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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING &
ALLIED DUTIES

NOTIFICATION

New Delhi, the 31st December, 2001

PRELIMINARY FINDINGS

Subject:- Anti-dumping investigation concerning imports of D (-) Para Hydroxy Phenyl Glycine Base originating in or exported from the China PR and Singapore- Preliminary Findings,

No. 51/1/2001-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, thereof;

A. PROCEDURE:

2. The procedure described below has been followed:-
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s Daurala Organics Limited, Daurala, Meerut, U.P. on behalf of the domestic industry, alleging dumping of D (-) Para Hydroxy Phenyl Glycine Base also known as PHPG Base (hereinafter referred to as subject goods) originating in and exported from China PR and Singapore (hereinafter referred to as subject countries) ;
 - ii. The Authority notified the Embassy of China PR and High Commission of Singapore in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 *supra*;
 - iii. The Authority issued a Public Notice dated 1st October, 2001 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning

imports of D (-) Para Hydroxy Phenyl Glycine Base falling under Chapter heading 2942 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 and gave them an opportunity to make their views known in writing.
- v. According to sub-rule (3) of Rule 6 *supra*, the Authority provided a copy of the petition to all the known exporters and Diplomatic Missions of subject countries in India.
- vi. The Authority sent questionnaires, to elicit relevant information, to the following known exporters from China PR and Singapore:

CHINA PR:

- M/s Tianjin Xiquing Guanghui Chemical Plant, Tianjin, China.
- M/s Wujin Niutang Chemical Plant, Jiangsu, China.
- M/s Hengdian Group Organic Chemical Co. Ltd., Zhejiang, China
- M/s Taixing Yangtzi Pharmaceutical & Chemical Plant, Jiangsu, China.

SINGAPORE:

- M/s. Kaneka Singapore Co. (PTE) Ltd., Singapore.
 - M/s. Kaneka Singapore Co. (PTE) Ltd., Singapore and M/s Hengdian Group Organic Chemical Co. Ltd., Zhejiang, China, have responded to the questionnaire.
- vii. The Embassy of China PR and High Commission of Singapore in New Delhi was also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
 - viii. The questionnaire was sent to the following known users/importers of subject goods:-
 - M/s. Aurbindo Pharma Ltd, Hyderabad.
 - M/s. Lupin Laboratories Ltd., Mumbai.
 - M/s. Koprana Drugs Ltd., Raigad.
 - M/s. Sueya Pharmaceutical Ltd., Chandigarh.
 - M/s. Torrent Gujarat Biotech Ltd, Ahmedabad.
 - M/s. Ranbaxy Laboratories Ltd, New Delhi.
 - M/s. Tini Pharma Limited, Mumbai.

None of the users/importers except for M/s. KDL Biotech Ltd., Raigad have responded to the questionnaire.

- ix. Additional information regarding injury was sought from the petitioner, which was also furnished;
- 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. **** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xii. The investigation covered the period from 1st April 2001 to 30th September 2001;
- xiii. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. PETITIONER'S VIEWS:

3. The petitioner, M/s Daurala Organics Ltd, has made the following points in their submissions: -

- i. PHPG Base has started coming into India from China PR from end 1999. First consignment of very small quantity has landed into India in Feb, 99. But since Feb, 2001 almost at the time when domestic industry was planning to start its commercial production China has started dumping the subject goods at very low prices which still continues just to kill domestic industry at its nascent stage. From Singapore imports have been coming for last many years. They have also started reducing prices after the entry of China resulting into dumping.
- ii. The month wise imports statistics shows that exporters from China PR are reducing prices sharply basically during period of investigation, which in their opinion can not recover even variable cost on international prices. The target of the exporters is just to kill the domestic industry at its nascent stage because as per their information China PR has created additional capacities of the product which has resulted into surplus capacities in China PR. Exporter from China PR has given offers to the Indian customers in the month of July and August which is as 12.5 US\$ per kg. It has been further claimed by the petitioner that exporters are also offering discounts ranging 1.00 to 1.50 US\$ as quality discount which is not reflected in CIF value but it is adjusted later on by raising Credit Note.
- iii. To retain their market in India, Singapore exporters are also reducing their prices resulting into dumping. Though the volumes from Singapore have come down (basically taken over by China PR), exporters from Singapore also started dumping in India, resulting injury to domestic industry.

- iv. The petitioner has submitted that in the recent amendment made under Customs Notification No.28/2001 (N.T.) dated 31st May 2001 China has been declared as non-market economy. Accordingly they have submitted constructed normal value as an indicator of normal value in China PR.
- v. The petitioner has stated that they have tried to get the Normal Value information from Singapore Trade Development Board and accordingly written a letter to them for home price of the subject goods in Singapore. They have also written to them to provide third country exports in case there is no domestic sales. As per reply separate exports data for the subject goods to third country was not available and as per petitioner sources there is no domestic sales of subject goods, Accordingly the petitioner has claimed that the only option left for the Normal Value is Constructed Normal Value.
- vi. The exporters from China PR and Singapore are dumping the subject goods in India. Annexure II (iii) to the Anti Dumping Rules provide that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent 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 articles.
 - c. The margins of dumping from each of the subject countries are more than the limits prescribed above.
 - d. The quantum of imports from each of the subject country is more than the de-minimus limit. Cumulative assessment of the effects of imports is appropriate since the export from the subject countries directly compete with the goods offered by the domestic industry in the Indian market. Accordingly, the petitioner has requested that injury to the domestic industry should be assessed cumulatively from the subject countries.
- vii. The present petition is against material retardation of the establishment of the industry. Since the petitioner is attempting to settle its commercial production in the Indian market and the imports from the subject countries are preventing commercialisation of the production by the domestic industry, the imports are causing material retardation to the establishment of the industry.

- Though, the "nascent industry" i.e. M/s DOL has started commercial production the industry has yet to find its place in the market. Domestic Industry is unable to achieve a satisfactory level of capacity utilisation and find its place in the market. Further, at nascent stage of production, it is being threatened with material injury by the exports from the subject countries.
- viii. The petitioner has claimed that the technology employed by it is comparable to the technology being used by the other producers in the world. Factors such as trade restrictive practices and competition between the foreign and domestic producers, developments in technology, the export performance or the productivity of the domestic industry have not caused injury to the domestic industry.
- ix. Sharp increase in imports of subject goods at dumped prices has prevented the domestic industry not only to get its normal selling price but also prevented the domestic industry to remain in the market. The domestic industry has suffered huge losses at its nascent stage itself, in spite of a growing demand. Dumped imports from subject countries is the only reason causing material retardation of the establishment of the industry. Further, at nascent stage of production, the Domestic Industry is being threatened with material injury by the exports at dumped prices from the subject countries.

C. EXPORTERS, IMPORTERS' AND USERS' VIEWS:

4. EXPORTERS:

As stated above only M/s Kaneka Singapore Co. (PTE) Ltd , Singapore and M/s Hengdian Group Organic Chemical Co. Ltd., Zhejiang, China have responded to the questionnaire. M/s Keneka expressed the following views in their submissions:-

- a. They produced the product by unique enzymatic method that is different from all other Chinese and Indian producers mentioned in the petition. Their method is conventional chemical method and production cost of enzymatic method is much lower than chemical method.
- b. Regarding the product in concern, as stated by M/s DOL in the petition, both antibiotics of Amoxycillin and Cefadoroxyl can not be produced directly from PHPG Base but it needs to be converted to more advanced intermediates such as to PHPG DS and our overall sales is actually in the form of PHPG DS. Therefore we include the information of PHPG DS.
- c. Also because of our sales of PHPG Base to countries other than India is relatively less than those to India, we would presume that the assessment could be more accurate by referring to the data of PHPG DS.

- d. Whether it is legitimate for M/s DOL to be as petitioner on this subject. We are wondering because, according to DOL's petition, when the dumping from China started, which is February 2001, DOL had not started production yet.
- e. As per the petition M/s. DOL produces only less than 20MT/month. Accordingly it could be said that DOL's sales quantity is immaterial comparing to quantity of imports and so that so called 'volume effect' factor of casual link is not satisfied.

5. IMPORTERS' AND USERS':

M/S. KDL BIOTECH LIMITED, RAIGARH:

M/s. KDL, one of the importers of the subject goods, has made the following submissions. However they have not submitted information as per the prescribed questionnaire.

- a. Consumption of PHPG Base is approx. 200 MT per month. The present capacity of M/s Daurala Organics is less than 25 MT per month. Consumption of PHPG Base for sale of AMTH in the local market is higher than what can be locally supplied by the local manufacturer.
- b. This will lead to a monopolistic situation in the future since Daurala is the only manufacturer in India.
- c. The price offered by China is equivalent to what they are offering to other consumers worldwide.
- d. Chinese are supplying PHPG Base into India at prices which are not below their manufacturing costs.
- e. Prima facie this action will adversely affect the Indian Bulk Drug Manufacturing Industries associated with the use of D (-) Para Hydroxy Phenyl Glycine Base and the Methyl Potassium Dane Salt.

D. EXAMINATION AND FINDING BY AUTHORITY:

6. The submission made by the domestic industry, exporters and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

E. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

7. D (-) Para Hydroxy Phenyl Glycine Base is also known as :

D (-) ALPHA PARA HYDROXY PHENYL GLYCINE, D (-) ALPHA PARA HYDROXY PHENYL GLYCINE BASE, D (-) PARA HYDROXY PHENYL GLYCINE, PARA HYDROXY PHENYL GLYCINE BASE, PARA HYDROXY PHENYL GLYCINE, D (-) P – HYDROXY PHENYL GLYCINE BASE, D (-) P – HYDROXY PHENYL GLYCINE.

Petitioner has claimed that predominantly ‘D (-) Para Hydroxy Phenyl Glycine Base’ (also to be read as per above mentioned synonyms) i.e. the ‘subject goods’ (herein after also referred as ‘PHPG’) is imported into India which is converted in-situ to " D (-) Para Hydroxy Phenyl Glycine Methyl Potassium Dane Salt " (herein after referred as ‘PHPGDS’) by the various importers / manufacturers and used for the production of Amoxycillin and Cefadroxyl. (i.e. bulk drugs).

In other words PHPG cannot be used directly for the production of Amoxycillin etc. It is only when PHPG is converted to PHPGDS, the same is used for the production of Amoxycillin etc. This conversion may either be done at the PHPG / PHPGDS manufacturers’ end, or at the users end, i.e. producers of Amoxycillin etc.

All types of PHPG are classified in chapter heading 29.42. As per ITC eight digit classification PHPG Base is classified in others category i.e., in 2942.0029. The investigation is against the product under consideration irrespective of the classification under which it is imported. Customs classification is indicative only and is in no way binding on the scope of the present investigation.

The petitioner has claimed that the goods produced by them is like articles to the goods originating in or exported from subject country. No dispute has been raised on the definition of the product under consideration and like article by any interested party in the investigation. The Authority, therefore, has determined that the goods being imported is like article to the product under consideration.

Regarding exporter submission that assessment could be more accurate on PHPGDS instead of PHPG as exporter’s overall sales is actually in the form of PHPGDS and sales of PHPG to countries other than India is relatively less than those in India, the Authority found that PHPG sales of M/s Keneka to the third country during the period of investigation is about 15% of their total sales and moreover PHPGDS is not at all Like Article to PHPG as it is second stage product and can not commercially and technically substitute the subject goods. Hence Authority has considered PHPG information only for the purpose of all comparisons.

F. DOMESTIC INDUSTRY:

8. The petition has been filed by M/s Daurala Organics Limited, Daurala, Meerut, U.P. The petitioner is the sole producer of the subject goods in India. Accordingly, the petitioner satisfies the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN:

9. Under Section 9A(1) (c) normal value in relation to an article means:

- i. The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-
 - a. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - b. The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

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

10. CHINA PR:

The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). Only one of the exporters from China PR i.e. M/s. Hengdian Group Organic Chemical Co. Ltd., China P.R. responded to the Authority. It has been observed that M/s. Hengdian Group Organic Chemical Co. Ltd., China P.R has not furnished the complete information in the prescribed format. The information submitted is without any covering letter, only on plain paper with unsigned rubber stamp. The Authority found that information

furnished is grossly inadequate and unreliable in absence of proper signature, hence rejected for the purpose of preliminary findings. The Authority, therefore, holds that none of the exporters from China have cooperated with the Authority as envisaged under the Rules. The domestic industry has furnished information with regard to the normal value in China based on the constructed cost of production. In view of non-cooperation from the exporters from China, the Authority has determined normal value in China on the basis Rule 6(8), i.e. best information available.

EXPORT PRICE:

As explained above there is no dedicated customs classification for the subject goods as the same is classified in others category. Accordingly weighted average export price has been arrived at based on the statistics compiled from Customs Daily Lists. Adjustments on account of freight, marine insurance, commission, port handling etc., to arrive at net export price has been considered as per the claims of the domestic industry.

H. DUMPING MARGIN:

11. The principles governing the determination of normal value, export price and the dumping margin as laid down in the Custom Tariff Act and the Anti Dumping Rules are elaborated in Annexure I to the Rules. The normal value for China P.R. based on the best information available works out to US\$ *** per MT. The net ex factory export price worked out on the basis of similar parameters and allowing adjustments works out to US\$ *** per MT. The dumping margin for exports of the subject goods from China PR is assessed by the Authority at US\$ **** per Kg. or 97.20% of the export price.

12. Singapore

M/S KANEKA SINGAPORE CO. (PTE) LTD.

(a) NORMAL VALUE:

The exporter has claimed that they have not sold the subject goods in the home market. However they have furnished the month wise details of the sales of the subject goods to third countries. The average sales realisation in the third countries claimed is US\$**** per kg. It has been observed that the volume of exports to third countries is about 15 % of the total sales The Authority has examined the cost of production as claimed by M/s Kaneka in its reply to the questionnaire so as to determine whether the sales are in the ordinary course of trade or not. It has been observed that the Company has not provided the details of Cost of Production in the

manner and format prescribed in the questionnaire. Further the cost details does not give break-up of various elements of cost including the cost of raw materials.

The Authority has found that exports to countries other than India is not in significant quantities and exports to an appropriate third country will not be representative. The Authority has already, in para relating to Like Article, has clarified that exporter submission for comparison on the basis of PHPG DS can not be done , because they are not Like Article.

In this scenario Authority has no option except to go by the cost of production of the subject goods in subject country. While determining cost of production for the exporter based on the data submitted by the exporter Authority observes that the exporter has not provided the detailed cost of production of the subject goods as required in the prescribed Performa. The information relating to cost of production needs further information / clarification. Moreover the exporter has also not provided the Balance Sheet and Profit & Loss Account for the period of investigation. The exporter has provided un-audited Balance Sheet and Profit & Loss Account for the year ending June 2001. The Profit & Loss provided by the exporter in not giving the details of the various expenses account heads and accordingly provided consolidated figure in the Appendix 8 and 10.

The exporter has not provided the complete information required as per Appendix 7 and more over the information submitted in Appendix 8 and 10 for the subject goods is also not as per the prescribed Performa. The exporter has mentioned that costing information submitted is for period of investigation but in absence of back-up final accounts for period of investigation it appears the information submitted is based on the unaudited financial accounts for the period year ending June,2001. It has been further observed that the exporter has not provided the non confidential summary of the response to questionnaire in the prescribed manner.

In absence of any domestic sales of the subject goods, representative exports to appropriate third country and insufficient and unreliable costing information, the Authority has, therefore, proceeded on the basis of Rule 6(8), i.e. best information available and has assessed the normal value based on the claim of the Domestic Industry.

Accordingly, the normal value assessed by the Authority is US\$**** per Kg.

(b) EXPORT PRICE:

The exporter has exported **** Kg. of PHPG to India for a total value of US\$****. Accordingly, the average export price of PHPG during the period of investigation

works out to US\$**** per kg. The exporter has claimed adjustments on account of discount, inland freight, insurance, overseas freight, overseas insurance etc. to arrive at the Ex-factory export price to India. After considering the same the Ex-factory price for export sales to India works out as US \$ ****/Kg. subject to further verification/investigation.

The dumping margin in case of M/s KSC from Singapore is assessed by Authority at US\$**** per Kg or 54.32% of the export price.

13. OTHER EXPORTERS FROM SINGAPORE:

The Authority provided opportunity to the known exporters from Singapore to furnish information relevant to the investigations and offer comments, if any, in accordance with the Section cited above. The Authority wrote to the High Commission of Singapore in India also. However, no other exporters from Singapore have responded to the Authority's request for information. The claim made by the petitioner with the regard to the determination of normal value has also not been disputed by the other interested party(ies). The Authority has, therefore, proceeded on the basis of Rule 6(8), i.e. best information available.

The Authority has determined the normal value in respect of other exporters from Singapore on the basis of best information available i.e. information furnished by the domestic industry .The export price in case of other exporters has been considered on the basis of the lowest export price of the co-operative exporter from Singapore.

Thus, the dumping margin in case of Non-co-operative/other exporters of PHPG from Singapore is assessed by Authority at US\$**** per Kg. or 67.78%.

I. INJURY:

14. Under Rule 11 supra, Annexure –II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...." In considering the effect the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

J. CUMULATIVE ASSESSMENT OF INJURY

15. Annexure II (iii) under Rule 11 supra further provides that "in case where imports of a product from more than one country are being simultaneously subjected to Anti Dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, only when it determines that the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual country is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and cumulative assessment of the imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles"

The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limit prescribed above. Cumulative assessment of the effect of the imports from China P.R. and Singapore is appropriate since the export prices from these countries were directly competing with the prices offered by the Domestic Industry in the Indian market and displacing domestic producers here.

16. For the examination of the impact of the imports on the domestic industry in India, the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II (iv) of the Rules supra.`

17. The various parameters indicating injury to the domestic industry are as follows: -

(a) Quantum of imports and export price

The information with regard to the quantum of imports of the subject goods has been based on the statistics compiled from Customs Daily Lists. The Authority notes that there has been an increase of 36.77% in the volume of imports of the subject goods from the subject countries during the Period of Investigation over 1999-00. Further the average export price from the subject countries has also declined during the Period of Investigation against 1999-00.

(b) Changes in market share held by Indian producers and imports from the subject country(ies):

The Authority observes that M/s DOL is the new entrant in manufacture of the subject goods in India and the exporters from subject countries have intensified dumping of

the subject goods into India so as to ensure that domestic industry does not get any market share and also materially retard the establishment of the industry at its nascent stage itself.

(c) Production and Capacity utilisation of the petitioner:

During period of investigation petitioner has only achieved a utilization of 32% of its existing installed capacity. Keeping in view the demand in the country the same is far below than what could have been achieved by the Domestic Industry.

(d) Insignificant gain of market share:

Domestic industry is at nascent stage, hence no past trends are available but domestic industry is unable to increase its sales volume, inspite of huge demand of the subject goods in the country, because of dumped imports from subject countries .

(e) Reduction in selling price, price erosion, price undercutting, price suppression or price depression:

In order to analyse the effect of dumped imports on the selling price of the Domestic Industry an analysis of the monthly sales realisation of the subject goods has been made as under :

| Period | Qty Sold/Kg | Net Sales Realization (Rs/Kg) |
|-----------------|-------------|-------------------------------|
| April-2001 | **** | **** |
| May-2001 | **** | **** |
| June-2001 | **** | **** |
| July-2001 | **** | **** |
| August-2001 | **** | **** |
| Sepetember-2001 | **** | **** |

The table above indicates that the monthly average sales realisation during the Period of Investigation has declined from **** Rs/ Kg. during April 2001 to **** Rs/ Kg. during September 2001 showing a decrease within the Period of Investigation itself. This is mainly due to decrease in the average import price by the exporters after the starting of the commercial production by the Domestic Industry .

(f) Evidence of lost contracts or declining sales:

It has been observed that because of the sharp decrease in the export prices by the exporters, the Domestic Industry could not gain contracts/orders at the prices which could recover the cost of production leave aside a fair return on capital employed. The petitioner could sell the subject goods at substantial losses only.

(g) Employment:

The domestic industry has submitted that as the industry is at its nascent stage, protection from unfair trade practice is vital and urgent otherwise the manpower deployed will lose their jobs.

(h) Profitability :

It has been observed that the Domestic Industry could sell the subject goods at prices so as to match the same being offered by the exporters resulting in huge losses.

18. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree. For the examination of the impact on the domestic industry in India, the Authority considered such further indices having a bearing on the state of industry as production, sales, stock, profitability, net sales realisation etc. On examination of the evidence, it has been found there has been a sharp price undercutting just after the domestic industry has started its trial run and further intensified during period of investigation. Also there is an increase in the closing stocks with the domestic industry and domestic industry is prevented to utilise its present capacity and capacity utilisation is very low. However, the most significant parameter evidencing injury and threat of further injury, is the price undercutting as per the evidence available with the Authority. The rate of increase of imports during the period of investigation especially from China PR and the corresponding fall in the sales realization of the domestic industry are the parameters clearly showing the injury being suffered by the domestic industry. On the basis of the evidence available before the Authority, it is determined that the domestic industry has suffered injury and is suffering further threat of injury during the period of investigation.

19. The present petition is basically regarding impact of dumped imports causing material retardation of the establishment of the industry. Since the petitioner is attempting to settle its production in the Indian market and the imports from the subject countries are preventing commercialisation of the production by the domestic industry, the imports are causing material retardation to the establishment of the industry. Though, at the "nascent industry" i.e. M/s Daurala Organics Ltd. has recently started production, the industry is yet to find its place in the market. Domestic Industry is unable to achieve a satisfactory level of capacity utilisation and to find its place in the market, because, at the nascent stage itself the domestic industries is being threatened with material retardation, by imports at dumped prices from the subject countries.

K. CAUSAL LINK:

20. In determining whether injury (material/threat/material retardation) to the domestic industry was caused by the dumped imports, the Authority took into account the following facts: -

- i. Substantial imports of subject goods from China PR and Singapore at dumped prices forced the domestic industry to reduce its selling prices to unremunerative level, which has resulted in a situation of price undercutting in the Indian market.
- ii. The imports from China PR and Singapore suppressed the prices of the product in the Indian market to such an extent that the domestic industry was prevented from recovering its full cost of production and earn a reasonable profit from the sale of subject goods in India.

21. The Authority, therefore, notes from the above that the imports from the subject countries have been at a price below the selling price of the domestic industry. Further, the imports into India have been at a price lower than the non-injurious price for the domestic industry. As a consequence thereof the domestic industry is suffering financial losses. The petitioner was also prevented from increasing the level of capacity utilisation. These parameters collectively and cumulatively indicate that the petitioner has suffered material injury due to the dumped imports.

L. INDIAN INDUSTRY'S INTEREST:

22. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods.

The Authority notes that the imposition of anti dumping measures would not restrict imports from China PR and Singapore in any way, and therefore, would not affect the

availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

M. CONCLUSIONS:

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

- i. D (-) Para Hydroxy Phenyl Glycine Base has been exported to India from China PR and Singapore below its normal value;
- ii. The Indian industry has suffered material injury and facing threat of further injury;
- iii. The Domestic Industry, on account of the injury being suffered, is suffering material retardation in the establishment of new industry to manufacture D (-) Para Hydroxy Phenyl Glycine Base.
- iv. The injury has been caused cumulatively by the imports from the subject countries.

25. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of D (-) Para Hydroxy Phenyl Glycine Base from subject countries in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is proposed to be compared with the non-injurious price of the petitioner company determined for the period of investigation.

26. Accordingly, the Authority recommends that the provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of D (-) Para Hydroxy Phenyl Glycine Base also known as D (-) Alpha Para Hydroxy Phenyl Glycine, D (-) Alpha Para Hydroxy Phenyl Glycine Base, D (-) Para Hydroxy Phenyl Glycine, Para Hydroxy Phenyl Glycine Base, Para Hydroxy Phenyl Glycine, D (-) P – Hydroxy Phenyl Glycine Base, D (-) P – Hydroxy Phenyl Glycine falling under Custom Heading 2942 originating in or exported from Peoples Republic of China and Singapore pending final determination. The Anti-Dumping duty shall be the difference between the amount mentioned in column 3 of the following table and the landed value of imports per Kg. to be imposed from the date of Notification to be issued in this regard by the Central Govt. on all the imports of subject goods falling under Chapter 29 of the Customs Tariff, originating in or exported from the countries mentioned below: -

| S. No. | Exporter/Country | Amount (US\$ Per Kg.) |
|--------|------------------|-----------------------|
|--------|------------------|-----------------------|

| | | |
|----|--|----------------|
| a. | China P.R. All Exporters | 24.83 |
| b. | Singapore 1) M/s Kaneka Singapore Co. (Pte) Ltd. 2) Other exporters from Singapore | 24.83 24.83 |

27. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

N. FURTHER PROCEDURE:

28. The following procedure would be followed subsequent to notifying the preliminary findings: -

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. The Authority would provide opportunity to all the interested parties for making oral submissions which have to be rendered thereafter in writing;
- d. The Authority would conduct