

Udyog Bhawan, New Delhi

Dated 4th October, 2012

## **NOTIFICATION**

### **(Final Findings)**

**Subject: -Final Findings in the Anti Dumping Duty Investigation concerning imports of Choline Chloride, originating in or exported from China PR.**

Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD Rules);

#### **A. BACKGROUND OF THE CASE:**

1. The background of the case is as follows:

- a. Whereas M/s Jubilant Life Sciences Ltd., Noida (hereinafter referred to as the petitioner and/or domestic industry) filed an application before the Designated Authority (hereinafter also referred to as the Authority) for initiation of anti-dumping investigation concerning imports of Choline Chloride(hereinafter also referred to as the subject goods) originating in or exported from China PR (hereinafter also referred to as the subject country) and requested for levy of anti-dumping duties on the subject goods.
- b. Whereas the Authority on the basis of sufficient evidence submitted by the petitioner as domestic industry issued a public notice dated 25<sup>th</sup> October, 2011, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject country, to determine the existence, degree and effect of alleged dumping and to recommend the anti-dumping duty in accordance with the Customs Tariff Act, 1975 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, thereof.

#### **B. PROCEDURE**

2. The procedure described below has been followed:

- a. The Designated Authority under the above Rules, received a written application from M/s Jubilant Life Sciences Ltd., Noida as domestic industry for the product, alleging dumping of Choline Chloride originating in or exported from China PR. M/s Balaji Amines Ltd supported the application.

- b. The Authority, on the basis of sufficient evidence submitted by the petitioner to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject country.
- c. The Authority notified the Embassy of the subject country in India about the receipt of the petition before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
- d. The Authority issued a public notice dated 25<sup>th</sup> October 2011 published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
- e. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- f. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
- g. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassy of the subject country in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- h. The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject country in accordance with Rule 6(4) of the AD Rules:

S.N.	Name of Exporter
1	NB Group Co.,Ltd, (Formerly Shandong NB Group Co), 4-16F China Merchants Plaza, 70 Dong Guan Zheng Street, Xian 710048, China
2	Nantong Qihai Chemicals Co.,Ltd, 21,Yongxing International Nantong, Jiangsu, China
3	Be-Long (North) Corporation, ZhongjieYouyi Farm, Huanghua Country, Hebei Province, China
4	ZoupingJujia Choline Industrial Co., Ltd., Handian Industrial Zone, Zouping County, Shandong, China
5	Shandong Belong Choline Industrial Corp., Ltd., Handian Industrial Zone, Zouping, Binzhou, Shandong, China
6	Hebei Global Fodder Additive Co., Ltd., Zhangzhungzi Industry Park, Cangzhou, Hebei, China
7	Sinochem Jiangsu Co. Ltd., Floors 21&22, Jin Cheng Tower, No. 216 Middle Longpan Road, Nanjing 210002, China

- i. In response to the initiation notification, none of the exporters / producers from China PR responded to the Authority.

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

1	Provimi Animal Nutrition (I) Pvt Ltd, IS-40, KHB Industrial Area, Yelahanka New Town, Bangalore - 560 106, Karnataka, India
2	ChokhaniPharma Vet, 3rd Floor, 16 / 3, NadirshahSukhia Street, Banu Mansion, Fort Mumbai
3	Kavi Agencies, 25, Siddhi Colony, 1st Cross, Jayachamaraja Road, Bangalore, 560002
4	Shanthi Poultry Farms Pvt Ltd, 6/15,Main Road Pappampatti, Ondipudur, Coimbatore-641016 Tamilnadu
5	Vetline, 1-B, VikasRekha Complex, Khatiwala Tank, Near Tower Square, Indore - 452001, Madhya Pradesh
6	VarshaMultitech, 8, 40 Street Road, 1st Stage 2 Phase, Manjunatha Nagar, Bengaluru, Karnataka 560010

- k. In response to the initiation notification, the following importers/users responded.

S.N.	Name of Respondent	Status
1	Provimi Animal Nutrition (I) Pvt Ltd	Importer
2	VarshaMultitech	Importer
3	Suguna Poultry Farm Limited	Importer

- l. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. During the investigation proceedings, exporters, importers/users associations as well as the domestic industry submitted information pertinent to the investigations and submissions made by all interested parties have been taken into account in present Disclosure Statement.
- m. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- n. The non-injurious price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has

been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

- o. Investigation was carried out for the period of investigation (POI) starting from 1<sup>st</sup> April 2010 to 31<sup>st</sup> March 2011. The examination of trends, in the context of injury analysis, covered the period from 2007-08, 2008-09, 2009-10 and the POI.
- p. The Authority held an Oral Hearing on 13<sup>th</sup> August, 2012 with all interested parties to hear the arguments. The interested parties were asked to submit their oral arguments presented in the oral hearing in the form of written submissions. The interested parties were also given opportunity to submit rejoinder to the written submissions. All such submissions in writing were considered by the Authority to the extent found relevant to the investigation.
- q. A Disclosure Statement containing the essential facts under consideration of the Designated Authority which would form the basis for its recommendations in the Final Findings in the above mentioned investigation was issued on 24<sup>st</sup> September, 2012. Comments of all the interested parties on the Disclosure Statement to the extent found relevant to this investigation have been examined in the Final Findings.
- r. \*\*\*in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the AD Rules.
- s. Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs.46.18 as per customs data.

### **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

3. The product under consideration in the present investigation is Choline Chloride of all forms and concentrations used for animal feed. Choline Chloride is a quaternary ammonium salt which is colourless, viscid and strongly alkaline. It is used as additive in animal feed. The product is classified under Customs Sub-heading 2309.9010 and 2923.1000 of the Customs Tariff Act, 1975. The classification is, however, indicative only and in no way binding on the scope of the present investigation and proposed measures.

#### **Views of interested parties**

4. The interested parties have made following submissions with regard to product under consideration, like article and imports of the product
  - a. M/s Suguna Poultry Farm Limited has claimed that certain entries are shown as 'suspicious entries' in the application by the domestic industry. Methodology adopted for arriving at the import statistics is not clear. The company has also stated that there is no proof of trans-shipment of subject goods from Netherlands has been provided by the domestic industry. The company further stated that it is not clarified whether production, sales volume and net sales realization are for what level of concentration of the product.
  - b. M/s. Provimi responded to the notice of initiation and requested for personal hearing. The company however did not attend the oral hearing conducted by the Authority.

- c. M/s. VarshaMultitech submitted that anti dumping duty should not be levied on imports of Choline Chloride in the interest of Indian poultry farmers and industry. The company further claimed that the petitioner wields a virtual monopolistic position in India. VarshaMultitech claimed that the petitioner is exporting nearly 1500 tons leaving about 8500 tons for sale in the Indian market. The company has also stated that there is a shortfall in demand of the product in the country as compared to supply conditions. There will be a severe shortage and crisis for Indian poultry if imports are denied or restricted by anti dumping duty.
- d. The petitioner had attempted to extend the scope of the investigation and cover Choline Chloride (all grades and application including Food and Pharma) under the cover of anti dumping duty.
- e. The Petitioner has himself restricted the scope of product to animal feed/grade application only in the petition and hence cannot seek to enlarge the scope of the product now, especially since users of other grades are not party to the investigation.
- f. Each grade and application of Choline Chloride has different specifications and hence, the claim of petitioner that production of 100% concentration of choline chloride can be used for food and pharma applications also is wrong.
- g. MOF has clarified that Choline Chloride used as animal feed grade is to be classified only under Chapter 23 and thus HS code of the product should be restricted to this chapter only.

### **Views of the Domestic Industry**

- 5. The following are the views of the domestic industry:
  - a) Choline Chloride is a quaternary ammonium salt, which is colorless, viscid and strongly alkaline. It is used as an additive in animal feed. The purified Choline Chloride is deposited on a carrier and then dried. The carriers normally used are Silica, Corn Cob Powder or similar absorbent powder derived from agro- waste materials. The carrier is used merely to carry the product – Choline Chloride. The commercial nomenclature of the product depends upon the carrier used and the percentage of Choline Chloride in the compound.
  - b) Choline Chloride is basically used as poultry feed supplement.
  - c) Present petition and proposed measures concerns all forms and types of Choline Chloride for animal feed applications. Only choline chloride for pharma or food application may be exempted from the scope of the product under consideration, after giving adequate reasons for the same. However, choline chloride pharma or food grade for animal application is within the scope of the product under consideration.
  - d) The petitioner found some import transactions, wherein it appeared that it could be a duplicate entry and hence, marked as 'suspicious'. As a conservative estimate, the petitioner has ignored these import entries in determining total volume of imports.
  - e) The production reported is on 60% basis. Since feed grade is supplied on 60% basis and further since feed grade is majority of the production and sales, petitioner has presented entire information on 60% basis. Wherever information pertains to 75%, the same has been converted into 60% in order to ensure uniformity in data.

- f) Under Rule 6, the Designated Authority is required to provide opportunity to the interested parties to present information orally during the course of the investigations and not before proceeding further with preliminary findings in the matter. The hearing is normally granted by the Authority after the preliminary findings and before concluding the investigations.
- g) Transshipment - Significant imports of the product have been made by Provimi Animal Nutrition India Private Limited. The company has since responded to the Designated Authority. The information provided by this company would clearly establish the correct facts in this regard.
- h) VarshaMultitech is admittedly an importer, consumer and trader of Choline Chloride.
- i) Imports of Choline Chloride from China were earlier subjected to anti dumping duty. The dumped imports have recommenced after the lapse of the anti dumping duty and imports are in significant volumes.

### **Examination by the Authority**

6. The product under consideration in the present investigation is Choline Chloride of all forms and concentrations for animal feed application. Petitioner contended that choline chloride of all forms and concentrations are to be considered in the scope of the product under consideration. Choline Chloride is a quaternary ammonium salt, which is colorless, viscid and strongly alkaline. It is used as an additive in animal feed. The purified Choline Chloride is deposited on a carrier and then dried. The carriers normally used are Silica, Corn Cob Powder or similar absorbent powder derived from agro- waste materials. The carrier is used merely to carry the product – Choline Chloride. The commercial nomenclature of the product depends upon the carrier used and the percentage of Choline Chloride in the compound. For example, if the product has minimum 70% of Choline Chloride, and the carrier is Corn Cob, then it is called Choline Chloride 70% Corn Cob. If the carrier is Silica, and minimum percentage of Choline Chloride in the product is 50%, then it is called Choline Chloride 50% Silica. The petitioner clarified that the present investigation is for all types and forms of Choline Chloride and, for the sake of convenience in comparison, all volumes have been converted to Choline Chloride 60% as majority of imports entering Indian ports are of Choline Chloride 60% Corn Cob. Choline Chloride is basically used as poultry feed supplement. Petitioner contended that use of Choline Chloride was limited in India due to lack of awareness in the country and the petitioner made dedicated efforts to increase the awareness of the product in the market, which resulted in significant increase in the demand of the product in the country.
7. The Authority notes that Choline Chloride has three broad applications - animal feed applications, which includes aqua feed, poultry feed, dairy feed or any other animal feed; pharma applications and food (human) applications. Further, it can be produced in various types/forms. Petitioner identified the following typical types/forms of the product:
  - a) Choline Chloride on Corn Cob Carrier
  - b) Choline Chloride on Silica Carrier
  - c) Choline Chloride in water (Aqueous Solution)
8. The product can be in liquid form or dry powder form. The product is supplied in different concentrations, percentage of which in a particular product type/form may vary. However, as per the DGCI&S data, the imports during 2009-10 and

2010-11 are of Choline Chloride 60% Corn Cob from subject country. The petitioner contended that the domestic industry and Chinese producers produce Choline chloride in crystal form as well, which can be converted into liquid and thereafter, used for feed application. Petitioner further contended that different forms of choline chloride are nothing but the same product with difference in percentage of Choline chloride, difference in carrier or difference in physical form.

9. The Petitioner claimed that there is no known significant difference in the subject goods produced by the Indian industry and the subject goods exported from the subject country. The subject goods produced by the Indian industry and imported from the subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
10. The subject goods fall under Tariff codes '2309.9010' and '2923.1000' of the Customs Tariff. However, there have been imports of the subject goods under other headings 23099020 and 23099090 as well. Customs classifications are indicative only and in no way binding on the scope of the present investigation and proposed measures. It is noted that either of the customs classification is not dedicated for the product under consideration. The classification under 2309.9010 is for "animal compound feed". Choline chloride is only one of the kinds of animal compound feed. It is noted that one of the interested parties has relied upon the DGCI&S published statistics in support of their contentions with regard to volume of imports of the product under consideration. It is, however, clarified that all kinds of animal compound feed are not within the scope of the product under consideration and, therefore, information published by the DGCI&S for all kinds of animal compound feed is not relevant for the present purposes. With regard to correct customs classification of the product and circular issued by the Ministry of Finance, it is noted that the product description is dispositive for the present purpose. The customs classification is not binding on the scope of the present investigations or proposed measures. It is however, clarified that any product other than product under consideration falling under the customs classification has not been considered for the present investigation.
11. Provimi Animal Nutrition India Private Limited filed response to importer's questionnaire and has provided supporting evidence. The information provided by the company was examined by the Authority. It is noted that the company has imported significant volumes of the goods, which have been invoiced by Provimi B. V., Netherlands. The country of origin in these goods is China. It, thus, appears that the import transactions reported as "Netherlands" in the import data relied upon by the petitioner pertains to these imports which are in fact of Chinese origin. In any case, the Authority has now received information from DGCI&S as well, which has also been examined and relied upon for the present determination.
12. The Authority has examined the submissions made by various interested parties with regard to scope of the product under consideration. The Authority notes that there is no known difference in subject goods produced by the domestic industry and exported from the subject country. The subject goods produced by the domestic industry and that imported from subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two

interchangeably. The Authority holds that Choline Chloride for animal feed applications falling under Tariff codes 23099010, 29231000, 23099020 and 23099090 of the Customs Tariff Act is within the scope of the product under consideration but Customs classifications are indicative only and in no way binding on the scope of the present investigation and proposed measures. Though all the imports have been in the 60% category but keeping in view the fact that percentage concentration can easily be changed after importation as no substantial technological refinement is involved in changing the concentration and also considering circumvention, the Authority holds that Choline Chloride of all concentrations for animal feed applications is within the scope of the product under consideration.

13. The Authority also holds that the subject goods produced by the applicant are being treated as domestic like article to the product under consideration imported from the subject country in accordance with the anti-dumping Rules.

#### **D. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

##### **Views of the Domestic Industry**

14. M/s Jubilant Life Sciences Ltd. is the applicant in the present case who constitutes domestic industry within the meaning of the Rules. There are some more producers of Choline Chloride in India. However, all these producers are not producing liquid Choline Chloride. They are purchasing liquid Choline Chloride and processing it to make dry Choline Chloride. Their input and output both are, thus, the product under consideration. The processing activity by these producers does not tantamount to production. Further, their production is already included in the production of Choline Chloride. Only those producers who are producing liquid Choline Chloride may be considered as domestic producer to avoid dual accounting. Those parties who are buying Choline Chloride liquid and selling Choline Chloride dry powder cannot be considered as the domestic producer of the product under consideration. For them, the raw material as well as the finished product is the product under consideration. A producer can be considered a domestic producer for the present purpose only if his input is not product under consideration and output is product under consideration. If the input of a producer is one form of the product under consideration and output is another form of product under consideration, the company cannot be considered domestic producer for the present purpose. Following table shows names of producers producing from the basic stage and liquid stage: -

Liquid choline chloride producers	Processors of Liquid Stage
Jubilant (applicant)	Sanjay Chemicals
Balaji Amines (supporter)	Rawat Chemicals
DA Sons	Supreme Chemicals

15. The production of the petitioner constitutes a major proportion in Indian production. The same is significantly more than 50% of the Indian production. The application, thus, satisfies the requirements of Rule 2(b) and Rule 5(3)(a) and (b) of the AD Rules.

##### **Views of interested parties**

16. It has been contended by M/s. Suguna that information provided by Balaji Amines has not been made available to them.

### **Examination by the Authority**

17. Rule 2 (b) of the AD rules defines domestic industry as under:

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

18. It is noted that the application was filed by M/s Jubilant Life Sciences Ltd., Noida as domestic industry. The production of the applicant accounts for a major proportion of the total domestic production of the like article and is significantly more than 50% of total Indian production. Further, M/s Balaji Amines Ltd. has supported the application. The company has, however, not provided information relevant to injury determination and, therefore, the company could not be included for injury examination. It is noted that those parties who are buying Choline Chloride liquid and selling Choline Chloride dry powder cannot be considered as the domestic producer of the product under consideration. None of the interested parties has raised any issues with regard to standing and domestic industry status of the applicant. As regards the contention of M/s. Suguna that a copy of the letter written by Balaji Amines has not been provided to them, it is noted that a copy of the letter written by Balaji Amines has been placed in public file, which was open for inspection by any interested party on request. In view of the above and after examination, it is held that the applicant satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules.

19. Based on information on record, it is determined that the production of the applicant constitutes a major proportion in the Indian production. Further, production of the applicant with supporter constitutes significantly beyond a major proportion of Indian production.

Unit in MT

Particular	2007-08	2008-09	2009-10	POI
Jubilant (applicant)	5,052	4,502	7,576	8,152
Balaji Amines (supporter)	1,767	1,736	1,458	1,865
Other Indian producers	-	-	300	267
Indian production	6,819	6,238	9,334	10,284

Share of applicant alone	74%	72%	81%	79%
Share of applicant with supporter	100%	100%	97%	97%

20. In view of the above, the Authority determines that the applicant has the standing to file and maintain the present petition. Further, the applicant constitutes domestic industry within the meaning of the Rules.

## **E. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS**

### **Normal Value**

21. 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);

### **Views of the Domestic Industry**

22. The following are the views of the domestic industry:

- i) China should be treated as a non-market economy country. Normal value in case of China should be determined in accordance with para-7 Annexure-I to the Rules.
- ii) None of the exporters has responded to the Designated Authority nor have they provided any evidence to establish that prices of basic inputs substantially reflect market values. The exporters should be treated as non cooperative and non market economy on the above grounds.
- iii) There are a number of conditions specified under the law before a Chinese company can be granted MET. Failure to satisfy even one of the conditions mentioned under the rules by the responding Chinese exporters is sufficient to hold that market economy status cannot be granted to responding Chinese companies and thus the normal value should be determined in accordance with Para-7 of the Rules.

- iv) Chinese producers are not entitled for market economy treatment because of significant state control.

### **Views of other interested parties**

23. The following are the views of the other interested parties:

- i) Though none of the producers/exporters from China has filed any claim for market economy treatment but non filing of response by exporters is because India is not a huge market for Chinese exporters and does not mean admission of dumping.
- ii) There being a huge difference in level of technology, market size, etc between India and China, it is inappropriate to use costs of petitioner for calculation of Normal Value. The Designated Authority, thus, should choose an appropriate analogous country.

### **MET examination and normal value for all producers and exporters from China**

24. The Authority notes that in the past three years, China PR has been treated as a non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD Rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules for the purposes of preliminary determination.

25. As per Paragraph 8 of the Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The cooperating exporters/producers of the subject goods from China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labor, 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.

26. The Authority notes that none of the producers/exporters of the subject goods from China PR has submitted their questionnaire responses to the Designated Authority nor claimed market economy treatment. In view of non-cooperation from the Chinese producers/exporters, the normal value is proposed to be determined in accordance with Para-7 of Annexure-I to the Rules.

## **Determination of Normal Value for all producers and exporters from China PR**

27. In view of non-cooperation from the Chinese producers/exporters, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules and has to proceed in accordance with Para 7 of Annexure- I to the Rules. According to these Rules, the normal value in China can be determined on any of the following basis:
- a. On the basis of the price in a market economy third country, or
  - b. The constructed value in a market economy third country, or
  - c. The price from such a third country to other countries, including India.
  - d. If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.
28. The Authority notes that none of the interested parties, including applicant and responding importer/consumers, have provided any information for determination of normal value on the basis of cost or price in market economy third country. The applicant submitted that for determination of normal value based on third country cost and prices, complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. Since no authentic information with regard prices and costs prevalent in these markets is available, normal value cannot be determined on the basis of cost or price in market economy third country. None of the Chinese producers and/or exporters has made any claim with regard to an appropriate market economy third country. The responding importer/consumer disputed consideration of normal value based on cost structures of the domestic industry on the plea that there being a huge difference in level of technology, market size, etc between India and China. The submissions made by importer/consumer were examined in detail. It is noted that no verifiable evidence has been provided by the responding importers/consumers to substantiate their argument that the level of technology or market size is so different as to render the proposed determination of normal value inappropriate. It is also noted that normal value on the basis of cost of production in China can be considered only if conditions specified under Para-8 of Annexure-I are met. No claim for market economy treatment has, however, been made by any Chinese producer/exporter. The Authority has, therefore, determined normal value on the basis of facts available, considering the estimates of cost of production in India and reasonable addition for profits. Normal Value in China has, therefore, been determined on the basis of cost of production in India, duly adjusted for selling, administrative and general expenses and profit. The normal value proposed to be determined is mentioned in the Dumping Margin Table below.

### **Export Price**

29. Export price has been determined considering volume and value of imports for the period of investigation as per transaction-wise import data procured from DGCI&S.
30. It is noted that the applicant had determined export price on the basis of International Business Information Service, (IBIS). The Authority, however, called information from the DGCI&S. Comparison of this information with the IBIS information provided by the applicant showed that DGCI&S data appropriately reflects the volume and value of imports.

31. It is noted that the responding importers/consumers made submissions with regard to volume and value of imports of the product. It is, however, noted that the importers/consumers have relied upon the published DGCI&S information. In this regard, the Authority notes that since the product under consideration does not have dedicated customs classification and further since imports of other products are also included in the customs classification relied upon by the consumers (this fact becomes evident from the DGCI&S transaction wise data received from the DGCI&S), it would not be inappropriate to determine export price on the basis of transaction wise DGCI&S data procured from DGCI&S by the Authority.
32. The prices so determined are CIF prices. According to WTO Agreement on Anti-Dumping and Indian Anti-Dumping Rules, comparison of normal value and export price should be done at the same level, preferably at ex-factory level. The export price is, therefore, required to be adjusted for ocean freight, marine insurance, commission, inland transportation, port expenses and bank charges, which the exporter should have incurred for exporting the goods to India.
33. None of the exporters from China has cooperated with the Authority. The applicant has claimed various adjustments based on its market information and the same have been considered for determining net export price. The Net Export Price proposed to be determined is mentioned in the Dumping Margin Table below. Dumping margin has been determined as the difference between the normal value and net export price as determined above. It is seen that dumping margin is not only above de-minimis level but also substantial and significant.

Particulars	POI (USD per Kg).
Constructed Normal Value	***
Net export price	***
Dumping margin	***
Dumping margin	***
Dumping margin	80% - 90%

## F. ASSESSMENT OF INJURY AND EXAMINATION OF CAUSAL LINK

### Views of the Domestic Industry

34. The domestic industry has submitted as under: -
- Suguna has imported the product under consideration and traded the same in Indian market, which has caused injury to the domestic industry.
  - Imports from the subject country have increased substantially in absolute terms in a very short time span.
  - Imports have increased not only in absolute terms but also in relation to production and consumption in India. Imports of the product increased further

- after the period of investigation both in absolute terms and in relation to production and consumption in India.
- d. Imports from the subject country are undercutting the prices of domestic industry to a significant extent. The price undercutting is in spite of low prices already offered by the domestic industry.
  - e. Even though the production, sales and capacity utilization of the domestic industry improved, the market share of the domestic industry declined.
  - f. Performance of the domestic industry with regard to profits, return on investment and cash profits was improving till 2009-10 and deteriorated in POI.
  - g. The inventories with the domestic industry were declining till 2009-10 and increased once again in POI.
  - h. Employment, wages and productivity have improved.
  - i. Dumping margin as a measure of extent of dumping is quite significant.
  - j. All the parameters, collectively and cumulatively, establish that the domestic industry has suffered material injury. In addition to material injury, facts of the case clearly establish that the domestic industry is threatened with material injury by the dumped imports.

#### Views of the Exporters, Importers and Other Interested Parties

35. The other interested parties have raised following issues with regard to injury and causal link:

- i. M/s. Varsha Multitech submitted that anti-dumping duty should not be levied on imports of Choline Chloride in the interest of Indian poultry farmers and industry. The company further claimed that the petitioner wields a virtual monopolistic position in India. Varsha Multitech claimed that the petitioner is exporting nearly 1500 tons leaving about 8500 tons for sale in the Indian market. The company has also stated that there is a shortfall in demand of the product in the country as compared to supply conditions. There will be a severe shortage and crisis for Indian poultry if imports are denied or restricted by anti-dumping duty.
- ii. Import figure of 969 MT in the POI is incorrect. There is total import of 8,622 MT of all grades of Choline Chloride in India out of which 1,467 MT is from China and 7,155 MT from other countries. Import data provided by the applicant needs to be re-looked and compared with DGCI&S data.
- iii. Petitioner is a dominant producer and has abused its dominant position by charging high prices. There has been an arbitrary increase in prices by the applicant.
- iv. The applicant is trying to cartelize the Indian market and has even asked other Indian producers to increase their prices to arbitrary levels.
- v. The goods referred to by Petitioner, whether of Netherland origin or Chinese origin are not relevant as the same is for previous year and not the POI.
- vi. With respect to market share, there exist inconsistencies in figures provided in Petition and Written submissions. Also market share of petitioner as per written submissions has increased contrary to their claim.
- vii. Injury parameters such as production, sales, capacity utilization are showing increasing trends and inventories have declined.
- viii. Profits and cash profits of petitioner have increased significantly during POI and hence there exists no injury.
- ix. There exists no causal link as profitability of domestic industry has reduced despite the fact that undercutting has remained in same range for both years.

Also landed price of imports have increased while selling price of domestic industry has decreased.

- x. Injury, if any, suffered by the applicant is on account of decline in export sales and captive consumption.
- xi. The domestic industry has lost its market share while other producers' share in the domestic market has increased. Further, demand in India is more than supply which is reflected by the increase in production and sales of the applicant.
- xii. The applicant has claimed injury on account of price underselling and decline in profits. Other Indian producers, despite having smaller scale of operations are not only able to sell at a price lower than the applicant but are earning profits on it too.
- xiii. The domestic suppliers inability to supply/cater to the need as per consumer's requirement in time to feed units in different places in India is causing difficulty as there is no alternative product available in place of Choline Chloride.
- xiv. Indian users are forced to import subject goods due to inconsistency in quality and uninterrupted supply of goods of Indian Manufacturers.
- xv. The inconsistencies in supply time and quality have caused loss of productivity, shutdowns and financial losses to the consumers.
- xvi. The applicant is rationing its supplies for getting better prices and derives undue advantage.
- xvii. No threat of injury – Despite demand of 11,000 to 12,000 MT, total imports from China were hardly 969 MT, which shows that the major portion of demand and market share is still dominated by the applicant and other Indian producers. Further, mere report of some consulting company cannot be treated as evidence for production figures in China.
- xviii. Threat of injury projected by petitioner is based on reports of year 2008-09 which is not relevant to POI or current year and the authenticity of these reports are not verifiable.
- xix. Fresh import data not available in public file. In any case, post POI data is irrelevant for present purposes. Further annualizing of 4 month import data is fallacious as import does not continue in the same manner as production. Also, only import figures without corresponding production data, sales data, etc do not serve any purpose.

#### Examination by the Authority

36. The Authority has taken note of submissions made by the interested parties on injury and causal link and addressed the same at relevant places in the present Disclosure Statement.

37. With regard to the contention of the consumer that import figure of 969 MT in the POI is incorrect and that there is total import of 8,622 MT of all grades of Choline Chloride in India out of which 1,467 MT is from China and 7,155 MT from other countries, the Authority examined the import statistics and noted that the importer has relied upon published information provided by DGCI&S under the customs classifications 23099010 (Compounded Animal Feed). It is seen that the description "compounded animal feed" is not specifically for Choline Chloride. The Authority called transaction-wise import information from DGCI&S. Analysis of the import data shows that the same includes imports of products not included in the scope of the present investigations. Therefore, it would be inappropriate to consider volume of imports as per the DGCI&S published data which is not transaction wise data. Since the actual transaction wise import data with product description has become available, the same has been relied upon for the present determination.

38. The Authority notes that the responding consumer has not provided any evidence in support of its allegations with regard to rationing of the product by the domestic industry, cartelization, arbitrary price increases by the domestic industry, demand-supply gap in the Country, inconsistencies in supply by the domestic industry or quality of the domestic industry product leading to loss of productivity, shutdowns and financial losses to the consumers. The domestic industry has refuted these allegations of the consumer.
39. Annexure II of AD Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products. While examining the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports either in absolute term or relative to production or consumption in India. With regard to price effect of dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increase which would have otherwise occurred to a significant degree.
40. As regards the impact of dumped imports on the domestic industry, Para (iv) of Annexure-II of AD Rules states as under:
- “The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”*
41. The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties.

### **Volume effect**

#### a. Assessment of demand

42. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of the Indian producers have been added to the total imports into India, which has been summarized in table below. It is seen that the demand for the product under consideration has increased by 81 index points between the base year and the POI.

Particulars	Unit	2007-08	2008-09	2009-10	POI
Sales of domestic industry including captive consumption	MT	4,506	4,962	7,471	8,094
Sales of other Indian Producers	MT	1,582	2,311	1,733	2,004

Imports from China	MT	0	0	393	971
Imports from other Countries	MT	49	17	0	32
Total Demand/consumption	MT	6,137	7,290	9,597	11,101
Trend	Indexed	100	119	156	181

Note: Figures given in the above Table is based on Choline chloride of 60% concentration

43. The interested parties have argued that the Indian producers cannot meet the demand for the product in the country. It is however noted that the petitioner itself has capacity of 9000 MT. Further, information given by M/s Balaji Amines shows that the maximum production achieved by the company was 1865 MT on equivalent basis. Further, there is another domestic producer in India. The Authority therefore holds that the domestic producers have adequate capacity to cater to the demand in POI.

b. Import volumes and market share

44. While examining the volume of the dumped imports, the Designated Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti-dumping rules provides as under:

*“While examining the volume of dumped imports the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”*

45. The applicant has claimed that subject goods are being imported in a number of customs classifications. Transaction wise imports information was called from DGCI&S, analysis and comparison of which with IBIS shows that it would be appropriate to adopt Transaction wise imports data of DGCI&S for the purpose of the present investigation.

46. It is seen that the volume of dumped imports has increased significantly in POI in absolute terms and relative to production and consumption as is evident in the following table:

Particulars	Unit	2007-08	2008-09	2009-10	POI
Sales of domestic industry including captive	MT	4,506	4,962	7,471	8,094
Sales of other Indian Producers	MT	1,582	2,311	1,733	2,004
Imports from China	MT	0	0	393	971
Imports from other Countries	MT	49	17	0	32
Total Demand/consumption	MT	6,137	7,290	9,597	11,101
Trend	Indexed	100	119	156	181
Imports as % in relation to					
Total imports	%	-	-	100	97

Demand	%	-	-	4.23	8.96
Total production	%	-	-	4.21	9.44
Market Share in demand					
Domestic industry including captive consumption	%	73.43	68.07	77.85	72.92
Other Indian Producers	%	25.77	31.69	18.06	18.05
China	%	-	-	4.09	8.74
Third Countries	%	0.80	0.24	-	0.29

47. It is seen from the above table that:

- a. Imports were non-existent in 2007-08 and 2008-09. However, significant volumes of imports were reported from the subject country in 2009-10, volume of which increased further significantly in the POI.
- b. Imports were significant in relation to total imports, and increased significantly in relation to production and consumption in India.
- c. The market share of the domestic industry has declined in 2008-09 from base year, increased in 2009-10 and then declined in the POI. At the same time, imports from the subject country which were non-existent in 2007-08 and 2008-09 have increased from 4.09% in 2009-10 to 8.74% in POI.

### **Price effect of imports**

48. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider 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 or prevent price increases, which otherwise would have occurred, to a significant degree.

#### **a. Price undercutting**

49. In order to determine the extent of price undercutting, the Authority has compared the net sales realization of the domestic industry with the landed value of the imports. The net sales realization was arrived at after deducting all rebates and taxes. It is seen that the landed price of imports of the subject goods are significantly below the selling prices of the domestic industry, resulting in significant price undercutting.

Particulars	Unit	2009-10	POI
Import Volume - China	MT	393	971

Import Values - China	Rs. in Lacs	123.14	302.65
Assessable Value	Rs./Kg	31.34	31.19
CIF Import Price - China	Rs./Kg	31.03	30.87
Landed price of imports	Rs./Kg	33.76	33.59
Net Selling Price	Rs./Kg	***	***
Price Undercutting	Rs./Kg	***	***
Price Undercutting	%	***	***
Price Undercutting	Range %	30-40	30-40

b. Price suppression and depression

50. The cost and price movement of the domestic industry and the landed value of imports from China have been compared over the injury period to examine whether the effect of dumped imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

Particulars	Unit	2007-08	2008-09	2009-10	POI
Cost of sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	107	88	99
Average selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	110	106	105
Landed price of imports from China	Rs./Kg	No imports	No imports	33.45	33.28

51. It is noted that while the cost of sales increased by Rs.\*\*\* per Kg in the POI over the preceding year, the selling prices declined by Rs.\*\*\* per Kg. It is, thus, seen that whereas cost of sales increased, the selling price slightly declined. It is noted that the domestic industry has in fact reduced the prices in POI as against the claim of interested parties that the domestic industry resorted to frequent price increases.

Price Underselling

52. The Authority has assessed the extent of price underselling by comparing non injurious price of the domestic industry with the landed price of imports (for POI), as shown below:

Particulars	Unit	China PR
Non injurious price	Rs./KG	***
Landed price of imports	Rs./KG	33.59
Price under selling	Rs./KG	***
Price under selling as a % of landed price	%	***
Price under selling as a % of landed price	Range	55-65

53. It is seen that the landed price of imports is significantly below the the non-injurious price of the domestic industry. The dumped imports are, therefore, resulting in price underselling in the market.

### **G. ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY**

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

a. Capacity, production, sales volumes, and capacity utilization:

55. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been stated in the table below.

Particulars	Unit	2007-08	2008-09	2009-10	POI
Capacity	MT	9,000	9,000	9,000	9,000
Production	MT	5,052	4,502	7,576	8,152
Capacity Utilization	%	56	50	84	91
Sales volume					
<input type="checkbox"/> Domestic	MT	4,446	4,913	7,409	8,094

<input type="checkbox"/> Captive	MT	60	49	61	-
<input type="checkbox"/> Exports	MT	285	49	59	62
Total Sales	MT	4,791	5,011	7,530	8,156
Demand	MT	6,137	7,290	9,597	11,101

56. It is seen that the demand for the product in the country was earlier much lower than the available capacities. It is noted that production declined in 2008-09 and then increased thereafter. The domestic industry contended that it was not able to produce the goods to the extent it could have in view of lack of demand for the product in the Country. As the demand for the product increased, production and utilization of capacities increased over the injury period. The sales volumes of the domestic industry have increased throughout the injury period.

b. Market Share:

57. Information relating to market share is given in the following table. It is seen that the market share of the domestic industry declined in 2008-09, increased in 2009-10 and then declined in the POI. At the same time, imports from the subject country which were non-existent in 2007-08 and 2008-09; have increased from 4.09% in 2009-10 to 8.74% in POI. It is seen that the decline in market share of domestic industry in 2008-09 was due to the market share captured by other domestic producers and not on account of imports from subject countries. Further, the domestic industry regained its lost market share in 2009-10 and its share in demand in 2009-10 was in fact higher than previous years.

Market Share in Demand	Unit	2007-08	2008-09	2009-10	POI
Sales of Domestic industry	%	73.43	68.07	77.85	72.92
Other Indian producers	%	25.77	31.69	18.06	18.05
Subject imports	%	-	-	4.09	8.74
Imports from Other countries	%	0.80	0.24	-	0.29

c. Profit/Loss, Return on Investments, Cash Profit

58. Information relating to profitability of the domestic operations relating to the product under consideration, return on investment and cash profit is given in the following table.

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Profit before tax	Rs.Lacs	***	***	***	***
Trend	Indexed	-100	615	6035	1988

Cash profit	Rs.Lacs	***	***	***	***
Trend	Indexed	100	166	613	281
Profit before interest	Rs.Lacs	***	***	***	***
Trend	Indexed	100	212	1102	527
Profit before interest & depreciation	Rs.Lacs	***	***	***	***
Trend	Indexed	100	140	425	242
Return on Investment (NFA) per unit	%	***	***	***	***
Trend	Indexed	100	214	916	262

59. It is seen that the domestic industry was suffering financial losses in the base year. The domestic industry contended that this was due to lack of demand for the product in the country and consequently lower prices kept by the industry. The domestic industry could not produce to the extent it could have in the absence of sufficient demand, thus, leading to higher incidence of overhead costs. It was further stated that had the domestic industry produced to the optimum capacity it would have earned profits. The Authority notes that the domestic industry could not recover the fixed expenses on account of unutilized capacities, leading to losses in 2007-08. When the demand for the subject goods increased, the Domestic Industry posted profits in 2008-09 and 2009-10. However, the profits of the domestic industry declined significantly in the POI with significant increase in dumped imports from China.

60. The table below shows profitability per unit. It is noted that after incurring loss in 2008-09, the profitability of the domestic industry improved in 2008-09 and 2009-10 and then declined significantly in the POI.

Particulars	Unit	2007-08	2008-09	2009-10	POI
Cost of sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	107	88	99
Selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	110	106	105
Profit/( Loss)	Rs./Kg	***	***	***	***
Trend	Indexed	(100)	556	3621	1092
Cash profit	Rs./Kg	***	***	***	***
Trend	Indexed	100	150	368	154

Profit before interest	Rs./Kg	***	***	***	***
Trend	Indexed	100	192	661	289
Profit before interest, depreciation and tax	Rs./Kg	***	***	***	***
Trend	Indexed	100	127	255	133
Return on Investment (NFA) per unit	%	***	***	***	***
Trend	Indexed	100	214	916	262

61. It is seen that return on capital employed and cash profits improved till 2009-10 due to better selling price and, thereafter, deteriorated significantly in the POI with the significant increase in dumping of the subject goods from the subject country.

62. It has been stated by the responding importer/consumer that while the domestic industry has claimed deterioration in its profits, the other domestic producer is able to sell and earn profits. However, no evidence has been submitted to the Authority by the interested parties to substantiate their claim. The Authority notes that even the other domestic producer Balaji Amines has supported imposition of anti dumping duty.

d. Inventories:-

63. Information relating to inventory with the domestic industry is given in the following table. It is seen that the stock had declined till 2009-10 and then increased in the POI in spite of increase in sales volume.

Stock ( Volume)	Unit	2007-08	2008-09	2009-10	POI
<input type="checkbox"/> Opening Stock	MT	***	***	***	***
<input type="checkbox"/> Closing Stock	MT	***	***	***	***
<input type="checkbox"/> Average Stock	MT	469	344	113	133

e. Employment and wages:

64. Information relating to employment of the domestic industry is given in the following table. It is seen that employment has increased over the injury period. Further, the wages paid have also increased in line with the company's overall performance for different products.

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Employment	No	18	20	22	24
Wages	Rs.Lacs	***	***	***	***

Trend	Indexed	100	91	96	117
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f. Productivity

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Productivity per employee	MT	281	225	344	340
Trend	Indexed	100	80	123	121
Productivity per day	MT	14	13	22	23
Trend	Indexed	100	89	150	161

65. From the table above, it is seen that productivity per employee and productivity per day of the domestic industry has increased in the POI in comparison to the base year, except in 2008-09.

g. Dumping Margin:

66. Dumping margin from subject country is not only above de minimis but also significant.

h. Factors affecting domestic prices

67. Consideration of the import prices from subject country and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the landed value of imported material from subject country is below the selling price of the domestic industry, causing price undercutting in the Indian market. There are low volume imports of the product under consideration from other countries. There is no viable substitute to this product. Demand for the product was showing significant jump and could not have been a factor responsible for price suppression faced by the domestic industry. One of the major factors responsible for the domestic industry prices is the import prices of the subject goods from subject country and the cost of production of the domestic industry. As the information shows, the domestic industry has been prevented from charging a price that would permit recovery of cost of production and earn reasonable profits.

i. Ability to raise capital

68. The domestic industry is a multi-product company. The domestic industry contended that should the dumping from the present sources persist, ability of the domestic industry to raise capital for the Product under consideration would suffer.

j. Growth

69. Growth in volume parameters such as production and sales shows a positive trend. Market share shows negative growth despite existing capacities in the country. Growth in price parameters such as profit, cash profit and return on capital employed was positive till 2009-10 and became negative in POI with significant dumping of the product in the country. Overall growth of the domestic industry was adverse.

k. Conclusions on injury

70. From the above, the Authority concludes as under:

- i. The imports of the product under consideration from the subject country have not only increased significantly in absolute terms but also in relation to production and consumption in India during 2009-10 and POI.
- ii. Imports from the subject country are undercutting the prices of domestic industry to a significant extent. The price undercutting is in spite of low prices already offered by the domestic industry.
- iii. While the cost of production of the domestic industry increased in the POI, the selling price slightly declined. The effect of the dumping was, therefore, to suppress the prices of the domestic industry and prevent price increases that would have occurred in the absence of dumping.
- iv. Even though the production, sales and capacity utilization of the domestic industry improved, the market share of the domestic industry declined.
- v. Performance of the domestic industry with regard to profits, return on investment and cash profits was improving till 2009-10 and declined significantly in POI despite improvement in production, capacity utilisation and domestic sales.
- vi. The inventories with the domestic industry were declining till 2009-10 and increased once again in POI.
- vii. Dumping margin is quite significant.

71. From the above, the Authority concludes that all the parameters, collectively and cumulatively, establish that the domestic industry has suffered material injury.

## H. THREAT OF MATERIAL INJURY

72. In addition to material injury, domestic industry contended that the dumped imports of the product under consideration are threatening material injury to the domestic industry. No documentary evidence was provided by opposing interested parties to dispute the claims of the domestic industry. The Authority examined the claims made by the domestic industry and opposing interested parties and the following are relevant in this regard:

- i. It is seen that there is a significant increase in imports in recent period which have gone up from nil in 2007-08 and 2008-09 to 393 MT in 2009-10 and 971 in 2010-11 respectively.
- ii. The price difference between the imported and domestic products is quite significant. Imports are entering at prices that will have a significant

depressing or suppressing effect on domestic prices resulting in increased demand for the imported subject goods.

- iii. The evidence provided by the domestic industry in the form of a report prepared by an agency in China shows that capacities created by the Chinese producers are far higher than their domestic demand.
- iv. The information provided by the applicant, as shown below, shows that the export orientation of the Chinese producers/suppliers is quite high and has ranged between 51-100%. The information also shows existence of a large number of Chinese players in this product.

Chinese Producer	Export Orientation
Hebei Global Fodder Additive Co., Ltd.	61% - 70%
Changsha Yonta Industry Co., Ltd.	91% – 100%
Siping city choline chloride Co., Ltd	100%
Jj Choline Limited (Choline Chloride)	51-61%
CangzhouHuayou Import & Export Trade Co., Ltd.	91-100%
Qingdao YijiaHuayi Import and Export Co., Ltd	70%
Be-Long Choline Industrial Corp.	100%
CangzhouGoldlion Chemicals Co., Ltd	61% - 70%
Qinhuangdao Sinochem Imp. And Exp. Co.,Ltd	81% - 90%
Hebei Kangdali Pharmaceutical Co., Ltd	40%
LiaochengRongheng Chemicals Ltd.	80%
Jinan Asia Pharmaceutical Co., Ltd	41-60%

73. The Authority, therefore, holds that various parameters relating to domestic industry collectively and cumulatively establish that the imports are threatening material injury to the domestic industry.

#### **I. CAUSAL LINK**

74. Applicant submitted the following:

- a) Listed other factors of injury have not caused injury to the domestic industry.
- b) Factors such as price undercutting and consequent loss of market share lost sales opportunity and consequent adverse impact on the production & capacity utilization, profits, return on investment and cash flow show that the domestic industry has suffered injury due to dumping of the product.

75. As per the AD Rules, the Authority, *inter alia*, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It was examined whether these other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It was found that:-

- a. Volume and price of imports from third countries:- The Authority notes that there was very low volume of imports of the product under consideration from third countries in the POI. Thus, imports from third countries could not have caused injury to the domestic industry.
- b. Contraction in Demand and Changes in pattern of consumption: It is noted that the demand of the subject goods has increased significantly in the period of investigation as compared to the base year. There is also no indication of any change in the consumption pattern.
- c. Trade Restrictive Practices and Competition between the Foreign and Domestic producers: The import of the subject goods is not restricted in any manner and the same are freely importable in the country. The domestic producers compete with the landed prices of the subject goods. The price of the domestic industry is influenced substantially by the landed price of subject goods. Moreover, no evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.
- d. Development of Technology: None of the interested party has raised any issue with regard to developments in technology as being the cause of injury to the domestic industry. No information, in respect of any significant development in technology is on record that could be the principal cause of injury to the domestic industry.
- e. Export Performance: The Authority notes that the export volume of the domestic industry has remained almost at the same level during the POI and preceding two years. Thus, possible decline in exports is not a factor which could have attributed injury to the domestic industry. Also information on export performance has been separately provided by the domestic industry. Export profitability has been segregated and only profitability pertaining to domestic operations has been considered.

76. The Authority notes that while listed known other factors do not show injury to the domestic industry, the following parameters show that injury to the domestic industry has been caused by dumped imports:

- a. Imports of the product under consideration have increased significantly. Consequently, the market share of the subject country increased and that of the domestic industry declined between 2009-10 and POI.

- b. The imports from the subject country are significantly undercutting the prices of the domestic industry.
- c. Whereas the cost of production of the domestic industry increased in the POI as compared to the preceding year, the selling price slightly declined. Thus, the price undercutting faced by the domestic industry prevented the domestic industry from increasing its prices in response to the cost increases. The imports are thus suppressing the domestic prices.
- d. The deterioration in the domestic industry's profits and return on capital employed are apparently a result of the dumped imports.

77. In view of the above, the Authority concludes that the domestic industry has suffered injury and injury to the domestic industry has been caused by dumped imports from the subject country.

**J. MAGNITUDE OF INJURY AND INJURY MARGIN**

78. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports from subject country to determine injury margin. The injury margins have, thus, been worked out as follows:

Table showing Injury Margin

Particular	Rs. Per Kg.	USD per Kg.
Non injurious price	***	***
Landed price of imports	33.28	0.72
Injury margin	***	***
Injury margin (%)	***	***
Injury margin (Range %)	55% - 65%	55% - 65%

79. The level of dumping margins and injury margins determined are considered significant.

**Indian Industry's interest.**

80. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to reestablish 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 by using the 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 subject countries 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.

#### Post Disclosure Statement submissions by the Domestic Industry

81. Post Disclosure Statement submissions by the Domestic Industry are as under:

- a. The scope of product under consideration is all concentrations for animal feed applications.
- b. Producers who are buying Choline Chloride liquid and selling Choline Chloride dry powder cannot be considered as the domestic producer of the product under consideration.
- c. Parameters such as price undercutting and consequent loss of market-share, lost sales opportunity and consequent adverse impact on the production & capacity utilization, profits, return on investment and cash flow show that the domestic industry has suffered injury due to dumping of the product.
- d. Both dumping margin and injury margin in the POI are positive and significant.
- e. In addition to material injury, facts of the case clearly establish that the domestic industry is threatened with material injury by the dumped imports considering the fact that the capacities created by the Chinese producers are far higher than their domestic demand and their export orientation is quite high.
- f. Ad-valorem form of anti dumping duty may be recommended in the present case in view of existence of different forms of the product and different levels of concentrations in which the product is produced and sold.

#### Post Disclosure Statement submissions by other opposing Interested Parties

82. Post Disclosure Statement submissions by the other opposing Interested Parties are as under:

- a) Disclosure statement provided to them in the late evening of 24<sup>th</sup> of September, 2012, whereas the date mentioned on DS was 21<sup>st</sup> September, 2012.
- b) The arguments raised by the company has not been given due weightage. Though the company raised various issues pertaining to the various aspects of investigation the same finds no mention in the disclosure statement.
- c) Support of Balaji Amines to the petitioner is a trade-off for seeking petitioner's support in another anti-dumping case relating to one of the products both companies are producers. Also, Balaji Amines is earning good profits.
- d) Most of the information sought by the company time and again was also not available on the public file as the case was shifted from one officer to another because of which the public file was not properly maintained.

- e) After 2010-11, the rupee has devalued significantly thereby making USD much dearer. It is therefore requested that the duty may be specified in Rupee terms rather than in USD terms.
- f) The petitioner having restricted the scope of PUC is now pressing to include those grades and applications of Choline Chloride which are specifically excluded by it in the petition and by the Designated Authority in its scope of investigation. It is submitted that no information in this respect has been provided to the company either by the authority or the petitioner.
- g) The entries referred to as transshipment clearly states the country of origin of goods and hence to say the same was transshipped to avoid some duty or fudge the import figures is liable to be rejected.
- h) No information filed by any interested party including petitioner or information subsequent to initiation received by the authority other than copy of petition (NCV) and written submissions filed by the petitioner were provided to answering company.
- i) The information with respect to the production of subject goods is also at variance from the information filed by the petitioner in its petition.
- j) CNV methodology adopted by the Authority is legally untenable. Accordingly, authority is requested to undertake an exercise to determine the normal value of China after selecting a proper analogous country keeping in view the production capacities, market size, technological differences and consumer preferences which in this case has not been done so far by the authority.
- k) With respect to export price, it is observed that the observations made by the authority are not only confusing but also self-contradictory. There is a contradiction in Para 23 and 33.
- l) Domestic Industry contented that Suguna has imported and traded the material in the local markets causing injury to the local industry is misleading and damaging on the reputation of Suguna. Suguna in fact didn't import any quantity of subject goods during the period of investigation, i.e., the period where petitioner has claimed to have been materially injured.
- m) Wide price variation between Balaji and the Domestic Industry, while both source the raw materials from the local suppliers.
- n) Authority has failed to observe that the consumption and demand of subject goods has also increased significantly from earlier level of 1000 MT to over 11,000 MT during POI.
- o) No volume injury to Domestic Industry.
- p) The undercutting of imports has no relation with the alleged injury to DI.
- q) Incorrect calculation of demand, as captive consumption and exports of petitioner have been considered.
- r) Main reason for the decline in the market share of the petitioner is due to the fact that the quality aspects (TMA content in the Choline Chloride is not within its permissible range) of the domestic product have deteriorated, and hence, consumers have to depend upon the imported product.
- s) The authority has not provided the information it has received from the DGCI&S and the methodology adopted by it to identify the subject goods.
- t) Share of imports in market share is of no relevance in a market where demand is increasing rapidly and therefore no volume injury.

- u) Figures on landed prices of imports have changed without supplying interested parties any information or data warranting such change in the import prices. Despite of the alleged severe undercutting, petitioner has not tried to match its prices with that of imported goods. The non-reduction of prices has not impacted the sales of the petitioner or other Indian Manufacturers of subject goods.
- v) The petitioner has been earlier aiming for super profits in view of absence of any competition and was abusing its dominant position by charging arbitrary prices.
- w) During the base year and in the year 2008-09 there were no imports of subject goods from any country. Therefore financial position of the petitioner is compared with the base year or year 2008-09, and it could be conclusively held that the financial position of the petitioner has improved significantly and the petitioner has suffered no injury on account of importation of alleged dumped goods.
- x) 22% ROI in each and every case is not tenable.
- y) The petitioner has itself stated that it was having an effective capacity of only 3000 MT during the base year. Therefore the observations made by the authority are irrelevant and devoid of merits.
- z) It is submitted that the price of subject goods were lower, i.e., Rs.29/KG in the year 2009-10 while the same increased in the POI to Rs.34/KG. When petitioner's prices could remain un-challenged at lower level in year 2009-10 and it could post great profits, it is beyond comprehension as to how it could be affected despite increase in landed value of the subject goods in the POI.
- aa) The balance sheets of Balaji Amines may be verified for the years 2008 to 2011 wherein it has been clearly shown that their profits are getting increased year on year and their sales are also improving.
- bb) Suguna refutes the observation of the Authority that the domestic industry has been prevented from charging price that would permit recovery of the production cost and earn reasonable profits.
- cc) Threat of injury as projected by the petitioner is mere hyping the numbers of unverified reports and that of the year 2008-09, which has no relevance with respect to POI as well as the current year or future.
- dd) Definition of other facts is an inclusive definition which cannot be rendered as exhaustive one as appeared to have been projected in the disclosure statement.

### Examination by the Authority

83. Submissions made by all the interested parties have been examined by the Authority. The Authority notes that majority of the submissions are repetitive and they have already been dealt with under appropriate headings in these findings. The Authority has examined the submissions hereunder to the extent found relevant to the present investigation:

- a. As regards the contention of the domestic industry that no preliminary findings were notified, the Authority notes that issuance of preliminary findings is not mandatory in all cases.

- b. Based on the request of the interested party, the Authority has provided additional time to offer their comments.
- c. It is incorrect that the arguments raised by Suguna have not been given due weightage and all issues to the extent considered relevant to the investigation have been adequately and appropriately addressed in the disclosure statement.
- d. With regard to the contention that Balaji Amines support is a trade-off for seeking petitioner's support in another anti-dumping case, the Authority notes that the issue is irrelevant to the Authority. The fact of support or opposition to the petition alone is relevant. In any case, the petitioner has requisite standing even without support from Balaji Amine. It is also noted that no product has been specified by Suguna wherein the present petitioner and Balaji Amines are producers and anti dumping duty has been levied.
- e. It is without any basis that information sought be the company was not available in the public file or change in the handling officer made any difference in this regard. It is also without any basis that the public file was not properly maintained.
- f. As regards devaluation in INR, the Authority is required to consider the parameters prevailing during the investigation period. It is also noted that the domestic industry stated that the input prices also increased after the investigation period.
- g. With regard to arguments concerning scope of the product under consideration, it is clarified that the scope of the product under consideration has not been enlarged.
- h. As regards the contentions of the interested parties on transshipment, it is clarified that the Authority has adopted DGCI&S statistics and there is no transshipment considered by the Authority.
- i. With regard to difference in the injury figures contained in the petition and figures adopted by the Authority, the figures contained in the disclosure statement and the present findings are on the basis of investigation and verification conducted by the Authority.
- j. One of the interested parties has disputed the methodology adopted for determination of normal value. It has been claimed that the authority cannot treat India as a surrogate country. The Authority notes that petitioner had not provided an evidence of price or constructed value in a market economy third country, pleading lack of relevant information. It is noted that prices from market economy third country to India could also not be adopted for the reasons that there are insignificant imports of the product under consideration from third countries. None of the Chinese producers responded to the Authority. Nor any interested party has made a claim for market economy treatment. While disputing the claim of the domestic industry with regard to determination of normal value, the interested party has neither made any claim nor advanced any evidence either with regard to price or constructed value in a market economy third country. Under the circumstances, the Authority has proceeded with the only available option, i.e., to determine normal value on "any other reasonable basis".
- k. As regards contention that para 23 and 33 of disclosure statement have apparent contradiction, the same has been reviewed and no contradiction therein has been

found. Para 23 of the disclosure statement concerns views of interested parties, whereas para 33 deals with the proposed determination of the Authority.

- l. As regards imports and sale of the product by Suguna, while the issue is irrelevant to the present determination, it is noted that the domestic industry has provided evidence showing that Suguna has offered the product for sale.
- m. As regards price variation between the two domestic producers, the Authority notes that some price difference in the prices of different suppliers is a natural phenomenon of competition, unless the two parties are acting in collusion and resorting to anti competitive practices. The interested party has however not provided any evidence demonstrating that the claimed injury to the domestic industry is on this account.
- n. As regards arguments on increased demand and no adverse volume effect, it is noted that the market share of the domestic industry and other domestic producer declined whereas that of the Chinese imports increased significantly in the POI as compared to preceding year (there were no imports before that). Inventories with the domestic industry in the POI increased. It is also noted that the performance of the domestic industry clearly shows adverse price effect as a result of dumped imports. It is clarified that the demand calculations does not include exports made by the domestic industry. However, captive consumption of the product has been included. While the captive consumption of the domestic industry is not so significant as to make any material difference whether the same is included or excluded, it is noted that it would not be appropriate to exclude captive consumption of the domestic industry. As regards the contention that the market share declined due to the quality issues, it is noted that Suguna has on one hand claimed that it has not imported the product upto POI and at the same time has argued that it has quality issues with regard to the product supplied by the domestic industry (and therefore had to import the product). It is also noted that the claims of quality made by Suguna are unsubstantiated.
- o. As regards disclosure of DGCI&S transaction wise information, the same is not public domain information and cannot be placed in public file. However, the Authority has adequately disclosed all relevant information derived from the DGCI&S data in the disclosure statement and present findings. It is also clarified that the domestic industry had adopted IBIS import data, whereas the Authority has adopted DGCI&S data and therefore the landed price of imports varies to such an extent.
- p. As regards contention that the domestic industry was earning super profits; was abusing its dominant position and wanted to maintain the same through anti dumping duty, it is noted that the facts of the case have not established that the domestic industry was earlier earning super profits.
- q. As regards contention on return on capital employed, the Authority has allowed return on investment as per its consistent practice.
- r. As regards contentions on effective capacity in base year, it is clarified that the domestic industry has not said that it had capacity of only 3000 MT. The contention of the domestic industry is that it did not use the available capacities due to lack of demand for the product in the Country.

- s. As regards comments on para-60 of the disclosure statement, it is clarified that the information contained therein is based on verified figures.
- t. As regards profits of Balaji Amine, it is noted that no evidence has been provided to the Authority that Balaji Amine is earning significantly higher profits as compared to domestic industry. It is noted that Balaji Amines is a multi product company and therefore its profits in the annual report are not representative of the operations relating to the product under consideration.
- u. As regards comments on threat of injury, it is noted that other interested parties have not provided any evidence that could prove that the claims made by the domestic industry are not correct.

## **Conclusion**

53. After examining the issues raised and the submissions made by the interested parties and facts made available before the Authority, the Authority concludes that:

- a. The subject goods have entered the Indian market from the subject country below associated normal values, thus, resulting in dumping of the subject goods;
- b. The dumping margin of the subject goods imported from the subject country is above de-minimis;
- c. The domestic industry has suffered injury in respect of the subject goods; and
- d. The injury to the domestic industry has been caused due to dumped imports of the subject goods from the subject country.

## **Recommendation**

54. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information, *inter alia*, on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the anti-dumping rules and having established positive dumping margins as well as injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of anti dumping duty is required to offset dumping causing injury to the domestic industry. Therefore, the Authority considers it necessary and recommends imposition of anti-dumping duty on imports of the subject goods from China in the form and manner described hereunder.

55. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. It is noted that there is a significant differentiation of the product under consideration in terms of its form and concentration. Accordingly, the Authority recommends imposition of anti-dumping measure as an ad valorem duty on the subject goods, the description of which is specified in column (3) of the Table below, originating in the country specified in the corresponding entry in column

(4) and exported from the country specified in the corresponding entry in column (5), and produced by the producer specified in the corresponding entry in column (6) and exported by the exporter specified in the corresponding entry in column (7), and imported into India, at the rate to be worked out as a percentage of the CIF value of imports of the subject goods as specified in the corresponding entry in column (8) of the said Table.

Duty Table

S No.	Sub-heading	Description of goods	Country of origin	Country of exports	Producer	Exporter	Rate of Duty on CIF Value
1	2	3	4	5	6	7	8
1	2923 or 2309	Choline Chloride of all forms and concentrations for animal feed applications	China PR	China PR	Any	Any	60.79%
2	Do	- Do -	China PR	Any country other than China PR	Any	Any	60.79%
3	Do	- Do -	Any country other than China PR	China PR	Any	Any	60.79%

Note:

1. It is clarified that only the imports of the product under consideration as elaborated in the paragraphs relating to product under consideration in the present findings and as specified in column 3 above shall attract anti dumping duty.
2. For the purposes of this Notification, "CIF value" means the assessable value as determined under Section 14 of the Customs Act, 1962 (52 of 1962).

87. An appeal against the order of the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Sd/-  
(Smt Vijaylaxmi Joshi)  
The Designated Authority

