

WORLD TRADE ORGANIZATION

G/SG/N/8/IND/6/Suppl.2
16 January 2002

(02-0213)

Committee on Safeguards

Original: English

NOTIFICATION UNDER ARTICLE 12.1(B) OF THE AGREEMENT ON SAFEGUARDS ON FINDING A SERIOUS INJURY OR THREAT THEREOF CAUSED BY INCREASED IMPORTS

INDIA

Supplement

The following communication, dated 10 January 2002, has been received from the Permanent Mission of India.

1. Please refer to the correspondence that rests with my letter No. GEN/PMI/WTO/204/36/II/2001/1483 dated 27 November 2001 forwarding therewith a copy of the Notification No. SG/INV/2/98(REV) dated 22 October 2001, issued by the Director General (Safeguards), containing the Notice of Review of Exemption from imposition of safeguard duty on import of Phenol into India from notified developing countries. This notification under Article 12.1(a) of the Agreement on Safeguards has been circulated as document G/SG/N/6/IND/7/Suppl.1 dated 17 December 2001.

2. The attached notification No. SG/INV/2/98(REV) dated 11 December 2001 contains the final findings of the Director General (Safeguards) concerning this Review.

OFFICE OF THE DIRECTOR GENERAL (SAFEGUARDS)
5TH FLOOR, 'D' BLOCK, I.P. BHAWAN
NEW DELHI

F.No.SG/INV/2/98(REV)

Dated: 11 December 2001

**Review of safeguard duty imposition on imports of Phenol into India
from notified developing countries under Rule 18 of the
Customs Tariff (Identification and Assessment of Safeguard Duty)
Rules, 1997 (hereinafter referred to as the SGD Rules) read with
Section 8B of the Customs Tariff Act 1975 - final findings**

Notification

Having regard to the Customs Tariff Act, 1975 and the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 thereof.

A. Introduction

1. The notice initiating investigation concerning import of Phenol into India was issued on 2 February 1999 under Rule 6 of the SGD Rules. Final findings were issued under Rule 11(1) of the said Rules, (published in the Gazette of India (Extraordinary) Part II-Section-3-Sub-section (i)) on 11 June 1999 recommending safeguard duty to be imposed at 22 per cent *ad valorem* during the first year and of 15 per cent *ad valorem* during the second year on imports of Phenol into India being the minimum necessary for the protection of the domestic industry from the serious injury threatened to be caused by the increased imports of Phenol. In exercise of powers conferred by sub-section (1) of section 8B of the Customs Tariff Act, 1975 (51 of 1975) read with Rules 12 and 14 of the SGD Rules and based on the final findings of the Director General (Safeguards), the Central Government vide Notification No. 82/99-Customs dated 30 June 1999 imposed on Phenol, falling under sub-heading number 2907.11 of the First Schedule to the said Customs Tariff Act, when imported into India, a safeguard duty at the rate of:

- (a) 22 per cent when imported up to and inclusive of 29 February 2000; and
- (b) 15 per cent when imported from 1 March 2000 to 29 June 2001 (both days inclusive).

Further the said notification exempted, *inter alia*, levy of safeguard duty on imports of Phenol from notified developing countries under Clause (a) of sub-section (6) of Section 8B of Customs Tariff Act 1975, other than South Africa.

2. On an application filed before me under Rule 18 of the SGD Rules by Hindustan Organic Chemicals Ltd. (HOC), Mumbai and Herdillia Chemicals Ltd. (HCL), Mumbai for review of safeguard duty imposed on imports of Phenol into India to protect the domestic producers of Phenol against continued serious injury caused by the increased imports of Phenol into India, a notice of review was issued on 1 January 2001 and final findings were issued on 16 May 2001 and was published in the Gazette of India, Extraordinary on 20 June 2001.

In exercise of powers conferred by sub-section (1) and (4) of section 8B of the Customs Tariff Act 1975, read with rule 18 of the SGD Rules, the Central Government vide Notification No.

73/2001-CUSTOMS dated 28 June 2001, after considering the aforesaid final findings in review, imposed safeguard duty on imports of Phenol into India as under:

- (a) 10 per cent, when imported from 30 June 2001 to 29 June 2002 (both days inclusive); and
- (b) 7 per cent, when imported from 30 June 2002 to 29 June 2003 (both days inclusive).

The notification also exempted levy of safeguard duty on imports of Phenol made from countries notified as developing countries under clause (a) of sub-section (6) of section 8B of the said Customs Tariff Act.

3. It has been informed to the Department of Revenue, Ministry of Finance, New Delhi that the imports of Phenol into India during April to early September 2001 from Brazil, China, Korea, Singapore and South Africa constituting some of the notified developing countries listed in Notification No. 103/98-Customs dated 14 December 1998 are much more than the *de minimis* level stipulated under Section 8B of the Customs Tariff Act 1975 to make them eligible for availing the exemption benefits extended by the aforesaid Notification No. 73/2001-CUSTOMS dated 28 June 2001. It has also been stated that imports from South Africa and Singapore in July 2001 alone was to the extent of 3,551 tonnes, which worked out to more than 13 per cent of the total imports of Phenol during the year 2000-2001. It has been requested that the exemption from safeguard duty available to imports originating from these developing countries may be revoked. Further, the consignments that have escaped the levy, should also be subjected to safeguard duty.

4. The matter was examined and it appeared *prima facie* the imports of Phenol from the aforementioned notified developing countries were more than the *de minimis* level stipulated under Section 8B of the Customs Tariff Act 1975. Accordingly it was decided to initiate review proceedings. The purpose of the review was to determine whether such notified developing countries were eligible to the exemption from payment of safeguard duty on imports of Phenol from these countries.

B. Procedure

1. The Notice of Review to consider whether safeguard duty on imports of Phenol into India from notified developing countries should be exempted was issued on 22 October 2001 and was published in the Gazette of India, Extraordinary on 23 October 2001. A copy of the Notice was sent to all known interested parties to make their views known and submit documentary evidence by 29 November 2001 namely:

Domestic Producers

- (i) Hindustan Organic Chemicals Ltd. (HOCL), Mumbai
- (ii) Herdillia Chemicals Ltd. (HCL), Mumbai
- (iii) Neyveli Lignite Corporation, Tamilnadu.

Importers/User Industries

- (i) C.J. Shah & Company, Mumbai
- (ii) Haresh Kumar & Company, Mumbai
- (iii) Vinmar International India Pvt. Ltd., Mumbai
- (iv) Sonkamal Enterprises, Mumbai
- (v) Khetan Brothers, Mumbai
- (vi) Xpro India, Mumbai
- (vii) Kesar Petroproducts Ltd., Mumbai
- (viii) Bakelite Hylam Ltd., Hyderabad

- (ix) Gargi Huttenes Albertus Private Limited, Mumbai
- (x) Alta Laboratories Ltd., Dadar, Mumbai
- (xi) United Phosphorous Limited, Mumbai
- (xii) Colour Chem Limited, Balkum, Thane
- (xiii) Kitply Industries, Calcutta
- (xiv) Romit Resins Pvt. Ltd., Panvel
- (xv) Bilag Industries, Vapi
- (xvi) United Metachem, Pune
- (xvii) Marvel Thermosets P. Ltd., Mumbai
- (xviii) Daurala Organics Ltd., New Delhi
- (xix) Century Laminating Co. Ltd., New Delhi
- (xx) Foseco India Ltd., Pune
- (xxi) Schnectady Specialities Asia Ltd., Mumbai

Exporters

- (i) Phenolchemie GmbH, Germany
- (ii) Enichem, Italy
- (iii) Georgia Gulf Corporation, USA
- (iv) Mitsui Chemicals, Tokyo/Mitsui & Co. Ltd., Singapore
- (v) Kumho Chemical Company, Seoul, Korea
- (vi) Taiwan Prosperity Chemical Company, Chinese Taipei
- (vii) Merisol, South Africa (Merichem Sasol)
- (viii) Kolmar Petrochemicals AG, Switzerland
- (ix) ICC Chemical Corporation, New York
- (x) Tosoh Corporation, Tokyo
- (xi) Formosa Plastics Corporation, Chinese Taipei
- (xii) Tricon Energy Ltd., USA

Overseas Associations

- (i) Chemical Safety Management Centre, Japan Chemical Industry Association-JCIA, Tokyo 100, Japan
- (ii) Chemical and Allied Industries Association-(CAIA) Auckland Park 2006, South Africa
- (iii) Korean Petrochemical Industry Association-(KPIA) Chongno-ku, Seoul, Korea
- (iv) Petrochemical Industry Association of Taiwan (PIAT) Section 4, Chutung, Hsinchu, Chinese Taipei
- (v) Chemical Manufacturers Association (CMA) Virginia-22209, USA
- (vi) Verband der Chemischen Industrie - VCI, Germany

Indian Associations

- (i) Society of Themosetting Industries, Mumbai
- (ii) Indian Laminates Manufacturers Association, Mumbai
- (iii) Indian Chemical Manufacturers Association, Mumbai
- (iv) All India Association of Industries, Mumbai

2. A copy of the notice of review was also sent to the governments of exporting countries through their High Commissions/Embassies in New Delhi namely Belgium, Chinese Taipei, Germany, Italy, Japan, Korea DPR, Korea RP, the Netherlands, Russia, Singapore, South Africa, United Kingdom, United States and to the European Union, Delegation of the European Commission in India, New Delhi.

3. Replies to the Notice dated 22 October 2001 were received from the following parties:

Domestic Producers

- (i) Hindustan Organic Chemicals Ltd., Mumbai
- (ii) Herdillia Chemicals Ltd., Mumbai

Importers/User Industries

- (i) Kesar Petroproducts Ltd., Mumbai
- (ii) Foseco India Ltd., Pune

Exporters

- (i) Mitsui Phenol Singapore Pte. Ltd., Singapore
- (ii) Ineos Phenol GmbH & Co. KG, Germany
- (iii) EniChem Pacific Limited, Italy

Indian Associations

- (i) All India Association of Industries, Mumbai

C. Views of Exporters

The following main points have been made by the exporters:

(a) Mitsui Phenol Singapore PTE Ltd., Singapore

- (i) Phenol acts as a barometer indicating the strength of the overall industry of a country. Phenol has been used commercially from the beginning of the twentieth century, and now Phenol is consumed by many industries around the world and the demand continues to grow.
- (ii) Phenol demand in India exceeds the total output of the two producers in India and the estimated demand in India is about 9,000 to 10,000 tonnes per month as against production of about 5,000 to 6,000 tonnes per month.
- (iii) They do not think the domestic producers are damaged by imports and in fact the foreign Phenol suppliers cover the shortage at internationally competitive prices.
- (iv) The increase of Phenol imports from Singapore would be in accordance with the interest of customers in India.
- (v) The exemption clause of the safeguard needs to be retained in view of the spirit of the fair trade and that the safeguard duty itself should be abolished as soon as possible for the national interest of India.

(b) Ineos Phenol, Germany

- (i) There should be no disparities in the duty structure and they expect a uniform level playing field. They have requested to revoke the safeguard duty exemption on imports of Phenol originating from a few of the developing countries and also levy safeguard duty on the consignments which have escaped the levy.

(c) EniChem Pacific Ltd., Italy

- (i) They have never been a major or a regular supplier of Phenol to the Indian market and only very small quantities have been exported to India at European prices. They have requested for exemption from safeguard duty on export made by them.

D. Views of Importers/User industries

(a) M/s. Kesar Petroproducts Ltd., Mumbai

(b) M/S Foseco India Ltd., Pune

They have stated broadly the following:

(a) As per the notice, the purpose of the review is stated to be to determine whether such notified developing countries are eligible to the exemption for payment of safeguard duty on imports of Phenol from these countries. In their view it is necessary to redefine the scope of the review and to widen it to determine *ab initio* whether basically there is a proper justification for continuing the safeguard duty protection on imports of Phenol in future.

(b) There is a basic change in the status of one of the manufacturers of Phenol namely Herdillia Chemicals Limited due to its management and control being taken over by a Multi-national Corporation, Schenectady Corporation, USA which is a major consumer of Phenol in India and outside India. 37.5 per cent of the country's Phenol manufacturing capacity has become captive to the multinational and gone out of reach of other Phenol consumers in the country.

(c) The most important component of manufacturing cost of Phenol namely the cost of its raw materials has undergone a major change which is favourable to the Phenol manufacturers. The prices of raw materials and furnace oil have substantially come down.

(d) Both the manufacturers of Phenol are continuing to make high profits and covering up losses in their other product lines at the cost of consumers of Phenol who are facing a serious threat of closure of their operations.

(e) The grounds on which the domestic producers applied for extension of period of SGD do not exist today.

(f) The imports of Phenol during the period from April to early September 2001 were more because of less production by one of the manufacturers of Phenol (HOCL) in the country and is a temporary phenomenon which does not call for review of exemption granted to imports from developing countries. During the same period, i.e. from April to September 2001 the other manufacturer of Phenol namely Herdillia could produce 15,600 MT of Phenol against its pro-rata capacity of 17,000 MT (capacity utilization of 92 per cent) thus did not face any marketing constraint which shows that HOCL's reduction in production was due to its own problem other than marketing.

(g) Herdillia itself imported Phenol to the extent of 2,222 MT in the year 2000-2001 which was much higher than their import of 951 MT in the year 1999-2000. Though the imports may be duty free being for export purposes, Herdillia had to pay ocean freight of about US\$70 MT and other costs of clearing, storage, etc.

(h) Herdillia finds it worthwhile to import Phenol rather than use its own production which means that the margin on its own production is more than the cost on ocean freight, clearance charges, etc.

(i) Herdillia exports the products based on Phenol viz, Dodecyl & other alkyl Phenol, Isophorone & Diacetone Alcohol which are the products manufactured by Schenectady. With the take over of Herdillia by Schenectady it is feared that huge quantities of these Phenol-based products shall be manufactured in India and exported. This will result in less availability of Phenol to other consumers in the country to that extent and widen the demand supply gap for Phenol.

(j) There is no justification at all for removing the exemption granted to imports of Phenol made from developing countries since imports of Phenol were higher due to less production of Phenol in the country. Thus the Phenol consumers would have suffered a major set back if the benefit of importing from developing countries would not have been there. In the final findings dated 16 May 2001 it was acknowledged that there is a demand/supply gap of 12,000 MT in the first year and 12,500 MT in the second year and hence these quantities were recommended to be exempted from safeguard duty. It is submitted that to the extent of these gaps, it is necessary to permit import of Phenol free of SGD and hence there is no case to remove the exemption granted in the Notification No. 73/2001 dated 28 June 2001 for imports from notified developing countries, at least to the extent of the above gaps.

In addition to the above M/s Kesar Petroproducts have reiterated their submissions made by them during the earlier review carried out.

E. Views of the Association

The All India Association of Industries, Mumbai

(i) Recently, a Customs Notification bearing No. 73/2001 Customs dated 28 June 2001 has been issued which extends the safeguard duty period on Phenol by two years. This decision was based on the application made by Herdillia Chemicals Ltd. which has resulted in major gain to HCL.

(ii) In the Public Offer document issued by Schenectady (India) a subsidiary of Schenectady USA for acquiring shares of Herdillia Chemicals Holding Limited (HCL) it may be seen that by this public offer Schenectady India will virtually be the sole shareholder of the HCL. HCL is one of the two manufacturers of Phenol in the country. Schenectady is one of the largest consumers of Phenol in the world and has already established the facility for manufacturing nonyl phenol in India of which it is now the sole manufacturer in the country.

(iii) It will be appreciated that once the acquisition of HCL by Schenectady is complete it will have monopolistic control on Phenol both as its manufacturers and a major consumer which is likely to be misused against the interest of Phenol based industries in the country which are mainly in the small and medium sector and are struggling to continue to run their plants with great difficulties due to reduction in import duty of its own end products.

(iv) In the background of the above developments there is a strong case to examine once again the issue of a safeguard duty imposed on Phenol under the Notification dated 28 June 2001, in spite of objections filed by all the Phenol based industries in India.

(v) The Central Government has originally imposed safeguard duty on Phenol vide Notification No. 82/99-Customs dated 30 June 1999. This notification was based on the final findings of the Director General (Safeguard) dated 12 May 1999. In the said final findings it was noted by DG (Safeguard) that HCL had represented that they would carry out certain modifications in the Phenol plant to achieve reduction in cost by which the extension of safeguard duty will not be required. In spite of such assurance HCL made a joint application of DG Safeguard for review of safeguard duty beyond 29 June 2001. In spite of objections raised by Phenol users, DG Safeguard, by its final findings dated 16 May 2001 recommended extension of safeguard duty on Phenol at lower rates and recommended that certain quantity of Phenol be exempted from such duties since imports of Phenol up to that level were considered unavoidable due to supply and demand gap in the country. The government by its notification No. 73-2001 Customs dated 28 June 2001 however, extended the safeguard duty on Phenol at lower rates for the period from 30 June 2001 to 29 June 2003 without allowing quantitative exemption but providing that the import under advance licence as well as imports from developing countries will be exempted from such safeguard duty.

(vi) It is significant to note that Schenectady India itself had filed its objection with DG (Safeguard) to extension of safeguard duty on Phenol stating that it would make manufacture of Phenol based products uncompetitive.

(vii) Due to Schenectady's acquisition of HCL the situation in the Phenol market is completely changed which was not covered by the review of DG (Safeguard) and hence there is no justification for continuing the safeguard duty on Phenol in future. The entire matter be reviewed for discontinuing the safeguard duty on Phenol in the future to protect the interest of Phenol based industries in the country.

(viii) Pending such review of Notification No. 73-2001 customs dated 28 June 2001 the exemptions included in the said notification for the imports of Phenol from the countries notified as developing countries may not be removed under any circumstances since it will deprive the Phenol based industries of any opportunity to importing from such countries to face the monopolistic control on domestic Phenol manufacture and in the interest of the small scale Phenol based industries so that they get a level playing ground and do not suffer a final blow to their existence.

F. Views of domestic producers

The domestic producers have made the following main points:

(i) The purpose of the extension of the period of safeguard duty was to keep in check the level of imports of Phenol that had caused serious injury to the domestic Phenol producing industry. However, despite the extension of the period, the contrary has happened. Imports have increased significantly. The imports in approximately the first quarter of the extended period (i.e. 1 July to 4 October 2001) were as high as 23,044 tons as against 26,442 tons in the whole year 2000-2001 with sharply declining prices. A significant portion of these imports (7,899 tons from 1 July 2001-4 October 2001) has come in from 'developing countries' such as Singapore and South Africa. Presently, on imports from these countries, no safeguard duty is being levied (due to the exemption granted) despite the share of each of these two countries being individually more than 3 per cent.

(ii) As per Section 8B of the Customs Tariff Act, Safeguard Duty is not leviable on imports from a developing country only so long as the share of imports from that specific country is less than 3 per cent of the total imports. The exemptions for levy of safeguard duty have been granted only so long as the share of imports does not cross the levels mentioned above. The countries Singapore and South Africa fall in the list of developing nations covered in the Notification of the Government of India No. 103/98 dated 14 December 1998. Of these, South Africa has always been a large producer of Phenol and a major exporter of Phenol to India. The share of imports from South Africa (a developing country) was as high as 33.80 per cent (in the year 1998-99). The share came down to 4 per cent (during the period April 1999 to March 2001) only due to the safeguard duty being a deterrent for Phenol imports from South Africa. Such exemption was granted possibly because, for a very brief period (i.e. April 2000 to March 2001, when a safeguard duty was in force), the share of Phenol imports from South Africa was less than 3 per cent. During the approximate six month period of 1 April 2001 to 4 October 2001, imports from South Africa are reported to be 2,349 tons. If this figure is compared with total imports (from all sources) 30,380 tons for the same period, the share of South Africa works out to 7.73 per cent (which is well above the *de minimis* level of 3 per cent). Even if the six month import figure is compared with total average annual imports of the previous two years (1999-2000 and 2000-2001) of 27,872 TPA, the share of South Africa works out to be over 8.4 per cent. As percentage of last fiscal year's import (of 26,442 tons), the share of South Africa works out to be over 8.8 per cent. Safeguard duty should be levied on Phenol imports from South Africa immediately and with retrospective effect.

(iii) Earlier, in 1999, there was no major possibility of Phenol import from any developing country other than South Africa. However, Singapore is now emerging as a major exporter of Phenol to India

as Mitsui has commissioned its large Phenol plant in Singapore during July 2001. There is no significant local market for Phenol in Singapore (except for some quantities being consumed for manufacture of Bisphenol-A) and the nearest market for this Mitsui facility is India. Exports from this country to India have therefore started coming in at drastically low prices and in large quantities. Within a quarter of commissioning of a large capacity for Phenol in Singapore (in July 2001), there has been a flood of imports from Singapore, the share of which has already crossed well beyond 3 per cent of the total imports. Large Phenol parcels have arrived on the Indian shores from Singapore during the period between 1 July 2001 to 4 October 2001. During the approximate three month period starting from 1 July 2001, imports from Singapore are reported to be 7,066 tons. If this figure is compared with total imports (from all sources) of 23,044 tons for the same period, the share of Singapore works out to 30.66 per cent (which is well above the *de minimis* level of 3 per cent). Even if the three month import figure is compared with total average annual imports of the previous two years (1999-2000 and 2000-2001) of 27,872 TPA, the share of Singapore works out to over 25 per cent. As percentage of last fiscal year's import (of 26,442 tons), the share of Singapore works out to over 26 per cent.

(iv) The imports of Phenol from South Africa and Singapore have individually crossed the *de minimis* levels, they have requested the Government of India to issue a notification making safeguard duty applicable on import of Phenol from Singapore and South Africa.

(v) The flood of imports from these two countries at low prices and without attracting safeguard duty has caused grave harm to the domestic Phenol manufacturers. Inventories have piled up. In fact, soon after the flood of imports from Singapore started, the stocks of Phenol mounted and the combined stock of both companies put together was 2,861 tons towards the end of August 2001. The facility of Hindustan Organic Chemicals Ltd. was shut down (between 4-19 September 2001) and Herdillia may have to follow suit very soon in view of high stocks of Phenol of 1,009 tons (bulk plus packed combined) as on 28 October 2001.

(vi) Imports of Phenol have come in at still lower prices than the prices prevailing during April 2000 to March 2001. Both the Indian Phenol manufacturing companies have therefore had to reduce their Phenol prices.

(vii) They have also requested to levy a safeguard duty on Phenol imports from South Africa and Singapore at least on a provisional basis besides levy of a safeguard duty on Phenol imports from Singapore and South Africa with retrospective effect.

G. Findings

I have carefully gone through the case records and replies filed by all the interested parties including the domestic producers, users/importers and exporters. A number of issues have been raised by various parties, which have no direct bearing on the scope of the present proceedings which has been amply clear in the notice of review. It was clearly mentioned that it appeared *prima facie* the imports of Phenol from the notified developing countries were more than the *de minimis* level stipulated under Section 8B of the Customs Tariff Act 1975 and the interested parties were asked to make their views known and submit documentary evidence. The purpose of the review was to determine the share of developing countries in the total imports of Phenol eligible to the exemption from payment of a safeguard duty on imports of Phenol from these countries.

As regards the imports of Phenol into India during the period 1998-1999, 1999-2000, 2000-2001 and 2001-2002 (up to September 2001) it is observed that the countries mentioned in the table below exported Phenol to India during the said period. The data for the period 1998-1999 and 1999-2000 has been taken from DGCIS Calcutta and for the period 2000-2001 and 2001-2002 (up to September 2001) is based on the data furnished by the applicants which has been duly verified with

the DGCIS and Kandla Customs. On the basis of the verified data, the share of various countries/territories in the total imports of Phenol into India is determined as per the table below.

Share of various countries in Imports of Phenol into India

Imports in MT

	1998-1999		1999-2000		2000-2001		2001-2002 (9.01)	
Country/territory	Quantity	% age share	Quantity	%age share	Quantity	%age share	Quantity	%age share
China, P.R.	7,000	0.03	117,667	0.40	-	-	40,000	0.16
Chinese Taipei	809,505	3.21	231,850	0.79	3,550,420	13.43	3,779,886	14.62
European Community	85,735	0.34	16,493,150	56.29	7,348,301	27.79	8,059,231	31.16
Israel	-	-	20,500	0.07	-	-	-	-
Japan	5,911,450	23.45	849,716	2.90	1,014,139	3.83	76,400	0.30
Korea, R.P.	9,762,106	38.72	16,000	0.05	-	-	-	-
Malaysia	-	-	-	-	-	-	1,570,000	6.07
Mexico	-	-	100,000	0.34	-	-	-	-
Russia	36,000	0.14	895,046	3.05	-	-	-	-
South Africa	8,522,457	33.80	2,165,344	7.40	374,000	1.41	2,020,124	7.81
Singapore	16,000	0.06	72,600	0.25	41,400	0.16	8,071,483	31.21
Switzerland	100	-	28,000	0.09	-	-	-	-
Saudi Arabia	-	-	108,000	0.37	-	-	296,400	1.15
United States	62,645	0.25	8,204,216	28.00	14,114,732	53.38	1,947,000	7.52
Total	25,212,999	100	29,302,089	100	26,442,992	100	25,860,524	100

It is pertinent here to reproduce the provisions of Section 8B of the Customs Tariff Act 1975 which empowers the Government to impose a safeguard duty in accordance with the provisions of the said section.

"If the Central Government after conducting such enquiry as it deems fit, is satisfied that any article is imported into India in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry, then it may, by notification in the Official Gazette, impose a safeguard duty on that article.

Provided that no such duty shall be imposed on article originating from a developing country so long as the share of imports of that article from that country does not exceed 3 per cent or where the article is originating from more than one developing country then, so long as the aggregate of the imports from all such countries taken together does not exceed 9 per cent of the total imports of that article into India."

It is observed from the above tabulation that the share of the following developing countries (notified under Notification No. 103/98-Customs dated 14 December 1998 as amended by Notification No. 62/99 dated 13 May 1999) in the import of Phenol into India during the first half of 2001-2002 (April-September) has been 3 per cent or more:

Malaysia, South Africa and Singapore.

Accordingly, it is recommended that imports of Phenol into India from these notified developing countries be subjected to safeguard duty leviable thereon.

The total share of notified developing countries, having an individual share of less than 3 per cent in the import of Phenol into India, does not account for 9 per cent or more collectively and accordingly, it is recommended that imports of Phenol from such notified developing countries may not be subject to safeguard duty.