margin from EU is significant and above *de-minimis* level. In view of no exports from Chinese Taipei during the period of investigation, the Authority notes that there is no case of continued dumping of PX 13 from Chinese Taipei.

**TDQ**

84. The Authority notes that the dumping margin from EU is significant and above *de-minimis* level. In view of no exports from Chinese Taipei during the period of investigation, the Authority notes that there is no case of continued dumping of TDQ from Chinese Taipei.

**MOR**

85. The Authority notes that the dumping margin from China PR is significant and above *de-minimus* level. Thus, there is likelihood of continuation of dumping if the anti-dumping duty is allowed to expire. However, in view of negative dumping margin on exports from EU and no exports from USA during the period of investigation, the Authority notes that there is no case of continued dumping of MOR from EU and USA.

**Growth**

**PX 13**

86. The Authority notes that while there has been a marginal growth in the import volume from the EU; the growth of domestic industry in terms of domestic sales, production, and capacity utilization, cash profits, profits and return on investment has been positive over the injury period.

**TDQ**

87. The Authority notes that while there has been a substantial growth in the import volume from the EU; the growth of domestic industry in terms of domestic sales, production, and capacity utilization, cash profits, profits and return on investment has also been positive over the injury period.

**MOR**

88. The Authority notes that while there has been a marginal growth in the import volume from the subject countries; the growth of domestic industry in terms of production, and capacity utilization, cash profits, profits and return on investment has also been

positive over the injury period. However, the domestic sales of MOR have slightly declined in absolute terms.

**J. Likelihood of continuation or recurrence of injury**

89. Further, the domestic industry, *inter alia*, has contended as follows on Likelihood of continuation or recurrence of injury:

**PX-13**

1. Producers/exporters in subject countries with respect to PX-13 are having excessive production capacities. In case of cessation of the present duty, dumping from the subject countries would definitely increase and ultimately cause injury to the Domestic Industry.
2. The subject countries with respect to PX-13 are causing severe price undercutting to the prices of the Domestic Industry. Should the present anti dumping duty is revoked, there is a clear likelihood that price undercutting would deepen further. In the event of revocation of Anti-dumping duties and owing to significant price undercutting, the domestic industry would be compelled to match its price to that of imports in order to sustain in the market which will lead to company suffering losses.
3. The imports from subject countries have remained significant despite anti-dumping duties in force. The price undercutting and price underselling is significant at the landed price without ADD, signifying the likelihood of injury to the domestic industry, should the present duty in force be revoked

**MOR**

1. Producers/exporters in subject countries with respect to MOR are having excessive production capacities. In case of cessation of the present duty, dumping from the subject countries would definitely increase and ultimately cause injury to the Domestic Industry.
2. The subject countries with respect to MOR are causing severe price undercutting to the prices of the Domestic Industry. Should the present anti dumping duty is revoked, there is a clear likelihood that price undercutting would deepen further. In the event of revocation of Anti-dumping duties and owing to significant price undercutting, the domestic industry would be compelled to match its price to that of imports in order to sustain in the market which will lead to company suffering losses.
3. The market share of imports from subject countries have gone up and of domestic industry has declined despite anti-dumping duties in force. The imports are presently at such a lower price that even after adding the ADD, price undercutting is significant. This prevented the domestic industry to gain its market share inspite of available capacity. The domestic industry is able to maintain its profitability only by reducing its capacity utilization. Thus, the significant price undercutting even after adding ADD have resulted in adverse volume effect for domestic

industry. This clearly suggests that there is every likelihood of injury in the event of revocation of anti-dumping duties.

### **TDQ**

1. Producers/exporters in subject countries with respect to TDQ are having excessive production capacities. In case of cessation of the present duty, dumping from the subject countries would definitely increase and ultimately cause injury to the Domestic Industry.
  2. The subject countries with respect to TDQ are causing severe price undercutting to the prices of the Domestic Industry. Should the present anti dumping duty is revoked, there is a clear likelihood that price undercutting would deepen further. In the event of revocation of Anti-dumping duties and owing to significant price undercutting, the domestic industry would be compelled to match its price to that of imports in order to sustain in the market which will lead to company suffering losses.
  3. The market share of imports from subject countries have gone up despite anti-dumping duties in force. The petitioner submits that this is mainly due to significant price under-cutting even after adding ADD. A decline of profits is also there in 2009-10 as compared to 2008-09. The injury to the domestic industry is therefore continuing even after the imposition of ADD. The significant price undercutting even after adding ADD clearly suggests the continued injury and every likelihood of injury in the event of revocation of anti-dumping duties.
90. The domestic industry has provided the following table with regard to surplus capacities of the subject goods in the subject countries:

<b>S.No.</b>	<b>Particular</b>	<b>TDQ</b>	<b>PX13</b>	<b>MOR</b>
<b>A</b>	<b>EU</b>			
	Capacity	39,500	123,000	16,000
	Ass. Consumption (2009)	15,745	25,860	500
	Surplus capacity	23,755	97,140	15,500
<b>B</b>	<b>China</b>			
	Capacity	-	-	11,600
	Ass. Consumption (2009)	-	-	4,000
	Surplus capacity	-	-	7,600
<b>C</b>	<b>Total surplus</b>	<b>23,755</b>	<b>97,140</b>	<b>23,100</b>
<b>D</b>	<b>Indian demand</b>	<b>6,782</b>	<b>14,311</b>	<b>4,503</b>

### **Submissions made by M/s Solutia Europe BVBA/SPRL**

91. For PX-13, all injury factors are showing considerable improvement which can be inferred even from the information filed by the applicant industry. It is therefore absolute clear that there is no case of current or likely injury.

### **Submissions made by ATMA**

92. It has contended that based on the facts, there is no case for recurrence of dumping and injury and hence the SSR investigation should be terminated.

### **Examination by the Authority**

#### **PX 13**

##### **EU**

93. The Authority notes that the information provided by M/s Solutia Europe BVBA/SPRL shows significant price undercutting and price underselling in respect of PX 13 from EU. The Authority notes that there is continued injury from the imports of the product from EU during the POI on account of dumped imports of PX 13 from EU. Thus, there is likelihood of continuation of injury if the anti-dumping duty is allowed to expire.

#### **Chinese Taipei**

94. In view of no exports of PX 13 from Chinese Taipei during the period of investigation and last two years, the Authority notes that there is no case of continued injury of the product from Chinese Taipei. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of PX 13 from Chinese Taipei.

#### **MOR**

##### **EU**

95. The Authority notes that as per the information made available by IBIS, the imports of MOR from EU are undercutting the domestic industry selling prices. However, the price underselling is negative. The Authority therefore notes that there is no case of continued injury from the imports of MOR from EU.
96. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of MOR from EU.

#### **China PR**

97. The Authority notes that none of the exporters / producers of MOR from China PR responded to the initiation notification and provided information in the form and manner prescribed. The Authority further notes that the information provided by IBIS shows significant price undercutting and price underselling in respect of MOR from China PR. Thus, the Authority notes that there is a case of continued injury from the imports of the product from China PR and therefore there is likelihood of continuance of injury from imports of MOR from China PR if the anti-dumping duty is allowed to expire.

#### **USA**

98. In view of no exports of MOR from USA during the period of investigation and previous years, the Authority notes that there is no case of continued injury from imports of the product from USA. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of the subject goods from USA.

**TDQ**

**EU**

99. The Authority notes that none of the exporters / producers of TDQ from EU responded to the initiation notification and provided information in the form and manner prescribed. The Authority further notes that the information provided by IBIS shows significant price undercutting and price underselling in respect of TDQ from EU. Thus, the Authority notes that there is a case of continued injury from the imports of the product from EU and therefore there is likelihood of continuance of injury from imports of TDQ from EU if the anti-dumping duty is allowed to expire.

**Chinese Taipei**

100. In view of no exports of TDQ from Chinese Taipei during the period of investigation and last two years, the Authority notes that there is no case of continued injury of the product from Chinese Taipei.
101. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of TDQ from Chinese Taipei.

**Magnitude of Injury and Injury margin:-**

102. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from for determination of injury margin during the POI. Thus compared, the injury margin is worked out as under:

**PX13**

			EU - Others	Taiwan
Particulars	Unit	M/s Solutia Europe BVBA/SPRL		
NIP	Rs./Kg	***	***	No imports
Landed Price	Rs./Kg	***	***	
Injury Margin	Rs./Kg	***	***	

Injury Margin (%)	%	20-25%	21-26%	
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### **TDQ**

Particulars	Unit	EU	Taiwan
NIP	Rs./Kg	***	No imports
Landed Price	Rs./Kg	***	
Injury Margin	Rs./Kg	***	
Injury Margin (%)	%	10-15%	

### **MOR**

Particulars	Unit	EU	China PR	USA
NIP	Rs./Kg	***	***	No imports
Landed Price	Rs./Kg	***	***	
Injury Margin	Rs./Kg	Negative	***	
Injury Margin (%)	%	Negative	25-30%	

### **K. Causal Link**

103. The Authority has examined the submissions with regard to the significance and relevance of causal link in a sunset review investigation. It is important to note under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

#### Volume and Prices from Other Countries

### **PX 13**

104. The other countries from where PX 13 was imported are China PR, Korea RP, Japan, USA and Thailand. It is noted from the import statistics that imports of the PX 13 from China PR and Korea PR are already attracting duty and imports from Japan, USA and Thailand are either *de-minimis* or the export price is higher.

### **TDQ**

105. The other countries from where TDQ was imported are China PR, Korea RP, Japan, and Russia. It is noted from the import statistics that imports of the TDQ from China PR are already attracting duty and imports from Korea RP, Japan, and Russia are either *de-minimis* or the export price is higher.

## MOR

106. MOR was not imported from any country other than the subject country during the POI.

### Contraction in Demand and / or Change in Pattern of Consumption

107. It is noted that there is there is no contraction in demand for the three subject Rubber Chemicals, (i.e., PX 13, TDQ and MOR) in India. Possible decline in the demand has not, therefore, caused material injury to the domestic industry. Demand of the product in India marked significant increases over the years. There is also no indication of any change in the consumption pattern.

### Trade Restrictive Practices of and Competition between the Foreign and Domestic producers

108. The import of the three subject Rubber Chemicals, (i.e., PX 13, TDQ and MOR) is not restricted in any manner and the same are freely importable in the country. The domestic producers compete among one another and at the same time compete with the landed prices of the subject goods. The price of the domestic industry is influenced substantially by the landed price of subject goods. Moreover, no evidence has been submitted by any interested party even to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

### Development of Technology

109. The Authority notes that the technology as also production process for producing the three subject Rubber Chemicals, (i.e. TDQ and MOR) is fairly stabilized with little technical or technological developments. There is no known difference between the technology employed by the petitioner and producers in subject countries so far as MOR and TDQ are concerned. As regards PX13, the Authority notes that M/s Solutia Europe BVBA/SPRL has claimed that it has a unique and patent technology. It is, however, noted that as per the information/data filed by them, they are found to be dumping PX 13 into India. As regards the technology impacting the cost of production of PX 13 of the domestic industry, it has claimed to possess technology of international standards.

### Export Performance

110. The Authority notes that the claimed injury to the domestic industry is not due to possible deterioration in the export performance of the three subject Rubber Chemicals, (i.e., PX 13, TDQ and MOR).

## **L. Likelihood of continuation/ recurrence of dumping and injury**

### PX13



111. The Authority notes that the information provided by M/s Solutia Europe BVBA/SPRL shows significant price undercutting and price underselling in respect of PX 13 from EU. The Authority notes that there is continued injury from the imports of the product from EU during the POI on account of dumped imports of PX 13 from EU. Thus, there is likelihood of continuation of injury if the anti-dumping duty is allowed to expire. Therefore, further examination of the likelihood of recurrence of dumping and injury is not required.

### **Chinese Taipei**

112. The Authority notes that in view of no exports of PX 13 from Chinese Taipei during the period of investigation and last two years, there is no case of continued injury of the product from Chinese Taipei. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of PX 13 from Chinese Taipei.

### **MOR**

#### **EU**

113. The Authority notes that as per the information available on record, the imports of MOR from EU are undercutting the domestic industry' selling prices. However, the price underselling is negative. The Authority therefore notes that there is no case of continued injury from the imports of MOR from EU.
114. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of MOR from EU.

### **China PR**

115. The Authority notes that the information available on record shows significant price undercutting and price underselling in respect of MOR from China PR. Thus, the Authority notes that there is a case of continued injury from the imports of the product from China PR and therefore there is likelihood of continuance of injury from imports of MOR from China PR if the anti-dumping duty is allowed to expire.

### **USA**

116. In view of no exports of MOR from USA during the period of investigation and previous years, the Authority notes that there is no case of continued injury from imports of the product from USA. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of the subject goods from USA.

### **TDQ**

#### **EU**

117. The Authority notes that the information available on record shows significant price undercutting and price underselling in respect of TDQ from EU. Thus, the Authority notes that there is a case of continued injury from the imports of the product from EU and therefore there is likelihood of continuance of injury from imports of TDQ from EU if the anti-dumping duty is allowed to expire.

### **Chinese Taipei**

118. In view of no exports of TDQ from Chinese Taipei during the period of investigation and last two years, the Authority notes that there is no case of continued injury of the product from Chinese Taipei. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of TDQ from Chinese Taipei.

## **M. CONCLUSIONS**

119. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:

### **PX13**

- i. The subject goods are entering the Indian market from EU at dumped prices and dumping margin is significant and above the *de-minimis* limits prescribed. It is seen that the subject goods continues to be exported to India at dumped prices inspite of the existing anti-dumping duties. However, the situation of domestic industry has improved due to the existing anti-dumping duties but it is noted that without the existing anti-dumping duties, the price undercutting and price underselling are significant from EU. Hence, injury to the domestic industry is likely to recur, in case the present anti-dumping duties are allowed to expire. It is further noted that as per information available on record, the anti-dumping duty is required to be extended and modified.
- ii. However, in view of no imports of PX 13 from Chinese Taipei during the period of investigation and last two years, there is no case of continued injury of the product from Chinese Taipei. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of PX 13 from Chinese Taipei. Hence, no anti-dumping duty is being recommended concerning imports of PX 13 from Chinese Taipei.

### **MOR**

- i The dumping margin of the subject goods imported from EU is negative. Besides, though the imports of MOR from EU are undercutting the domestic industry' selling prices but the price underselling is negative. The Authority therefore notes that there is no case of continued injury from the imports of

MOR from EU. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of MOR from EU. Hence, no anti-dumping duty is being recommended concerning imports of MOR from EU.

- ii The subject goods are entering the Indian market at dumped prices from China PR and dumping margin of the subject goods imported from China PR is significant and above the *de-minimis* limits prescribed. The subject goods continue to be exported to India at dumped prices inspite of existing anti dumping duties. Although the situation of domestic industry has improved due to the existing anti dumping duties, yet it is noted that without the existing anti-dumping duties, the price undercutting and price underselling are significant from China PR. Besides, the price undercutting and price underselling is positive even after applying the anti-dumping duty in force. Hence, injury to the domestic industry is likely to recur, in case the present anti dumping duties be allowed to expire. It is further noted that as per information available on record, the anti-dumping duty is required to be extended and modified.
- iii However, in view of no imports of MOR from USA during the period of investigation and immediately preceding year, there is no case of continued injury of the product from USA. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of MOR from USA. Hence, no anti-dumping duty is being recommended concerning imports of MOR from USA.

### **TDQ**

- iii. TDQ has been imported in the Indian market from EU at dumped prices and it is seen that the dumping margin is significant and above the *de-minimis* limits prescribed. The subject goods continues to be exported to India at dumped prices inspite of the existing anti dumping duties. However, the situation of domestic industry has improved due to the existing anti-dumping duties but it is noted that without the existing anti-dumping duties, the price undercutting and price underselling are significant from EU. Hence, injury to the domestic industry is likely to recur, in case the present anti-dumping duties are allowed to expire. It is further noted that as per information available on record, the anti-dumping duty is required to be extended and modified.
- iv. However, in view of no imports of TDQ from Chinese Taipei during the period of investigation and last two years, there is no case of continued injury of the product from Chinese Taipei. Further, sufficient evidence has not been brought by any interested party to demonstrate the likelihood of recurrence of injury from the imports of TDQ from Chinese Taipei. Hence, no anti-dumping duties are being recommended concerning imports of TDQ from Chinese Taipei.

**N.**

### **RECOMMENDATIONS**

120. Having concluded as above, the Authority is of the opinion that the anti-dumping measure is required to be extended and the quantum of anti-dumping duties is required to be modified and extended in respect of imports of the subject goods from the subject countries/ subject territory as specified in the duty table below.

121. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duties equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from the subject countries/ subject territory as mentioned herein below.

**Duty Table**

Sl. No	Heading/ Sub-heading	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	381210, 381212, 381220, 381230, 293420, 292519, 292520	Rubber Chemical PX 13	EU	EU	Solutia Inc.	Solutia Inc.	810	Per MT	US\$
2	-do-	Rubber Chemical PX 13	EU	EU	Any other that the combination of producer & exporter at 1 above		928	Per MT	US\$
3	-do-	Rubber Chemical MOR	China PR	China PR	Any	any	770	Per MT	US\$
4	-do-	Rubber Chemical TDQ	EU	EU	Any	any	262	Per MT	US\$

122. 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, 9 and 9A of the Customs Tariff Act, 1975.

123. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**Vijaylaxmi Joshi**  
**The Designated Authority**