

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI DUMPING &
ALLIED DUTIES)
UDYOG BHAWAN, NEW DELHI**

NOTIFICATION

Dated, the 25th August 2005

FINAL FINDINGS

Subject: Anti-dumping investigation concerning imports of Citric Acid originating in or exported from China PR, Korea RP and Ukraine - Final Findings.

No. 14/12/2004-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as AD Rules) thereof;

A. PROCEDURE:

1. The procedure described below has been followed:-
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written application from M/s. Solaris Biochemicals Ltd, on behalf of the domestic industry, alleging dumping of Citric Acid originating in or exported from China PR, Korea RP and Ukraine (hereinafter referred to as subject countries);
 - ii. The Authority notified the Embassies of subject countries in India about the receipt of fully documented application made by the applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5;
 - iii. The Authority issued a Public Notice dated 27th August, 2004 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Citric Acid of Schedule I of the Customs Tariff Act;
 - iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainant in terms of Rule 6(2) and gave them an opportunity to make their views known in writing;

- v. The Embassies of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters / producers from their respective countries to respond to the questionnaire within the prescribed time;
- vi. The Authority sent questionnaires, to elicit relevant information, to the following known exporters from Subject countries as per Rule 6(4),
 1. Tianjin Hengyi International Trade Co., Ltd., China PR
 2. Sihuan Science Trade Development Co., Ltd., China PR
 3. Shinwon Industrial Co., Ltd., Korea RP
 4. BKC Exports Inc., Ukraine
- vii. The Market Economy Treatment (hereinafter also referred to as MET) questionnaire was also sent to the known exporters from ChinaPR and Bureau of Fair Trade for Imports and Exports, Govt. of China to elicit relevant information;
- viii. M/s. Gansu Xuejing Biochemical Ltd., China PR,(Producer) (hereinafter also referred to as Gansu,), M/s Anhui Garments Sheos and Caps Industrial Group Company, China PR(exporter) (hereinafter also referred to as Anhui,) and M/s Kharkhov Plant of Citric Acid, Kharkhov region, Ukraine (hereinafter also referred to as Kharkhov,) have responded to the exporters questionnaire. Some of the exporters as well as Importers had asked for extension of time to respond to the questionnaire and the Authority after considering the request from the exporters and importers extended the time period to reply to the questionnaire and file their submissions;
- ix. The questionnaire was sent to the following known users/importers of subject goods,
 1. M/s. C.J. Shah & Co., Mumbai
 2. M/s. Cipla Ltd., Pune
 3. M/s. Tata Tea Ltd., Mumbai
 4. M/s. Park Organics Ltd., Mumbai
 5. M/s. Sparklings Trading Pvt. Ltd., Mumbai
 6. M/s. Shubh Trading Co., Mumbai
 7. M/s. Amijal Chemicals
- x. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- xi. The Authority sought and verified all the information it deemed necessary for the purpose of determination of dumping and causing injury due to dumped imports. The Authority conducted on the spot investigation of the domestic

industry to the extent considered necessary. The Authority also conducted on-the-spot verification of the co-operative Chinese exporters;

- xii. The cost of the production of the domestic industry was also analysed to work out the optimum cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the applicant so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry;
- xiii. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation;
- xiv. A request were made to the Central Board of Excise and Customs (CBEC) and Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata to arrange details of imports of subject goods made in India during the past three years, including the period of investigation;
- xv. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 22/07/2005 and extension for filing the comments on the disclosure statement was granted upto 14/08/2005 on examination of request of the interested party. Comments received by the interested parties have been duly considered relevant in these findings.
- xvi. **** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules. The information concerning prices and costing filed by the interested parties were claimed confidential by respective interested parties and these were treated as confidential by the Authority;
- xvii. The investigation of dumping and injury covered the period from 1st April 2003 to 31st March 2004 (hereinafter also referred to as period of investigation or POI). The examination of trends in the context of injury analysis covered the period from April 2001 - March 2002, April 2002 – March 2003 and April 2003 – March 2004;

B. PRODUCT UNDER CONSIDERATION:

2. The product under consideration is “Citric Acid”. It is mainly used as preservative in food and beverage, soft drinks, confectionery, drugs etc. It is also used in textile dyeing and printing industry and for some other industrial uses such as boiler cleaning etc. It is freely importable under OGL. It is classified under Chapter 29 of the Customs Tariff Act, 1975 under sub-headings No 2918.14. The Custom classification is indicative only and not binding on the scope of investigation.

C. LIKE ARTICLES:

3. The applicant has claimed that goods produced by them are like articles to the goods originating in or exported from subject countries. There is no significant difference in the subject goods produced by the applicant and those exported from subject countries. Rule 2(d) of the AD Rules specifies that like articles mean an article, which is identical and alike in all respects to the product under investigation or in the absence of such an article, another article having characteristics closely resembling those of the articles under examination. In order to establish that subject goods produced by the domestic industry is a like article to that exported product from subject countries, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority and it has been found from the responses of the interested parties that the subject imported goods and domestically produced goods have been used simultaneously by the same users. None of the interested parties has raised any arguments concerning the issue of like article. In view of the above, it is noted that subject goods produced by the domestic industry and those being imported from the subject countries are like articles within the meaning of the Rules 2(d).

D. DOMESTIC INDUSTRY:

4. Interested parties have argued that the composition of the domestic industry of citric acid has changed because the producers of citric acid have changed in the past few years. They have stated that the applicant company has taken over the liabilities of the earlier closed unit M/s Bharat Starch Industries Ltd. and because of this reason of high cost of production the domestic industry is facing injury. The arguments of the interested parties were examined and the Authority found that the other producer of subject goods M/s. Citurgia Biochemicals Ltd. has no production during the POI. The applicant company M/s. Solaris Biochemicals Ltd has started its production in December, 2001 and its commercial production started only from April, 2003. As regards the high cost of production it is noted that non-injurious price is determined after taking into consideration all the relevant factors including cost of raw material used in the production of the subject goods, the consumption thereof, the cost of utilities, interest cost, cost of labour, depreciation cost and selling and distribution expenses and cost of investments. It is also noted that the non-injurious price has been determined at normated level of capacity utilization to eliminate the inefficiency of any nature. The Authority notes that the applicant is the sole producer of the subject goods during the POI, therefore has the standing to file the application in terms of Rules 5(3) of AD Rule 2(b).

D.1 SUBMISSION OF NON-CONFIDENTIAL INFORMATION

5. The domestic industry has submitted that the exporters have resorted to excessive use of confidentiality. The information provided by the exporter on non-confidential basis do not permit any understanding of the substance of information provided on confidential basis. They have further stated that the exporters have filed entire submissions with complete disregard to the requirement of non-confidential version. The exporters have also argued that the domestic industry did not provide adequate summary of non-confidential version enabling the exporters to effectively and meaningfully defend their interest thereby violating Article 6.5.1 of the WTO Anti-dumping Agreement. Both the domestic industry and exporters have argued that the non-confidential version of their respective responses was inadequate and number of information / data were kept confidential. The arguments of the interested parties were examined and it is noted that the non-confidential responses provided by the interested parties were kept in the public file and were made available to all the interested parties. On examination of the claim of the interested parties regarding the information concerning prices and costing of the interested parties, the Authority considered these information as confidential because of its business sensitivity.

E. METHODOLOGY FOR CALCULATION OF DUMPING MARGIN AND EXAMINATION OF MARKET ECONOMY

6. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c) of the Customs Tariff Act, 1975 and the responses were received from the following exporters;

- i. M/s Gansu Xeijing Biochemical Ltd., China PR,(producer) (hereinafter referred to as Gansu)
- ii. M/s Anhui Garments Sheos and Caps Industrial Group Company, China PR,(exporter) (hereinafter referred to as Anhui), and
- iii. M/s Kharkhov Plant of Citric Acid, Kharkhov region, Ukraine, (hereinafter referred to as Kharkhov)

E.1 VIEWS OF THE INTERESTED PARTIES

7. The views of the interested parties are summarized below;

- i. The domestic industry produces Citric Acid through the sugar route which cannot be viable since the Chinese companies use corn starch syrup and their economies of scale is also very competitive. Because of this reason their cost of

production is very low and they are able to export throughout the world at the most competitive prices including India.

- ii. The average export price of Citric Acid from India is lower than the Chinese export prices to India. It has been observed from the balance sheet of M/s. Solaris Biochemicals Ltd., that they have effected substantial quantity of exports and this is the main cause of their losses. If these exports were not been effected otherwise there would have been no loss or insignificant losses during the start up operation period.
- iii. In the comments to the disclosure statement they have stated that there no interference of State in this two companies and this two companies are independently taking decisions and earning profits like in case of any company operating in market economy.
- iv. They have submitted that takeover of the management by the workers cooperatives has been permitted in India also and this does not mean that it is not carried out in a transparent manner. Even M/s. Solaris has also taken over the earlier company with huge write offs and majority share holders of one part has remained the same.
- v. The sunset review was rejected by the Authority on merits, restoring the benefit through a fresh investigation will not be appropriate. In case of China the anti-dumping duty was there in place and the imports to that effect only 330 MT have been affected after the lifting of anti-dumping duty. It may also be noticed that the market share of imports have increased due to closure of production facility by another producer M/s. Citurgia.

E.2 VIEWS OF THE DOMESTIC INDUSTRY

8. The views of the domestic industry are summarized below;

- i. The Chinese exporter M/s. Anhui has exported only two consignments of 110 & 120 MT of Citric Acid on 2.2.2004 and 6.3.2004 respectively. These consignments do not find reportings in the DGCI&S import data for the period April 2003 to March 2004, therefore the Chinese company are not eligible for a separate determination of dumping margin.
- ii. The domestic industry has once again reiterated that the Korean and Malaysian imports are more likely to be of Chinese origin and the importers have involved in circumvention of anti dumping duty by transshipment of subject goods at dumped prices since anti-dumping duty was in place on imports of Citric Acid from China. One of the domestic producer i.e., M/s. Citurgia has already closed down its operation which is indicative of injury due to the dumped imports.

E.3 CHINA PR

VIEWS OF M/S GANSU XEIJING BIOCHEMICAL LTD., CHINA PR, (PRODUCER)

9. Gansu (producer) started its production on 28/9/2003 after taking over the state owned existing entity. The company has become public limited company in September 2003. The company has claimed that it has been incorporated and registered under the PRC company law and all the major decisions are taken as per Chinese law. They have stated that the directors and shareholders of the company do not hold shares in any other company related to production and sale of Citric Acid in China, PR and India. The producer has claimed that the company is operating on market based economy and the prices of Citric acid are market driven. They have claimed that there was no subsidized supply of raw materials and utilities and they were procured from the market at the prevailing market prices. It is submitted that the prices of Citric acid in the domestic market are lower than the export price to India and the company is earning profits.

10. The company claimed that it is governed by civil procedures court of People's Republic of China which deals with procedure for bankruptcy and debt repayment of enterprises with legal certainty. The Article 199 provides a guarantee for legal certainty and stability in the operation of the firm like granting recourse to the course of law, ensures a major protection to creditors, incase of any major loses suffered by the entity.

11. The company has claimed that the raw materials were purchased from the local market and the prices of the raw materials purchased reflect the price prevailing in the local markets and orders were normally awarded on the basis of lowest price quoted by the suppliers. They have also claimed that the raw materials are procured from different sources at market driven prices without any involvement of the State in the decision making process. The company itself makes its decisions regarding purchase of raw materials and procurement of utilities.

12. In support of their claim of MET they have stated that 39 countries have granted market economy status to China including Australia, New Zealand, Brazil, Argentina, Russia, South Africa etc. India has also granted MET to many Chinese companies in several anti dumping investigations, therefore, this company should also be given market economy treatment.

VIEWS OF M/S ANHUI GARMENTS SHEOS AND CAPS INDUSTRIAL GROUP COMPANY, CHINA PR,(EXPORTER)

13. Anhui (exporter) is a Limited company, which is established according to the laws of ChinaPR. The company was established in 1992 and is making profits in the past

three financial years. All the Board members are elected members and some of them are working employees of the company. The Board members are the representatives of the shareholders of the company. Textile Association of Anhui Province is the shareholder of the company.

14. Anhui is an independent business entity & has no relationship with Gansu except for buying & exporting their goods. The goods are purchased locally & exported. The price is the sole consideration while buying the Citric acid from Gansu. There is no commission payable by Gansu because the goods are purchased on outright sales by way of a local purchase transaction. Whatever is the difference in the purchase price & the export price is the profit earned by Anhui.

15. There are no incentives on exports being claimed by the manufacturer of goods i.e. M/s. Gansu Xuejing Biochemical Co. Ltd., however, the exporter is entitled to claim drawback @ 13% on exports & retained by them. They claim that citric acid is purchased on ex factory basis therefore, they pay the cost of goods including the VAT. In addition to this, the local freight to Tianjin port; ocean freight; insurance from suppliers factory to the buyers warehouse & the bank charges in relation to the export transaction are also paid. In addition, the exporter gets duty drawback on exports of Citric Acid @ 13% of the assessable value at the time of removal of goods from the factory. This is not passed on to the manufacturer since it has been purchased locally & paid the price including the VAT.

EXAMINATION OF THE AUTHORITY

16. The Designated Authority, as per para 8(2) of Annexure I of the AD Rules for the purpose of assessing the Normal Value, proceeded with a presumption that any country that has been determined to be or has been treated as, a non-market economy country for purposes of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three years period preceding the investigation is a non-market economic country. In the past three years WTO members such as EU and USA have treated China PR as a non-market economy country in anti- dumping investigations. In the instance case, China PR has been proposed to be investigated as non-market economy Country.

17. The Authority sent market economy treatment (MET) questionnaire and exporters questionnaire to all the known exporters (whose details were made available by the applicant) for the purpose of determination of normal value. Incomplete responses have been received from Gansu (producer) and Anhui (exporter). The submissions were examined and a detailed deficiency letter was issued on 2.12.2004 and subsequently explained to the representative of the exporter. They filed the complete response in support of their claim of market economy treatment and requested for

determination of normal value on the basis of domestic sales of Citric acid in their home market. In view of their claim of MET treatment, verification was carried out at the premises of the responding cooperative producer and exporter. The Chinese producer has claimed individual treatment on the grounds that they are operating under market economy condition irrespective of prevailing economy situation in the country without any direct or indirect State interference or influence in their business activity. Bureau of Fair Trade, Ministry of Commerce, China PR has also responded to the general questionnaire, which has been considered to the extent relevant in this investigation.

18. In anti-dumping investigations concerning imports originating in China PR, normal value shall be determined in accordance with para 7 & 8 of Annexure I of the AD Rules. The Authority notes that para 7 of Annexure 1 of AD Rules provides that:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.”

Further Para 8 of Annexure 1 of the AD Rules (as amended) provides that:

“8 (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph(3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economic country;

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).”

19. It is noted that the responding Chinese producer furnished information/ evidence as mentioned in para 8(3) of Annexure 1 of AD Rules to enable the Designated Authority to consider the following criteria as to whether

- a. the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
- d. the exchange rate conversions are carried out at the market rate;

20. The Authority examined whether the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials cost of technology and labour, output sales and investment, are made in response to market signals reflecting supply and demand without significant State interference and in this regard whether costs of major inputs substantially reflect market values. After verification of the data the Authority forwarded a detailed verification report highlighting the facts. In response to the verification report, they have argued that the scope of non-market economy examination is limited to dumping determination and the Authority is required to examine information/data for the period of investigation only not the data/information prior to POI for market economy treatment . The Authority notes that the determination of normal value is based on the data of the POI only, however, the examination of market economy takes into account the entire data of the company preceding to the POI also.

21. The Chinese company manufactures both Starch & Citric Acid from the basic raw material, i.e, Corn. In the product catalogue, liquid fertilizer is mentioned as one of the products of the company. On inquiry, the company clarified that this product is no longer manufactured by them. This product was manufactured by the earlier business entity M/s. Gansu Linze Starch Plant and its production has been stopped since 1997 for which reasonable explanation could not be provided to the verification team. The producer provided information only for the period of the new company came into existence. In response to the verification report, the company has submitted that “the company commenced production in Sept.03” and therefore, data has been provided only for the period from September,2003 to March,2004. The company further submitted that the response is submitted by Gansu and they are authorized to provide

details only in respect of this legal entity. They are not authorized to give details in respect of earlier State owned company M/s Gansu Starch Plant Ltd. because the erstwhile plant went into liquidation. In absence of data/information of the company of the earlier periods of the earlier state owned company, the Authority could not examine the trends of profitability of the company and their independent functioning without any substantial interference of the state. Corn accounts for the biggest purchase in the books of account and is the major raw material in production of citric acid. In respect of procurement of Corn the Authority found a difference in the price of corn as per invoices presented during the on spot verification and the rates mentioned in response to the exporter questionnaire and MET response. The Chinese company could not provide any justification for the differences in prices and the process of procurement of corn could not be found to be fair and transparent.

22. The company generates own steam from coal. Coal was purchased partly from State owned enterprise and partly from limited companies. The company provided details of the purchase, receipt & payment documents of coal on randomly selected records which were verified from their records. Electricity is purchased from a State Owned Enterprise. The company provided a tariff chart of the electricity company. The average rate appeared to be on the lower side as compared to the electricity rates in other parts of china. The company argued that this part of China was not so developed, therefore, to encourage the establishment of industries in this area, power is priced very competitively and the similar view was advanced by BOFT also. The Chinese company has agreed with the verification report that the electricity rate is higher in other provinces than what is available to the industry in Gansu province and the justification advanced by them was not satisfactory.

23. Regarding the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts, the Chinese producer submitted that there is no significant distortions carried over from the former non-market economy system in order to rebut the presumption of NME . The company claimed that the ownership of the land use rights have been obtained on long term lease basis from the Government. On verification of their records it is observed that land has been obtained from the State but they could not provide the details of payment of rentals of leased land to the Government. During the course of verification it was also found that the new company has been taken over from erstwhile State owned company by the association made of staffs of earlier SOE, at a value which does not reflect the market prices of such industrial setup. In view of this, exclusion cannot be made regarding the significant distortions carried over from the former non-market economy system. The exporter have argued since the businesses have been in loss for many years, therefore

there were no bidders apart from company formed by the staffs of the earlier SOE company. As far as debt rescheduling and write offs are concerned they have submitted that it is a common feature of privatisation of loss making companies in the market economies also. As per para 8 (3) (b), it is essential to examine the process of transformation and how the assets and liabilities of the entity have been valued for the purpose of privatisation. In this connection the Authority notes that the manner in which the process of privatisation has taken place and the fixed and financial assets of the erstwhile state owned company has been transferred to the new company appears to have significantly affected the costs of subject goods. The Authority further notes that the cost of production and the prices in the domestic market do not reflect the market prices, therefore, cannot be accepted for the purpose of this investigation.

24. As regards their claim of its existence of bankruptcy law which guarantees stability and legal certainty, the company claimed that this company faced significant financial difficulties having been loss making for a number of consecutive years and declared bankrupt. Since it was a State owned company, the liabilities on the part of the company were written off and handed over to a newly formed association made by the existing staff of the company having ****% shareholding along with M/s Gansu Jinbao Investment Company Limited having ****% shareholding. The company could not substantiate with facts that the bankrupt company has been handed over to a new entity in a reasonable and transparent manner and could not demonstrate the non-interference of the State in the entire chain. The company provided a report of the asset valuation of Gansu as on 01.12.2003 and claimed that the assets of the State owned enterprise were taken over by the ICBC bank and the bank took over the assets and put up a Public Notice for the disposal of assets. The discrepancy was observed with regard to the commencement of the new entity in the month of September 2003 whereas the assets of the State owned company has been valued in December,2003. In support of their claim they provided a copy of the public notice issued by the bank. As per the decision of the court, an amount of RMB**** was determined to be the shortfall between the assets and liabilities of the Gansu linze starch plant and this shortfall was agreed to be funded by the government. The Court has finally made a decision vide its order dated 18.9.2003 stating that the liabilities to the extent of RMB**** need not be paid any more by the new entity and the liquidation group will carry out the other formalities. The Authority observed that the value at which the assets of the State owned entity were transferred to the private ownership and the manner in which the liabilities have been adjusted or written off, distorts the cost of production of the products manufactured from this plant. In this connection the Authority notes that the manner in which the privatization has taken place and the assets of the erstwhile State owned enterprise has been transferred to the new company appears to have significantly affected the cost of production for the subject goods.

25. In respect of drawback receivable from the government, the exporting company claimed at the rate of 13% and called for adjustment in the export price. However, in case of exports to India the sale from the factory is accounted for as home market sale to Anhui as purchased material locally and invoices were raised inclusive of VAT at the rate of 17%. & claimed adjustment on account of refund of drawback in their export price .The Authority verified and considered the claim of adjustment on account of refund of drawback to determine the ex-factory export price.

26. As regards the exchange rate conversions are carried out at the market rate, the bank realization certificates were verified the as proof of receipt of the export proceeds. These realisation certificates showed the invoice number, the US \$ amount, the amount deducted by the bank as bank charges and the net amount credited to Anhui. The exchange rate at which the US \$ was converted into RMB was also shown in the bank certificate. All these details were verified by the team and found to be in order.

27. The Authority notes that the Chinese company did not provide sufficient evidence to demonstrate that their business decisions are not subjected to State interference. Further it was observed that the transactions have not been carried out without significant distortions, which is evidenced by the transactions with the erstwhile State owned entity. The Authority observed that the value at which the assets of State owned entity were transferred to the private ownership and the manner in which the liabilities have been adjusted or written off by the State, distorts the cost of production of the products manufactured from this plant. In this connection the Authority notes that the manner in which the assets of the erstwhile State owned enterprise has been transferred to the new entity appears to have significantly affected the cost of production for the subject goods. Therefore, the Authority is of the opinion that the cost of production and its prices in the domestic market do not reflect the correct market price of the product and cannot be accepted for the purpose of this investigation. In view of the above, the Authority could not grant market economy status to the responding co-operative Chinese producer.

28. It is noted that the cooperative exporter from China has provided the domestic sales transaction details for the purpose of determination of normal value in the country of exports in respect of the product under consideration. However, in view of the significant distortion in the cost and prices due to the influence of transfer of company concerned, the Authority is of the opinion that the cost and prices of the product in the domestic market would not reflect the costs and prices as per market signals, hence proposed to construct the normal value of the subject goods in China PR in terms of para 7 of Annexure I of AD Rules;

Para 7 of Annexure I provides that, “*In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected in a reasonable manner (keeping in view the level of development of the country concerned and the product in question) and due account shall be taken of any reliable information made available at the time of selection. Account shall also be taken within time limits, where appropriate, of the investigation if any made in similar matters in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.*”

29. The interested parties have argued that the normal value in a non market economy country shall be required to be determined on the basis of prices from third country to other countries including India. The Authority has examined the arguments of the interested parties with reference to the rule quoted above and notes that sufficient reliable information on cost of production and prices of the subject goods in any comparable country was not available for the selection of an appropriate third country for determination of normal value. Therefore, it was not possible to determine the normal value based on the prices or constructed value in the market economy third country. None of the interested parties placed any material before the Authority for selection of an appropriate third country, on the other hand the domestic industry in their application clearly indicated that the normal value may be constructed on the basis of price paid or payable in India duly adjusted for reasonable profit margin in a market economy country. As regards the second option of determination of normal value on the basis of prices from third country to other country including India was examined on the basis of import statistics made available by the DGCI&S. It was observed that the import prices from other countries to India as per the DGCI&S statistics were not appropriate for determination of normal value since the volume of imports from other countries to India were diminimis. It is noted that the imports from countries other than subject countries are below the de minimis limits except imports from Malaysia and countries attracting anti dumping duty. However, it is noted that the domestic industry has stated that there is no producer of subject goods in Malaysia and the imports may be of Chinese origin. In view of this, the Authority constructed the normal value as per price actually paid or payable in India for the like product, duly adjusted. The raw materials for manufacturing Citric Acid at the international price, the consumption norms of the industry and reasonable profit have been

considered for constructing the normal value for China PR. The normal value is therefore, constructed as US\$****/Kg.

EXPORT PRICE

30. Anhui has provided invoice wise details of exports of Citric Acid made to India during the period of investigation. They exported 330 MT of Citric Acid during the POI and it has been considered for determination of export price. In order to arrive at the ex factory export price, the company has claimed adjustments on account of inland freight, overseas freight, overseas insurance and VAT. The Authority considered the claim of adjustments on the basis of verified data to arrive at ex-factory export price of Citric Acid exported to India during the period of investigation. The Authority has determined the ex-factory export price as US\$ ****/Kg.

OTHER EXPORTERS/PRODUCERS FROM CHINA PR

NORMAL VALUE

31. It is noted since there were no other exporters/producers cooperated apart from the responding exporters in China PR, the Authority has constructed the normal value as per para 7 of Annexure-I of AD Rules for all other exporters/producers from China, PR. The raw materials for manufacturing Citric Acid at the international price, the consumption norms of the industry and reasonable profit have been considered for constructing the normal value. The normal value is, therefore, constructed as US\$****/Kg.

EXPORT PRICE

32. The export price is determined on the basis of import statistics made available by DGCI&S. To arrive at ex-factory export price, adjustments have been considered as provided by the domestic industry. The ex-factory export price is determined as US\$****/Kg for all other exporters/producers from China PR.

E.5 UKRAINE

33. The Designated Authority, as per para 8(2) of Annexure I of the AD Rules for the purpose of assessing the Normal Value, proceeded with a presumption that any country that has been determined to be or has been treated as, a non-market economy country for purposes of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three years period preceding the investigation is a non-market economic country. In the past three years Ukraine has been treated as a non-market economy country in the anti- dumping

investigations by WTO members such as EU and USA. In the instance case, Ukraine has been proposed to be investigated as non-market economy Country.

34. The Authority sent market economy treatment (MET) questionnaire and exporters questionnaire to all the known exporters (whose details were made available by the applicant) for the purpose of determination of normal value. The Government of Ukraine has filed submissions for its claim of market economy Status but did not file submissions as per para 8(4) of Annexure-I of AD Rules in the MET questionnaire.

35. The Trade and Economic Mission of Embassy of Ukraine, India filed the exporters response in respect of Kharkov Plant of Citric acid, Ukraine. They have stated that the Kharkov Plant of Citric acid was formed as per the decision of the regional officer of state ownership of Ukraine in Kharkov region of 21/1/96 by means of transformation of national enterprise “The Kharkov Plant of Citric Acid” into the public corporation. The plant performs the production and selling of the subject goods independently.

36. The company did not file complete information regarding the domestic sales and export sales in Appendix 1 & Appendix 2. They did not file the information in Appendix 5 and Appendix 6 . As regards, the information in Appendix 4 and Appendix 7 incomplete information have been provided. The cost of production with regard to domestic sales, export sales and exports to third country has not been filed. The profit and loss account and the balance sheet for the POI and preceding years have not been furnished to analyse the costing and financial information of the company. The deficiency letter was sent on 4/11/04 to file the complete submission in the exporter's questionnaire in the form and manner specified by the Authority. Further reminders were also sent stating that in absence of complete information, they will be treated as non cooperative and the normal value will be constructed as para7 of the AD Rules related to non market economies, which they did not respond.

37. The determination of normal value in respect of Ukraine is to be carried out in accordance with the rules relating to non-market economies as contained in Para 7 & 8 of Annexure-1 of AD Rules as amended. The Authority notes that para 7 of Annexure 1 of AD Rules provides that:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.”

38. Further Para 8 of Annexure 1 of the AD Rules (as amended) provides that:

“8 (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph(3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economic country;

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).”

39. It is noted that the responding company did not furnish complete information/evidence as mentioned in para 8(3) of Annexure 1 of AD Rules to enable the Designated Authority to consider the following criteria as to whether;

- a. the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials cost of technology and labour, output sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
- d. the exchange rate conversions are carried out at the market rate;

40. The Government of Ukraine filed a claim of market economy status but not as required under para 8 (4) of Annexure 1 of AD Rules. In view of this provision any country may claim for a market economy status provided the claimant country is able to fulfil the following conditions to the satisfaction of the Authority,

- i. the concerned country has been determined to be or treated as a market economy for the purpose of AD investigations by WTO Member country;
- ii. such a treatment or determination shall be based on the latest detail evaluation of relevant criteria which includes the four criteria specified in para 8 (3) of Annexure 1;
- iii. evaluation has been made in a public document

41. It is noted that the Government of Ukraine did not furnish the complete information/evidence to rebut the presumption of non market economy as required under para 8(4) of Annexure-1 of AD Rules. The exporter was asked vide letter dated 3.2.2005 that their submissions are grossly deficient and most of the appendixes of the exporters questionnaire are incomplete. The Authority also intimated that in case of non-submission of required documents the firm will be treated as non-cooperative and the normal value will be determined as per para 7 of Annexure I of AD Rules. The Ukrainian Government has also been asked to file the complete submission for their claim of market economy as required under para 8(4) of Annexure I of AD Rules. It was also stated that in absence of complete information the normal value in respect of all exporters/producers from Ukraine will be determined as per Rules relating to non-market economies as contained in para 7 of Annexure I of AD Rules. The Authority further reminded both the Ukrainian Government and the responding exporter vide its letters dated 28.2.2005 but nothing was heard either from the exporter or from the Government, therefore the Authority found it appropriate to construct normal value as per para 7 of Annexure I of AD Rules. In absence of complete information the Authority could not grant market economy status to Ukraine and market economy treatment to the responding company. The interested parties have argued that the normal value shall be required to be determined on the basis of prices from third country to other countries including India. The Authority has examined the arguments of the interested parties with reference to the rule quoted above and notes that sufficient reliable information on cost of production and prices of the subject goods in any comparable country was not available for the selection of an appropriate third country for determination of normal value. Therefore, it was not possible to determine the normal value based on the prices or constructed value in the market economy third country. None of the interested parties placed any material before the Authority for selection of an appropriate third country, on the other hand the domestic industry in their application clearly indicated that the normal value may be constructed on the basis of price paid or payable in India duly adjusted for reasonable profit margin. As regards the second option of determination of normal value on the basis of prices from third country to other country including India was examined on the basis of import statistics made available by the DGCI&S. It was observed that the import prices from other countries to India as per the DGCI&S statistics were not appropriate for determination of normal value since the volume of imports from other countries to

India were diminimis. It is noted that the imports from countries other than subject countries are below the de minimis limits except imports from Malaysia and countries attracting anti dumping duty. However, it is noted that the domestic industry has stated that there is no producer of subject goods in Malaysia and the imports may be of Chinese origin. In view of this, the Authority constructed the normal value as per price actually paid or payable in India for the like product, duly adjusted. In view of the non-cooperation the normal value in respect of all exporters / producers from Ukraine is determined as per rules relating to non-market economies as contained in Para 7 of Annexure-1 of AD Rules. In view of the above, the normal value has been constructed for all the producers / exporters from Ukraine on the basis of raw materials at the international price, the consumption norms of the industry and reasonable profit. The normal value is therefore, constructed as US\$****/Kg. for all exporters / producers from Ukraine.

EXPORT PRICE:

42. The export price is determined on the basis of import statistics provided by DGCI&S. As per DGCI&S import statistics Ukraine has exported 943MT of citric acid during the POI. To arrive at ex-factory export price, adjustments have been considered as provided by the domestic industry. The ex-factory export price is determined as US\$****/Kg. for all exporters / producers from Ukraine.

E.6 KOREA RP

NORMAL VALUE:

43. The Korean Government has submitted that the total exports of Citric Acid from Korea RP to all countries including India during the POI is only 108 MT and the exports of Citric Acid from Korea to India is merely 20 tons as per the official Korean Export Statistics. In this regard the Korean Embassy, New Delhi has filed the official statistics of direct exports of Citric acid from Republic of Korea to all countries for the period January 2003 to 12th October 2004. They have stated that M/s. Shinwon Industry Company, Korea has exported only one consignment of 20 MT of Citric Acid during the POI. M/s. Shinwon Industrial Company, South Korea in its e-mail dated 11/11/2004 has also stated that they have exported only 20 MT of Citric Acid during the POI, which is a very small quantity and did not file the response in the exporters questionnaire. The Korean Government has once again vide its letter 24.6.2005 has submitted that as per the statistics of Korean Customs Service only 20 tons of Citric Acid have been exported by Shinwon Industrial Company during the period of investigation and requested the Indian Authority to exclude Korea RP from this investigation.

44. The domestic industry has submitted that the submissions made by the Korean Government regarding the discrepancy in the import data reported as per DGCI&S and the export statistics provided by the Korean Government may be dealt by the appropriate authority. They have further stated that this re-enforces apprehension that the subject goods claimed to have been originating from Korea may possibly be of Chinese origin. Since the country of origin investigation may take its own time, the domestic industry has submitted that the submission of the Korean Embassy may be accepted and anti-dumping investigation may be carried for the subject goods originating in or exported from China PR and Ukraine. The interested parties have argued that the Korean import statistics is not reliable since the Indian importers have filed the certificate of origin regarding their exports from Korea before the Customs, therefore the submissions of the Korean Government is not in order. On examination of the arguments of the interested parties, the Authority is of the view that the actual import volumes of Citric Acid from Korea could not be ascertained. On the basis of information received from Customs, the Authority is not in a position to determine the actual import volumes from Korea, since the traders from other countries have effected these exports.

45. In view of the above, the Authority considered the Korean exports as de-minimis as it is less than 3% in the total imports of Citric Acid during the POI. Therefore, Korea RP has been excluded from the subject countries in this investigation and their volume of imports has been segregated from dumped imports for the purpose of injury examination. In view of the above, Korea RP has been excluded from the subject countries in this investigation. Henceforth, only China PR and Ukraine shall constitute as subject countries in this investigation wherever it is referred.

E.7 DUMPING MARGIN

46. Based on the normal value and export price as determined above, the Authority determined the dumping margin as under:

SUBJECT COUNTRIES/EXPORTERS/PRODUCERS	NORMAL VALUE	EXPORT PRICE	DUMPING MARGIN(%)
M/S. GANSU XUEJING BIOCHEMICAL LTD., CHINA PR,	*****	*****	7.21%
OTHERS EXPORTERS/PRODUCERS FROM CHINA PR	*****	*****	39.62%
UKRAINE	***	***	42.24%

F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK

F.1 VIEWS OF THE INTERESTED PARTIES

47. The views of the interested parties are summarized below;

- i. The vast variation in the consumption norms from the standard norm during the 2003 & 2004 period clearly indicates the reason for high cost of production of the subject goods.
- ii. The domestic industry's cost of production is much on the higher side since sugar being the major raw material and it has not achieved the optimum capacity utilisation therefore their cost of production need not be taken as constructed normal value.
- iii. The domestic industry has themselves acknowledged that the industry has undergone a change during 2001-2002 to 2003-2004 and this change has led to surge in imports because one of the producer of the subject goods M/s Citirgia closed down its production facilities.
- iv. The domestic industry themselves acknowledged that the output and capacity utilisation has improved during the POI if taken into account that the trial production has started during 2000-2001.
- v. Due to the closure of one of the producer of the subject goods and the prevailing demand in the market, imports were imperative to fulfil the demand.
- vi. The sales volume of the domestic industry has increased during the POI.
- vii. The price has reduced by 26% during 2003-2004 whereas the custom duties has come down by 42.85% during the same period. This itself accounts for the reduction in the cost of product to the consumer.
- viii. The productivity of the domestic industry has improved and the inventories situation has also improved during the POI.
- ix. While most of the parameters of injury are indicating positive trend, therefore no material injury due to dumped imports. There is no injury to the domestic industry and there is no causal link between the Chinese imports and injury to the domestic industry due to such imports.

F.2 VIEWS OF THE DOMESTIC INDUSTRY

48. The views of the domestic industry are summarized below;

- i. The selling price of the domestic industry has declined more than the dumped price, which indicates the domestic industry has suffered on account of price injury. Due to the continuance decrease in import prices, the domestic industry was forced to decrease its prices below cost to match the prices of dumped imports.
- ii. The increase in market share by 2.04% is negligible when the demand has increased by 30%, therefore it is not correct to say that the domestic industry has not suffered on account of loss of market share.
- iii. The domestic industry has operated only for four months registering a sale of 7566 MT during 2001-02 whereas during the POI it registered a sale of 10203 MT. The comparison may be done on annualized basis.

- iv. The comparison of cost of production from the base year 2001-02 is not appropriate since it was under trial production and all the costs were capitalized whereas the commercial production started only in 2003-04.
- v. The capacity utilisation has increased by only 3% if the base year figure is annualized for the purpose of comparison, whereas the demand has increased by 30%. They have also submitted that the capacity utilisation during the POI cannot be said to be optimum and the plant is still unutilized due to inability of the domestic industry to sell the subject goods when the total demand has increased by 30%.
- vi. They have submitted that there are no factors other than dumped imports, which has affected the selling prices of the domestic industry. The selling price has declined by 18% during the POI whereas the dumped prices have declined by 17% during the same period.
- vii. The domestic industry has submitted that they have suffered losses in the entire injury period that does imply that there is no return on capital employ by the domestic industry. The domestic industry has improved their losses in comparison to the trial run period since it was capitalized. The company was under the trial run during the period 2001-02 and 2002-03, as such the costs for these years have been capitalized which has not been considered as revenue cost for the purpose of ascertaining profit or loss.
- viii. As per the general practice the Designated Authority carries out the trend analysis for the entire injury period i.e., POI and preceding years however, there is no legal bar preventing the Authority from carrying out the injury analysis only for the POI for which reliable and acceptable data is not available.
- ix. The inventory has declined due to the decline in the sales price of the domestic industry. The domestic industry has submitted that the growth in capacity utilisation, production, sales, productivity, market share, and profitability is either marginal or negative.
- x. The domestic industry may show some apparent improvement in some of the injury parameters, but the same has been washed way by the low price dumped imports which has cascading affect on production, sales, capacity utilisation, cost of production and profitability.
- xi. The domestic industry has argued that the import volumes have increased by 25% over the injury period and at the same time it undercuts the domestic prices by 14-23% indicates the injury due to dumped imports.
- xii. The market share which has improved by 2% during the injury period in the increased demand of 30% during the same period, therefore the balance 28% has been taken over by the dumped imports clearly shows injury to the domestic industry.
- xiii. As regards the loss to the domestic industry, they have submitted that in absence of loss and profit account during the trial period the trend analysis for

the injury period is based on the arithmetical figure which is not appropriate, therefore a quarterly assessment of profit and loss account will show injury to the domestic industry.

F.3. CUMULATIVE ASSESSMENT OF THE EFFECTS OF IMPORTS CONCERNED

49. As per annexure-II (iii) of Anti Dumping Rules, in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is more than 3% of the imports of like article and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject countries is more than 2%. The volume of imports from subject countries collectively is about 45% and individually it is more than 3% of the total imports during the POI.

50. On examination of information, the Authority found that the prices of the subject goods of subject countries were comparable. These have been imported under the same tariff classification. The user industry for the imported product and the domestic products were the same and the same product has been sourced from different countries by user industry and used interchangeably. The channels of imports are also found to be similar. The Authority has, therefore, found it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between the imported products and the conditions of competition between the imported products and like domestic product.

VOLUME AND MARKET SHARE OF DUMPED IMPORTS

51. The authority considered the transaction-wise DGCI&S import data for the purpose of determination of level of imports from subject countries. It is noted that the imports from subject countries have increased in absolute terms and also as percentage of total imports, total demand and domestic production.

IMPORTS of SUBJECT COUNTRIES IN TOTAL IMPORTS			
	2001-02	2002-03	2003-04
CHINA (MT)	1101	947	2138
UKRAINE (MT)	000	433	943
SUBJECT COUNTRIES(MT)	1101	1380	3081

OTHER COUNTRIES	4412	2019	3755
TOTAL IMPORTS	5513	3399	6835

52. It is evident from the above table that the imports from the subject countries have increased from a level of 1101 MT during 2001-02 to 3081 MT during POI. The total increase over the same period is almost 3 times of the imports for the period 2001-02. Moreover, the increase during the period of investigation as compared to previous year 2002-03 is much more than the increase in the year 2002-03 as compared to the base year 2001-02.

SHARE OF IMPORTS OF SUBJECT COUNTRIES IN TOTAL IMPORTS			
	2001-02	2002-03	2003-04
CHINA	19.97%	27.86%	31.27%
UKRAINE	0.00%	12.74%	13.80%
SUBJECT COUNTRIES	19.97%	40.60%	45.07%
OTHER COUNTRIES	80.03%	59.40%	54.93%
TOTAL IMPORTS	100	100	100

53. It is noted that the share of imports from the subject countries in total imports has increased from 19.97% in 2001-2002 to 45.07% during the period of investigation. The imports from other countries has decreased during the period of investigation since anti-dumping duty was in place against Thailand, Indonesia and for a part of the POI for China PR also. In terms of market share in imports, the share of imports from other countries has decreased from 80.03% during 2001-2002 to 54.93% during the POI.

SHARE OF IMPORTS OF SUBJECT COUNTRIES IN TOTAL DEMAND			
	2001-02	2002-03	2003-04
DAMAND (MT)	13079	14079	17039
CHINA	8.42%	6.73%	12.55%
UKRAINE	0.00%	3.08%	5.53%
SUBJECT COUNTRIES	8.42%	9.80%	18.08%
OTHER COUNTRIES	33.73%	14.34%	22.03%

54. Further, the share of imports from the subject countries in total demand have increased from 8.42% during 2001- 2002 to 18.08% during the period of investigation whereas the share of imports from other countries in total demand have decreased from 33.73% during 2001- 2002 to 22.03% during the period of investigation.

SHARE OF IMPORTS FROM SUBJECT COUNTRIES IN DOMESTIC PRODUCTION			
	2001-02	2002-03	2003-04
PRODUCTION	4099	7626	13247
CHINA	26.86%	12.42%	16.14%

UKRAINE	0.00%	5.68%	7.12%
SUBJECT COUNTRIES	26.86%	18.10%	23.26%
OTHER COUNTRIES	107.63%	25.48%	28.34%

55. It may be seen from the above table that the imports from subject countries as percentage of domestic production has decreased from a level of 26.86% during 2001-2002 to 23.26% during the period of investigation. The authority notes that the dumped imports in absolute terms as well as a percentage of total imports in total demand have increased during the period of investigation.

PRICES

EVOLUTION OF IMPORT PRICES

56. Between 2001-02 and the POI, the average CIF prices of dumped imports registered a decline over the injury period .The import prices of the subject goods have declined from Rs 37181/MT during 2001-2002 to Rs 30867/MT during the POI.

CIF PRICES	China PR	Ukraine	Subject countries
2001-2002	37181	-	37181
2002-2003	34937	32188	34075
2003-2004	31230	30043	30867

DOMESTIC PRICES

57. It is noted that there were two producers of the subject goods in India namely M/s. Solaris Biochemicals Ltd. and M/s. Citurgia Biochemicals Ltd. The applicant M/s. Solaris Started its trial run of production of the subject goods only from December, 2001 and continued its trial run up to March 2003. The other producer i.e. Citurgia had been producing the subject goods during 2001-02 and 2002-03. However, during the period of investigation it has closed down its operation and did not produce the subject goods. During the POI M/s. Solaris Biochemical Ltd was the only producer of the subject goods. It is noted that the composition of the domestic industry over the years has undergone substantial change. The domestic industry in the comments to the disclosure statement has argued that the comparison of cost of production from the base year 2001-02 is not appropriate since it was under trial production and all the costs were capitalized whereas the commercial production started only in 2003-04. The Authority examined the arguments of the domestic industry and is of the view that the trial production continued period of 18 months. It is further observed that the plant is not a new plant, it has been taken over in running condition by the present management, thus the period of 18 months trial run production does not appear to be justified. Therefore, for the purpose of price analysis, it was found appropriate to carry

out the comparisons over the injury analysis period as the selling prices are reflective of the market situation and domestic consumption. The selling price of the domestic industry has declined from 100 during 2001-02 to 81.64 during the POI whereas the cost of production has declined much more in the same period thereby loss position of the domestic industry has improved from -100 to -5.83 during the POI.

		2001-02	2002-03	2003-04
COP	Rs./kg	****	****	****
Index		100.00	53.38	32.18
Selling price	Rs./kg	****	****	****
Index		100.00	92.77	81.64
Profit / Loss	Rs./kg	****	****	****
Index		-100.00	-32.39	-5.83

PRICE UNDERCUTTING

58. A comparison for subject goods during the period under investigation was made between the weighted average landed value of dumped imports and the domestic selling price of the domestic industry. The landed value of imports from the subject countries were lower than the net sales realization of the domestic industry for the subject goods during the POI thereby, undercutting the selling price of the domestic industry. The undercutting margin was within a range of 19 % to 32 % during the POI.

PRICE UNDERSELLING

59. The price underselling is an important indicator of assessment of injury, therefore, the Authority has worked out a non injurious price and compared the same with the landed value of imports to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producer by appropriately considering the cost of production for the product under consideration during the POI and in order to eliminate inefficiencies, the capacity utilization has been normated. The analysis shows that the weighted average landed value of the subject goods from subject countries is much below the non injurious price determined for the domestic industry during the period of investigation. The underselling margin was within a range of 22% to 38% during the POI.

SITUATION OF THE DOMESTIC INDUSTRY

60. The authority has examined the injury to the domestic industry keeping in mind the change in the composition of the domestic industry in the Indian market. It is noted that the composition of the domestic industry is not the same over the entire

injury investigation period and the domestic industry has changed from the year 2001-02 to period of investigation. It is also noted that the domestic industry has started commercial production of the subject goods only from April, 2003, therefore, it was felt appropriate to make a trend analysis on year-to-year basis over the investigation period taking into account the information provided for the trial production period also since the trial run period was quite long. It is also observed that the operative company was closed for some time after taken over by M/s Solaris and started its production in December, 2001. Moreover, in the year 2001-02, the domestic industry produced only for four months whereas during the period of investigation other producer M/s Citirgia closed down its operations.

DOMESTIC DEMAND

61. Domestic demand of the product under consideration has been arrived on the basis of domestic sales volume of domestic producers and total imports of the subject goods. On this basis, the domestic demand of the subject goods has increased from 100 during 2001-02 to 130.07 during the POI registering an increase of 30.07 % during the POI from the base year 2001 - 2002.

	2001-02	2002-03	POI
Domestic Demand(MT)	13079	14079	17039
Indexed	100	107	130

MARKET SHARE IN DEMAND

62. The market share of dumped imports from subject countries in total demand has increased from 8.42% during 2001-2002 to 18.08% during the POI. The market share of domestic industry in demand has increased from 57.85% in 2001-2002 to 59.89% during the POI. The market share of imports from other countries in demand has decreased from 33.73% during 2001-2002 to 22.03% during the POI.

63. The market share of the domestic industry has slightly improved from 57.85% in 2001-02 to 59.89% during the POI in the increasing demand in domestic market from 100 in 2001-02 to 130.27 during the POI. The share of dumped imports from subject countries in total demand during the POI has also risen sharply by 9% where as market share of imports from other countries have decreased by 11% during the period of investigation . It is noted that in the increased demand the shares of both the domestic industry and imports from subject countries have increased.

	2001-02	2002-03	2003-04
Imports from Subject Countries	1101	1380	3081
Imports from Other Countries	4412	2019	3755

Total Imports	5513	3399	6835
Sales - Domestic Industry	****	****	****
Sales-Others	****	****	****
Sales-Total	****	****	****
Indexed	100	141.15	134.86
Total Demand	13079	14079	17039
Indexed	100.00	107.64	130.27
Share of Domestic industry (%)	57.85	75.86	59.89
Share of Subject Countries(%)	8.42	9.80	18.08
Other countries (%)	33.73	14.34	22.03

PRODUCTION, CAPACITY AND CAPACITY UTILISATION

64. The production of the domestic industry has increased from 100 during 2001 - 2002 to 323 during the POI. The capacity utilization of the domestic industry has increased from 20% in 2001-2002 to 52% during POI . It is noted that the domestic industry has increased its output and the capacity utilization during the POI in the increased market demand.

	2001-02	2002-03	2003-04
Capacity	25000	25000	25000
Production (MT)	****	****	****
Indexed	100	186	323
Capacity Utilization	****	****	****
Indexed	100	148.83	258.53

FACTORS AFFECTING DOMESTIC PRICES

65. Changes in the cost structure and competition in the domestic market were examined to analyse the factors other than dumped imports that might be affecting the prices in the domestic market. There is no viable substitute of citric acid and domestic industry is the sole producer of the subject good, therefore domestic competition did not affect the prices. The interested parties have argued that use of sugar as raw materials and its higher prices instead of starch used by the domestic Industry is the main reason of higher cost of production and losses to the industry. The interested parties have also argued that technology of the domestic industry is the cause of injury since the production process of manufacturing citric acid through sugar route instead of starch as the basic raw material and due to this reason cost of production for the domestic industry becomes higher to compete with the imported citric acid. The production process of the Chinese producers were verified and found that the production through the starch route was much economical compared with the production facility through sugar route. The Authority examined the arguments of the

interested parties and found that use of sugar as a raw material for manufacturing citric acid could be the reason for higher cost of production.

PROFIT, RETURN ON CAPITAL EMPLOYED AND CASH FLOW

66. The applicant started its trial run for producing the subject goods only from December, 2001 and continued trial runs up to March 2003 and started the commercial production from April 2003. The other producer i.e. M/s. Citurgia had closed down its operation and did not produce the subject goods during the period of investigation. Thus, M/s. Solaris Biochemicals Ltd is the only producer of the subject goods during the POI. On examination of ROCE it is found that the return on capital employed and the cash profit of the domestic industry have improved during the POI. The return on capital employed has improved from -100 during 2001-2002 to -29.61 during the POI. The cost of production of the domestic industry has declined from 100 during 2001-02 to 32.18 during the POI whereas the selling price did not decline in the same proportion during the same period and thereby the domestic industry has improved its losses during the POI.

		2001-02	2002-03	2003-04
COP	Rs./kg	****	****	****
Index		100.00	53.38	32.18
Selling price	Rs./kg	****	****	****
Index		100.00	92.77	81.64
Profit / Loss	Rs./kg	****	****	****
Index		-100.00	-32.39	-5.83
Return on Capital Employed	%	****	****	****
Index		-100.00	-160.77	-29.61
Cash Profits	Rs. Lacs	****	****	****
Index		-100.00	-124.20	-3.95

EMPLOYMENT AND WAGES

67. There is no change in the number of employees engaged by the domestic industry during the injury period. The Wages and salary per employee of the domestic industry is more or less the same during the period of investigation and the preceding year. However, it is observed that the productivity of the domestic industry has improved during the POI. It is noted that the domestic industry has improved its productivity even after the same level of employees due to increase in production and capacity utilisation. Hence, the authority could not conclude any findings with regard with injury to the domestic industry on account of this parameter.

	2001-2002	2002-2003	2003-2004
Wages(Lacs)	****	****	****

No. of Employees(No.)	182	182	182
Wages/Employee(Rs)	****	****	****
Wages/Employee(Indexed)	100	163.70	162.75

PRODUCTIVITY:

68. The productivity per employee has increased which would be clear from the following table. It has increased from 100 during 2001-2002 to 258.53 during the POI. Therefore, the decline in productivity is not a cause of injury to the domestic industry.

	2001-02	2002-03	2003-04
No. of Employees	****	****	****
<i>Index</i>	100.0	100.0	100.0
Productivity per employee(MTPA)	****	****	****
<i>Index</i>	100.00	148.83	258.53
Productivity per man day	****	****	****
<i>Index</i>	100.00	148.83	258.53

INVENTORIES

69. It is noted that inventories have declined during the period of investigation. The stocks have decreased during the POI compared with the base year . In the comments to the disclosure statement, domestic industry clarified regarding the discrepancy in the inventory reporting, which has been corrected for the injury analysis. During 2000-01, inventories constituted 38% of the sales volume of the Citric acid whereas in the period of investigation, it declined to 6.24% of the sales volume. In absolute terms also it declined by 23% during the POI.

	2001-02	2002-03	2003-04
Closing Stock(MT)	****	****	****
Index	100.00	144.17	77.45
Sales(MT)	****	****	****
Closing stocks as the percentage of sales	38%	18.13	6.24%

GROWTH

70. During the investigation the Authority examined various parameters related with production and sales and observed that the domestic industry is showing a positive growth in many parameters such as, capacity utilization, production, sales, productivity, market share and profitability during the POI.

MAGNITUDE OF DUMPING MARGIN

71. The magnitude of dumping margin from each of the subject countries is worked out in the dumping examination. These margins established are clearly above diminimis as defined in para iii(a) of the annexure II to rule 11 of the Anti dumping rules.

2003-04 (POI)	China	Ukraine
Dumping Margin	7.21% to 39.62%	42.24%

EVIDENCE OF LOSS CONTRACTS

72. The applicant has claimed that they have lost contracts due to dumped imports from subject countries. The argument was examined and the authority could not find any direct evidence with regard to injury on account of loss contracts. Hence, the authority could not conclude any findings with regard with injury to the domestic industry on account of this parameter.

ABILITY TO RAISE CAPITAL INVESTMENTS

73. It is noted that the domestic industry is incurring losses during the entire injury period and the return on capital employed is also negative but it has improved during the POI. The domestic industry could not plan to invest further since incurring losses during the entire injury period.

F.4 CONCLUSION

74. The domestic industry has claimed that the material injury has been caused by the dumped imports and put forward arguments in support of their claim for causal link between dumped imports from subject countries and injury suffered by them. However the responding exporters have argued that the domestic industry has failed to bring arguments with evidence regarding causality due to dumped imports. The arguments of the interested parties were examined and found that the domestic industry has shown improvement in production, capacity utilisation, sales, profitability and the inventory of the subject goods in relation to the sales has also declined. The profitability of the industry as per unit sale of the subject goods has shown improvement and return on capital employed has also improved. Though the margin of dumping from subject countries and price undercutting were found to be significant, however the overall performance of the industry has shown improvement. In view of the above the Authority concludes that the Domestic Industry has not suffered material injury.

In view of the negative determination on material injury, the Authority did not find necessary to record its finding on causal link.

G. CONCLUSIONS:

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

- a. The subject goods have been exported to India from the subject countries below its normal value;
- b. The Domestic Industry has not suffered material injury;
- c. Accordingly, the Authority does not recommend imposition of anti-dumping duties on imports of Subject goods from subject countries.

(CHRISTY FERNANDEZ)
DESIGNATED AUTHORITY