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No. 14/17/2009-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES

NOTIFICATION

New Delhi, the 7th July 2010

Final Findings

Subject:- Anti-Dumping Investigations concerning imports of Coumarin originating in or exported from China PR – Final Findings

No. 14/17/2009-DGAD- Whereas the Designated authority, having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the Rules);

BACKGROUND

1. Whereas the Designated Authority (hereinafter also referred to as the Authority), having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended from time to time, (herein after referred to as the Rules) received an application from M/s Atlas Fine Chemicals Pvt. Limited, Nasik, Maharashtra through M/s. TPM Solicitors & Consultants, New Delhi (hereinafter referred to as the Applicant) alleging dumping of Coumarin (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred to as subject country) and requested for the initiation of Anti Dumping investigations for levy of anti- dumping duties on the subject goods.

2. And whereas the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, after examination of the same with regard to adequacy and accuracy, issued a Public Notice dated 10th July, 2009 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject country in accordance with the Rule 6 (1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of Anti Dumping Duty, which, if levied, would be adequate to remove the injury to the domestic industry.

3. And whereas the Designated Authority having regard to the Act and Rules investigated and recommended imposition of provisional Anti Dumping Duty on imports of Coumarin (hereinafter referred to as subject goods) falling under Chapter 29 (Organic Chemical) of the Customs Tariff Act, 1975 (51 of 1975) originating in or exported from China PR, vide Preliminary Findings dated 29th January, 2010 and Provisional Anti Dumping Duty was imposed on the subject goods vide Customs Notification No.38/2010-Customs dated 23rd March, 2010.

A PROCEDURE

4. The procedure described below has been followed:

(i) The Authority notified to the Embassy/Trade Representative of subject country in India about the receipt of application alleging dumping of subject goods made by the Applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

(ii) The Authority sent copies of the Initiation Notification dated 10th July, 2009 to the Embassy/Trade Representative of the subject country in India informing about the initiation of the investigation in accordance with Rule 6 with a request to advise the exporters/ producers of the subject country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters/producers and Non-Confidential Version of the application was also sent to them, along with the names and addresses of the known exporters from the subject country as per the addresses made available by the applicant.

(iii) The Authority sent copies of Initiation Notification dated 10th July, 2009 along with non-confidential version of the application as well as exporter's questionnaire to the known producers/exporters of the subject country as per the addresses made available by the applicant and requested them to provide relevant information and make their views known in writing within 40(forty) days of initiation notification.

(iv) The Authority also sent copies of the Initiation Notification dated 10th July, 2009 along with importer's questionnaire to the known importers and domestic industry as per the addresses made available by the applicant and requested them to provide relevant information and make their views known in writing within 40(forty) days of the initiation notification.

(v) The applicant requested the Authority to treat China PR as a non-market economy country for the purpose of present investigations. The Authority informed the known Producers/exporters from China PR that it proposes to examine the claim of the applicants in the light of para (7) & (8) of Annexure-I of the Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore advised to furnish necessary information/sufficient evidence, as mentioned in subparagraph (3) of paragraph 8 to enable the Authority to consider whether market economy treatment should be granted to the cooperating exporters/producers who could

demonstrate that they satisfy that market conditions prevail in their case.

(vi) The Authority sent questionnaire, to elicit relevant information to the following known exporters in subject country in accordance with Rule 6(4):

- (1) Tianjin City No. 3 Chemical Reagent factory, Xuzhuangzixiang, Dongli District, Tianjin – 300 240.
- (2) Nanjing Huafa Chemical Co. Ltd. Meishan, Zhonghuamenwai, Jiangning County , Nanjing City Jiangsu – 210 039.
- (3) Changzhou No. 2 Chemical Plant, 16, Changqi Rd., Qishuyan, Changzhou City, Jiangsu – 213 003.
- (3) Doumen County Baishifa, Chemical Factory Co., Ltd. Doumen Town, Doumen County, Zhuhai City, Guangdong – 519.

(vii) In response to the Initiation Notification the following exporters/producers from the subject country have responded to the questionnaire.

- (1) Yinghai (Cangzhou) Aroma Chemical Co., Ltd.
- (2) Jiangyin Baihui Fragrance Co. Ltd.

(viii) A questionnaire was sent to the known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4). In response to the above notification none of the importers/interested parties filed their submissions.

(ix) The preliminary findings was issued on 29th January 2010 and a copy of the same was sent to the all the interested parties for their comments. A copy of the same was also put on the website simultaneously for information to all concerned. However, no reply was received from any interested parties within given time limit. Subsequent to the preliminary findings and public hearing, a letter was received from M/s Fragrance and Flavours Association of India wherein they stated that they had not been named as known association by the applicant and hence they and members of the association who are also importers and users have not been able to give their views as they did not receive the copy of the Public Notice. They also stated that the members of the association have not received the importers questionnaire and have not been able to give their views. The matter has been examined and it is noted that the Authority at the stage of initiation of investigation wrote to the known parties including importers listed in the application for seeking response to the questionnaire. Further, initiation of investigations and preliminary findings were notified in the Gazette of India and was made known to all interested parties and a copy of the same was put up on the website for information to all interested parties. However, none of the importers or consumers responded to the Authority at the stage of initiation or Preliminary findings and public hearing. The Authority therefore is unable to accept the argument of the association with regard to

reasons for its inability to respond to the present investigations and participate in the present investigations. Notwithstanding the legal position in this regard, the Authority considered the request of the association and addressed the association and importers asking them to give information in the form and manner of importers questionnaire. It is noted that none of the importers except one has responded to the letter from the Authority. It is noted that response has been received from M/s Karnataka Aromatics which is also grossly deficient. None of the information in the form and manner prescribed in importers questionnaire has been provided by the company. The importer has merely provided details of 4 import transactions from M/s Jiangyin Baihui Fragrance Co. Ltd., which has been examined by the Authority. No response was received within the given time frame from any other interested party. As anti dumping investigations are time bound, further request for extension from the above mentioned association was not granted.

(x) A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods made in India during the past three years and the period of investigation. The information received from DGCI&S was analyzed and the same was compared with the information received from the IBIS (secondary sources). After the detailed examination, it was decided to take into account the information from IBIS as it had reported higher volumes of subject goods.

(xi) The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7). A copy of the non-confidential application was also provided to other interested parties, as requested.

(xii) The Authority has verified the information furnished by the Domestic Industry to the extent possible to examine the injury suffered and to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicants so as to ascertain if Anti Dumping Duty lower than the Dumping margin would be sufficient to remove injury to the domestic industry.

(xiii) In accordance with Rule 6(6), the Authority also provided an opportunity to all interested parties to present their views orally in a Public Hearing held on 10th March, 2010. The interested parties who presented their views in the Public Hearing were requested to file their written submissions of the views expressed orally latest by 17th March, 2010 and to submit their rejoinders latest by 24th March, 2010.

(xiv) **** in this final findings represents information furnished by an interested party on confidential basis and so considered by the Authority on merits under the Rules.

(xv) The Period of Investigation for the purpose of the present investigation is 1st January, 2008 to 31st December, 2008 (12 months). The examination of the trends in the context of injury analysis covers the period from 2005-06, 2006-07, 2007-08 and the Period of Investigation.

(xvi) The Authority provided opportunity to the importers/ industrial users of the product under consideration to furnish information considered relevant to the investigation regarding dumping, injury and causality. In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 21st June 2010 and comments received thereon have also been duly considered in the findings.

(xvii) The Authority in this case has considered the data relating to sale's price and costing as confidential as the disclosure of the same may give the undue competitive advantage to the other interested parties. The data relating to volumes of domestic industry has not been treated as confidential.

(xviii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the 'facts available'.

B. PRODUCT UNDER CONSIDERATION

5. The product under consideration in the present investigation is Coumarin of all types (hereinafter referred as "subject goods"). Coumarin (Chemical Formulae C₉H₆O₂) belongs to the lactone family of chemicals. It is an aroma chemical, which can be in the form of white crystals, flake or powder. It has characteristic odour of newly mown hay and bittersweet somewhat similar to vanilla. Coumarin is used in the preparation of fragrance compounds and those fragrance compounds are used in the production of soaps, detergents, cosmetics, incense sticks, and fine fragrances. It imparts pleasant fragrance and masks unpleasant odors in many other household and industrial products. Coumarin, which was originally a natural product obtained from Tonka beans is now produced synthetically. It can be obtained by two synthetic processes i.e. (i) Starting from phenol to obtain Salicylaldehyde followed by Perkin reaction and (ii) Starting from Ortho-cresol which is also called Raschig method in which Salicylaldehyde is made from Ortho-cresol and then converted into Coumarin. In both the processes Salicylaldehyde and Acetic Anhydride react in the presence of Sodium Acetate in Acetic Acid as catalyst and crude Coumarin is separated from Acetic Acid by distillation. The crude Coumarin is further purified by several distillations and then crystallized in Methanol. The crystallized product is separated by centrifugation and dried. The main physical specification of Coumarin is its purity, for which the melting point is the indicator.

6. The product is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act under Customs Sub-heading No. 2932.21.00. However, customs classification is indicative in nature and not binding on the scope of the investigations.

7. None of the interested parties made any submissions regarding the product under consideration at any stage of the proceedings. The Authority therefore confirms the product under consideration as considered in the preliminary findings and as mentioned in Para 5 as above.

C. Like Article

8. With regard to like article, Rule 2(d) provides as under: -

"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

9. The applicant has claimed that there is no known difference in the product under consideration produced by the Indian industry and exported from subject country. The product under consideration produced by the Indian industry and 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.

10. The Authority notes that none of the interested parties have raised any argument in relation to product under consideration and like article. The Authority after due consideration of the submissions made by the interested parties, therefore, holds that the subject goods produced by the domestic industry is like article to the subject goods imported from subject country in accordance with the AD rules for the purpose of the present investigation.

D. Domestic Industry and Standing:

11. The petition has been filed by M/s. Atlas Fine Chemicals Pvt. Limited, as the domestic industry. Apart from the applicant, there were two other producers of the subject goods in India, who have closed their commercial production. Accordingly, the applicant accounts for the 100% of the Indian production during the period of investigation. The Authority notes that none of the interested parties have disputed this claim.

12. The Authority holds that the M/s Atlas Fine Chemicals Pvt. Ltd is the sole producer of the like article in India and constitutes 'domestic industry' within the meaning of the Rule 2(b) of the AD Rules.. The Authority further holds that the application satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules.

E. Other submissions and issues raised

E1 Submissions by domestic industry

13. The following are the post hearing submissions made by the domestic industry:

- 1) There is a long history of dumping of the subject goods from China PR. In fact, the dumping in United States of America has led to the closure of plant and in European Union is now likely to lead to plant closure.
- 2) It is not established by the Chinese producers on evidentiary basis that Authority can grant them market economy treatment. Rather, their own response states that their accounts are unaudited. Also, the information sought by the Authority in the preliminary findings has not been provided by the exporters. Rather, Chinese producers have misguided the Authority by not revealing their relationship with the State. Therefore, preliminary findings should be maintained in this regard.
- 3) The dumping margins (3.46% and 9.23%) determined by the authority are too low.
- 4) The claims of the export price made by the Chinese exporters does not corroborate with the prices reported to Indian Customs. Hence, unless the export price claims are corroborated with the Indian Customs data, the claim of export prices would remain wholly inadmissible.
- 5) The VAT Invoice is the only authentic document which the exporter can provide to establish price at which the goods were exported. However, VAT invoice is the invoice presented to Chinese Customs and is not the invoice presented to the Indian Customs;
- 6) The invoice presented to Indian Customs is the Commercial Invoice. However, the commercial invoice presented to Indian Customs is not presented to China Customs. Thus, possibilities of Commercial invoice and VAT invoice not getting corroborated are not ruled out.
- 7) Given the limited number of transactions in this case, it is vital to corroborate the claims made by the exporter that the data compiled and consolidated by IBIS and DGCI&S. In case of the significant differences in the prices now claimed by the exporter and the prices reported to Customs, the prices reported to the Customs can only be relied upon for determining export prices.
- 8) The issue of difference in the exporter's claims and the Indian Customs reports had been adequately brought before the Designated Authority in past number of investigations. Consistent position applied by the Designated Authority in such cases is to adopt prices declared to Indian Customs. Petitioner requested the Designated Authority to refer the matter to DRI as well for further investigations.
- 9) Normal value determined (around US\$ 12.75) is too low. In this respect, the constructed normal value is the last resort under the law. Petitioner has provided the information on (a) prices in Europe and (b) Import prices from Europe.
- 10) In the present case and in past few cases, the Designated Authority has considered the Cess on customs duty for determining landed price of imports. It is, however, noted that whereas the outstanding issue of inclusion of excise duty has remained outstanding, the interested parties have misled the authority in selectively addressing the issue of Cess.
- 11) Injury margin should be determined inclusive of the excise duty, Cess and Commission.

- 12) Returns should be determined considering the gross fixed assets. 22% return is too low. In any case, revaluation of assets should not be ignored. If depreciation is to be accounted for, appreciation of assets must also be counted for..
- 13) Post period of investigation, the volume of subject goods increased from the subject country whereas the prices declined.
- 14) There is a past history of circumvention of duties by the Chinese exporters. The Designated Authority may specify in the operative part of the order that the investigations have shown that the goods are not being produced in any country other than China, India and Europe. This is most vital in order to prevent circumvention of anti-dumping duties.
- 15) In order to ensure that the said duty is not circumvented by over invoicing the value, petitioner submits that the DA may specify minimum amount of duty that should be charged, irrespective of the import prices ie., the benchmark form of duty.
- 16) There is disparity between the finance notification and the notification of the Ministry of Commerce. The Ministry of Finance has modified the definition of landed price of imports while implementing the recommendations of the Designated Authority. The result of this modification is reduction in protection to the domestic industry.
- 17) In reply to the disclosure statement, the domestic industry has reiterated the submissions made earlier by them to the Authority. In addition, they have pointed out the disparity between the finance notification and ministry of commerce notification in the definition of landed value. They have pointed out that the result of this modification is less than recommended protection to the domestic industry. They have requested the Authority to address this issue. Further, they have pointed out significant decline in prices of subject goods by significant imports in Post investigation period and continued circumvention of duties. They have requested the Authority to address these issues.

E2 Submissions made by exporters, importers and Association

14. The following are the post hearing submissions made by the exporters and post disclosure comments by Fragrance and Flavours association of India:-

- 1) Due to the significant variation in exchange rate in POI, the calculation of landed value by adopting single exchange rate is incorrect.
- 2) DA has erred in considering the 7.5% customs duty for the calculation of landed value .
- 3) 3% Surcharge on the customs duty has not been considered for the calculation of landed price of imports.
- 4) NIP is based on inflated rate of return. Granting of 22% return is incorrect and unreasonable.
- 5) The lesser duty rule Proposal to WTO considers reasonable return based on the capital employed as the last option to calculate NIP.
- 6) Actual rate of interest should be adopted as domestic industry has never earned such high rates of return.

- 7) Landed value of exports made by the exporters is above or almost equal to the NIP.
- 8) DA should verify the claim of Normal value and Export price calculation provided by the exporters for the correct assessment.

Arguments raised by the Association

- 9) Coumarin is used for making Agarbathi. There are three manufacturing associations having around 2000 members who are mostly small and medium sized manufacturers who would be affected to a large extent due to exorbitant levy of ADD. There is only one manufacturer of Coumarin in India who may not be able to meet the demand of the industry. ADD has resulted in monopoly of the sole Indian manufacturer who in return has increased the price of coumarin to Rs 30/- per KG from June 2010 i.e. immediately after levy of ADD. Soaps & Detergent and Cosmetics & Toiletries industry which uses Coumarin as a raw material is majorly catered by small and medium sized manufacturers which are largely affected by increase in the price of the raw material (coumarin) due to imposition of ADD.
- 10) Agarbathi which is now under cottage industry mainly employ rural women and also agarbathi is largely exported. Imposition of ADD will increase the cost of raw material which in turn would effect rural employment as well as foreign exchange which is earned through exports. Instead of imposing ADD, the sole manufacturer of Coumarin should be encouraged to enhance the capacity to meet the demand at a lesser cost owing to the fact that the labour cost in India is lower than China and sell the product at competitive price.

E.3 Examination by the Authority:

15. The above submissions have been analysed as follows:

- a) With regard to variation in the Exchange Rate, the Authority notes that for determination of dumping margin, the Authority has considered exchange rate prevailing at the time of exports. However, in line with consistent practice followed by Authority, variation in the exchange rates have not been taken into account for determination of injury margin.
- b) The producers/exporters have disputed the customs duty considered by the Authority for determining injury margin. It is clarified that customs duty during the relevant period was 7.5%. Further, the Authority has added 3% surcharge for calculation of landed price of imports.

- c) The producers/exporters have disputed the determination of non-injurious price and grant of 22% return for determining reasonable profit. The Authority considers that it is the consistent practice of the Authority to grant 22% return on capital employed for computing profits. Further, As regards the proposal before WTO, the Authority notes that the proposal under consideration before WTO cannot be treated as legal obligation for the Authority for the present determination.
- d) The exporter has claimed that landed price is quite comparable to non-injurious price. The Authority, however, notes that the difference between the two is significant.
- e) With regards to the determination of the export price and landed value of subject goods from China PR, the Authority noted the arguments submitted by the domestic industry that the export price claimed by exporters should not be admitted unless these claims are corroborated by the prices reported to Indian customs. In line with the consistent practice, on site verification was conducted at the premises of the responding Producers/exporters in China PR. Meanwhile, the authority examined the import data received from DGCI&S and the data procured by the Authority from Customs Port Authority. The domestic industry also provided a statement showing imports into India and the name of the importers and exporters concerned. The Authority on the basis of examination of the data notes that there is significant difference in the values reported to the Indian customs and data made available by responding importer and to the Designated Authority. As the import values reported to Indian Customs and responding importer are significantly lower and further since significant imports have been cleared at these prices, the export prices claimed by the concerned exporters were closely examined with reference to prices reported in the Customs Port data. Further, during the verification visit, the concerned exporters were specifically asked to justify their claim of export price based on credible evidence . As has been noted in the para relating to dumping margin, one of the major responding Producer/exporter has not been able to prove to the Authority about its export prices with credible evidence. In view of significant variation in the export prices, the Authority considered it appropriate to rely upon to the data made available by Indian Customs Port Authority and Indian importer in all these transactions where there was significant difference in import value.
- f) On the issue of determination of normal value on the basis of prices of the product in an market economy third country or prices from such third countries to other countries including India, the matter has been examined in detail in the para pertaining to determination of normal value.
- g) With regard to the claim of the domestic industry to include Excise Duty, Cess and Commission for the purpose of determining of injury margin, the Authority reiterates its consistent practice that the Excise Duty is not required to be considered for the reason that the amount of Excise duty is the same as the amount of additional duty of Customs leviable on imports. With regard to the Commission, the Authority determined non-

injurious price at level without including commission. Further, there is no evidence on record that commission has been paid by the exporter to an Agent in India. Commission paid to an exporter outside India is not relevant for the purpose.

- h) The domestic industry has requested for re-determination of non-injurious price and has requested for determination of reasonable profit after considering apportionment of selling general and administrative expenses and working capital between domestic and exports in the ratio of turnover is incorrect. The Authority, however, holds that the non-injurious price has been determined on the consistent basis adopted by the Authority.
- i) With regard to import data for the period subsequent to the period of investigation, the Authority notes that the import data/information only for the period of investigation is required to be considered for the present investigation. It would not be appropriate to consider any information for the period subsequent to the period of investigation.
- j) The domestic industry has also pointed out that the notification issued by the customs includes a special additional duty of Customs under the definition of landed price of imports, whereas the Authority specified the same excluding special additional duty of customs. The matter has been considered and as recommended earlier in the preliminary findings, it is noted that the landed value does not include special additional duty of customs in the final findings. The same is being recommended to Ministry of Finance.

16. The Authority has duly considered various submissions and issues raised by various interested parties during the course of investigation. The Authority notes that the investigations are being conducted in accordance with the Act and Rules made therein as referred above. Further, the Authority has relied upon “positive evidences” made available by the interested parties during the course of investigations. The Authority notes that in case an interested party has advanced arguments without providing positive evidence and where it is not possible to verify the authenticity and correctness of the argument from public sources, it is not possible to accept such arguments. Subsequent to the issuance of disclosure statement, comments have been received from domestic industry and Fragrance and Flavours association of India.

- (i) Some interested parties, in their comments to disclosure statement, argued that the petitioner is the sole producer of the product under consideration in India. The matter has been examined and it is noted that the petitioner in its relevant part, has stated that there are two more producers of the product under consideration in India who have suspended production. In any case, under the rules, the Authority is required to consider whether the petitioner satisfies standing and constitutes domestic industry. Even if the petitioner is the sole producer of the product under consideration in India, the same does not prevent it from seeking relief under the dumping rules.
- (ii) With regard to the argument concerning price increase in the post period of investigation period, the Authority notes that the investigation has shown that the petitioner was suffering

financial losses due to dumping. In case the domestic industry increases the prices unreasonably, the consumers would be free to request review of current anti-dumping duties. The same holds good for the domestic industry who have submitted that subject goods at much lesser price than prevailing during the POI has been entering into India in substantial volumes.

(iii) With regard to alleged impact of imposition of anti-dumping duties on consumers, increase in the cost of eventual product and employment, the Authority notes that no quantified information has not been provided by the Association. Further, the purpose of anti-dumping duties is to prevent dumping causing injury to the domestic industry.

(iv) With regard to customs duty that is already been paid on imports (and which is providing relief to the domestic industry), the Authority notes that the injury to the domestic industry has been determined after adding the prevailing custom duties. The current injury is therefore after including the protection of customs duty granted to the domestic industry.

(v) The interested parties have argued that the domestic industry cannot meet the Indian demand. The Authority notes that the demand for the product under consideration during the POI was about 294 MT and was at the highest level. Domestic industry itself has a capacity of 400 MT. The domestic industry alone should be in a position of meet the entire Indian demand. However, it is also noted that ability to meet the domestic demand is not an essential pre-requisite for seeking protection from dumped imports.

(vi) On the issue of subject goods being produced in limited countries, it is noted that the domestic industry has argued that the subject goods are produced only in China, India and France. The domestic industry has also brought to the notice of the Authority circumvention proceedings undertaken by European Commission. It is noted by the Authority that none of the other interested parties have disputed the claim of the domestic industry in this regard.

F. Methodology for calculation of dumping margin

F.1 Determination of Dumping Margin in case of China PR

17. The Authority notes that in the past three years China PR has been treated as 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 Producers/Exporters in terms of the above Rules for the purposes of preliminary determination.

18. As per Paragraph 8, 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 provide information and sufficient evidence on the basis of the criteria specified in sub

paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China is 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 labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

(b). The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;

(c). Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and

(d). The exchange rate conversions are carried out at the market rate.

NORMAL VALUE

F.2. Market economy treatment claim, analysis and findings

19. The following two producers/exporters from the China PR have responded and filed their responses.

1. M/s Jiangyin Baihui Fragrance Co. Ltd.
2. M/s Yinghai (Cangzhou) Aroma Chemical Co., Ltd.

Jiangyin Baihui Fragrance Co. Ltd.

20. M/s Jiangyin Baihui Fragrance Co. Ltd. China PR filed a questionnaire response and MET response in this matter as a producer and exporter of the subject goods. After examination of the responses, the Authority sought certain additional information by way of deficiency letter as noted in the preliminary findings. Subsequent to the preliminary findings, the concerned Producer/Exporter submitted reply to the deficiency letter and also consented to onsite verification of its claims regarding market economy treatment.

21. During the on site verification, response to the MET questionnaire's response was examined. It is recalled that M/s Baihui had claimed market economy treatment and had requested the authority to take into account domestic selling prices for the purpose of determination of normal value. During the verification process the concerned producer was advised to substantiate along with relevant document as to how they meet the various

criteria relating to para 8 of the Annexure – 1 of the anti-dumping rules which relates to grant of market economy treatment. However, the producer/ exporter declined to submit these documents to the investigation team. In addition, the subject exporter/ producer informed that the documents relating to market economy claims are almost not available and accordingly the same cannot be provided to the verification team. Hence, in view of this, the Authority is unable to examine the claim of the producer/exporter with regard to market economy status and determined the normal value for the responding producer exporter as per para 7 of the Annexure 1 of the Anti dumping rules.

Yinghai (Cangzhou) Aroma Chemical Co., Ltd. (M/s Yinghai)

22. M/s Yinghai (Cangzhou) Aroma Chemical Co., Ltd. filed a questionnaire and market economy treatment response as a producer and exporter of the subject goods. Certain additional information was sought with respect to incomplete information provided in response. Subsequent to the preliminary findings, the concerned exporter submitted reply to the deficiency letter and also consented for onsite verification of its claims regarding market economy treatment and export prices.

23. During the on site verification, the response to the exporter's questionnaire and the market economy treatment questionnaire's response was taken up for examination. In the response to the MET questionnaire, M/s Yinghai had claimed market economy treatment and had requested the authority to take into account domestic selling prices for the purpose of determination of normal value. During the verification process the concerned producer was asked to substantiate along with the document as to how they meet the various criteria relating to para 8 of the Annexure – 1 of the anti-dumping rules which relate to grant of market economy treatment. However, the producer and exporter declined to submit these documents to the investigation team. In addition, the subject exporter and producer informed that documents relating to market economy claims are almost not available and accordingly the same cannot be provided to the verification team. Hence, in view of this, The Authority determined the normal value for the responding producer/ exporter as per para 7 of the Annexure 1 of the Anti dumping rules.

EXPORT PRICE

F.3 Determination of Export Price

M/s Jiangyin Baihui Fragrance Co. Ltd (Baihui)

24. M/s Jiangyin Baihui Fragrance Co. Ltd. China PR filed a questionnaire response as a producer and exporter of the subject goods. After examination of the responses, the

Authority sought certain additional information by way of deficiency letter as noted in the preliminary findings. Subsequent to the preliminary findings, the concerned exporter submitted reply to the deficiency letter and also consented for onsite verification of its claims regarding market economy treatment and export prices.

25. Subsequent to the preliminary findings, the exporters data were verified by the Authority during onsite verification at the premises of the subject producer exporter. During the verification process, the appendix wise response to the exporters questionnaire were taken up for examination. It is recalled that before the verification visit, the subject producer exporter had been given the list of the documents along with their originals prior to the verification visit to keep them ready. It included documents from the invoice to the payment received from the Indian importers through normal banking channel. The subject producer/exporter was also asked to keep ready the original VAT register and VAT invoices which are used for getting the refunds from the Chinese Customs. The subject producer exporter showed the sales invoices of the 17 transactions that have been reported in the Appendix 2. Apart from the sales invoices the subject producer/exporter also showed the sales contract, packing list, bill of lading. The subject producer/exporter then was specifically asked to bring the original document relating to payment of export proceeds from the Indian importers through normal banking channels. They were also asked to explain why the large number of other export transactions made by them to the Indian importers during the period of investigations were not reported by them in the appendix 2. A detailed verification report in this regard was sent to the concerned exporter for his comments. In reply to the verification report, the exporter concerned has resubmitted that they have given all their shipments details in their response and has submitted credit advice in respect of their shipments. However, it is noted that said exporter has not been able to present the details of the payment received from Indian importers through normal banking channels and also not been able to present or corroborate the export prices with original records (including original VAT register) and export volumes with Indian Customs Port and data made available by responding Indian importer. Further, the said exporter was also not able to comment why many of the export transactions from them as appearing in Indian port records or information received from Indian importer are not being reflected in their records.

26. In view of the above, the Authority has not accepted the said producer/exporter's data for the purpose of determination of export price. Therefore, no separate dumping margin has been determined for M/s Jiangyin Baihui Fragrance Co. Ltd.

Yinghai (Cangzhou) Aroma Chemical Co., Ltd (Yinghai)

27. M/s Yinghai (Cangzhou) Aroma Chemical Co., Ltd. has filed a questionnaire and market economy treatment response as a producer and exporter of the subject goods. Certain additional information was sought with respect to incomplete information provided in the appendix 8, difference in raw material consumption in various appendices, basis of allocation between product under consideration and other products and an explanation to the discrepancy in the share holding of the company. Subsequent to the preliminary findings,

the concerned exporter submitted reply to the deficiency letter and also consented for onsite verification of its claims regarding market economy treatment and export prices.

28. Subsequent to the preliminary findings, the exporters data was verified by the Authority during onsite verification at the premises of the subject producer exporter. During the verification, the appendix wise response to the exporters questionnaire were taken up for examination. It is recalled that before the verification visit, the subject producer exporter had been given the list of the documents along with their originals prior to the verification visit to keep them ready. It included documents from the invoice to the payment received from the Indian importers through normal banking channel. The subject producer/exporter was also asked to bring the original VAT register which is used for getting the refunds from the Chinese Customs. During verification, the producer/ exporter produced the original records of the VAT invoices including their records as kept in their register and also original records relating to payment received by them from Indian importers through normal banking channels. In fact, their data was also corroborated with the import information received from Indian Customs Port. Thereafter, a verification report was sent to producer exporter for their comments. However, no comments have been received from them till date.

29. In view of the above, the Authority has accepted the data submitted by the producer/exporter and verified subsequently by the Authority for determination of export price and dumping margin.

F2 . Determination of Normal Value

30. In the preliminary findings, the Authority had determined normal value based on any other reasonable basis in line with para 7 of Annexure -1 of the Rules. The domestic industry, however, disputed the same and claimed that since normal value on the basis of price in a market economy third country or price from such third countries to India are available, the same should be given preference over “ any other reasonable basis”.

31. The matter has been examined and it is noted that the Chinese producers have not been able to establish that they are entitled for market economy treatment. In this connection Para 7 of Annexure I of the Rule provides that

“In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the

investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

32. Thus, rules provide for consideration of prices of the product in an market economy third country or prices from such third countries to other countries including India for determination of normal value in case of non market economy country. However, in this subject case, it is noted that since the volume of imports of subject goods into India from appropriate market economy third country is quite low and the even the prices in that country (European Union) could be impacted due to Chinese dumping, the Authority considers it appropriate to determine normal value on “any other reasonable basis”, as was determined at the stage of preliminary findings. Accordingly, the ex-works Normal Value of the product under consideration for all these exporters from China PR is determined on the basis of facts available. The Normal Value has been constructed taking into account available international price of major inputs. Conversion cost and SGA expenses of the domestic industry have been adopted for determination of the normal value. After adding a reasonable profit margin of 5 %, constructed normal value for the subject goods for all Producers/exporters from China PR have been worked out. The normal value thus determined comes to US\$ 12.55 per Kg.

F 3. Determination of Export price –

33. The Authority has determined the export price for other non responding Producers/exporters as per the facts available on record. The Authority has therefore determined the export price for all the non responding exporters/producers from China PR based on facts available on record. For the responding exporter whose export prices and Price adjustments have been verified, the export price has been determined after taking into account their prices to India given in their appendix wise information and all adjustments claimed by them and verified by the Authority. For other Producers/exporters, the CIF Export price has been adjusted for ocean freight, marine insurance, commission, inland freight, port expenses and bank commission, as per the information provided by these cooperating exporters.

F 4. Determination of dumping margin –

34. Considering the Normal value and the Export price as determined above, the dumping margin works out as follows:

	unit	Yinghai	Others
Normal value	US \$/Kg	****	****
Net export price	US \$/Kg	****	****

Dumping margin	US \$/Kg	****	****
Dumping margin	%	9.23	28.14

35. The Authority notes that the dumping margin from China PR is significant and more than the de-minimis limits prescribed.

G - METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

G.1 Examination of Injury and Causal Link: -

36. Rule 11 of Anti-Dumping Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “taking into account all relevant facts, including the volume of the dumped imports, their effect on prices in the domestic market for the like articles and the consequent effect of such imports on domestic producers of such articles.” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India or whether the effect of such imports are otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

37. The Authority notes that the application for imposition of Anti-Dumping Duty has been filed by M/s. Atlas Fine Chemicals Ltd, who commands a major proportion of total production of subject goods in India. In terms of Rule 2(b) of the Rules it has been treated as the domestic industry for the purpose of this investigation.

38. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. are required to be considered in accordance with Annexure II of the Rules. All economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization sales volume etc. are also required to be examined.

G.2. Views of the Domestic Industry:

39. The following are the views of domestic industry:-

- (i) Present petition is for imposition of Anti Dumping Duty against dumped imports of Coumarin from China PR in the Indian market. Dumping of the product in India is not a new phenomenon.

- (ii) With the advent of increasing imports the performance deteriorated in terms of domestic sales, production, capacity utilization, productivity, inventories, market share, profits, return on investments, cash flow, etc.
- (iii) The demand of the product in the country shows a positive trend whereas sales of the domestic industry at the same time show a negative trend. As a result, market share of the domestic industry declined.
- (iv) Volume of dumped imports from China PR has increased very significantly in absolute terms over the injury period.
- (v) Imports have increased significantly in relation to total imports, production and consumption in India.
- (vi) As a result of increase in imports in absolute term and relative to production and consumption, share of the domestic industry has declined.
- (vii) The export quantities of domestic industry shows continuous decrease indicating significant market share of dumped Chinese goods in the world markets.
- (viii) Weighted average import prices (after including basic customs duties) have been significantly below the net sales realization of the domestic industry, thus resulting in significant price undercutting.
- (ix) The dumped CIF export price shows a substantial reduction in the landed price of imports. This had direct adverse impact on the domestic industry. Reduction in the landed price of imports prevented the Indian Producers from effecting legitimate price increases.
- (x) The landed price of imports is significantly below the cost of production of the domestic industry. Imports have had significantly depressing effect on the prices of the domestic industry in the market.
- (xi) The production, capacity utilization and sales of the domestic industry have declined both in absolute and relative term.
- (xii) The performance of the domestic industry for product under consideration has deteriorated over the injury period and since 2006-07, the domestic industry is in significant losses.
- (xiii) Market share of the domestic industry has severely declined whereas that of imports has materially increased.
- (xiv) Productivity of the domestic industry declined with decline in production.
- (xv) ROI (NFA Basis) of the domestic industry has significantly deteriorated over the injury period. Similar is the situation of cash profit as well. This clearly shows the price depression and suppression effect of dumped imports from China PR that has resulted in significant losses to the domestic industry.
- (xvi) There has been a considerable increase in the level of inventories indicating that even at the capacity utilization of 43% during the investigation period, the domestic industry is unable to dispose off its production.
- (xvii) Growth in terms of sales, production, capacity utilization, cash profits, profits, return on investment has been negative.
- (xviii) The dumping margin from subject country is not only more than de-minimus but also very substantial. The impact of dumping on the domestic industry is significant and is gradually intensifying.

G.3 Views of the Exporters, importers and other interested parties

40. None of the other interested parties have made any submissions with regard to injury to the domestic industry and causal link thereof.

G.4 Examination by the Authority

41. The Authority has taken note of submissions made by the interested parties. 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.

42. 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.”

The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties.

G.5 Volume Effect of dumped imports and Impact on domestic industry

43. Transaction-wise information of imports of subject goods was called from DGCI&S and the same was compared with the information provided by the IBIS (secondary sources). It was claimed by the domestic industry along with evidence that the subject goods had been reported in more than one tariff head and hence information from IBIS should be taken into account as it has reported higher volumes. After the detailed examination, it was decided to take into account the information from IBIS as it had reported higher volumes of the subject goods.

Import, Demand, Volumes and Market share:-

44. Demand of the product in the Country has been assessed as the sum of domestic sales of the domestic producers and imports from all sources.

Import particulars

45. It is noted that imports of the subject goods from subject country has increased significantly in absolute terms during the injury period. Further, the market share of subject country has increased significantly during the same period as shown in the table.

Particulars	Units	2005-06	2006-07	2007-08	POI
Imports	MT	188.25	194.10	219.50	251.36
China PR	MT	149.85	158.65	204.05	219.45
Other Countries	MT	38.40	35.45	15.45	31.91
Market share in Imports	%				
China	%	79.60	81.74	92.96	87.31
Other Countries	%	20.40	18.26	7.04	12.69

Demand particulars

46. Demand for the product under consideration increased throughout the injury period and has grown by about 17% during the injury period. Further, imports of the subject goods from the subject country has increased in absolute terms during the same period. It is also noted that increase in dumped imports was more than the increase in demand.

Particulars	Units	2005-06	2006-07	2007-08	POI
Imports total	MT	188.25	194.10	219.50	251.36
Sales of Domestic Industry	MT	62.97	63.37	58.93	42.19
Demand	MT	251.22	257.47	278.43	293.55
Index demand		100	102.49	110.83	116.85

Imports in relation to various parameters

47 . It is also noted that dumped imports of the product under consideration increased in relation to production of the like product in India during the injury period . Further this has also increased in relation to consumption in India as well as sales of the domestic industry.

Particulars	Units	2005-06	2006-07	2007-08	POI
Dumped imports from subject country in relation to					
Share in total imports	%	79.60	81.74	92.96	87.31

Share in Demand	%	59.65	61.62	73.29	74.76
Production in India	%	57.85	90.54	112.40	128.91
Sales of Petitioner	%	237.97	250.34	346.25	520.16

Market share of domestic industry

48. As a result of this increase of imports of subject goods from subject country, the market share of the domestic industry declined during the injury period.

Particulars	Units	2005-06	2006-07	2007-08	POI
Market share in Demand	%				
Import from- China	%	59.65	61.62	73.29	74.76
Import from Other Countries	%	15.29	13.77	5.55	10.87
Sales of Domestic Industry	%	25.07	24.61	21.17	14.37

49. It is thus noted that demand for the product under consideration increased throughout the injury period and has grown by about 17% during the injury period. Further, imports of the subject goods from subject country have increased in absolute terms during the same period. It is noted that increase in dumped imports was more than the increase in demand. It is also noted that imports increased in relation to imports of the product under consideration in India from various sources in general and from the subject country in particular. Further, imports of the product under consideration increased in relation to production of the like product in India. As a result of this increase of subject goods from subject country, the market share of the domestic industry declined during the injury period. Thus, it is determined that the domestic industry has suffered significantly on account of volume effect of dumped imports from subject country.

Price effect of imports

50. With regard to the effect of the dumped imports on prices, it has been examined 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 comparison for product concerned was made between the landed value of exported product and the average selling price of the domestic industry for domestic market net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The CIF prices of the subject country concerned were adjusted for post importation applicable duties. This comparison showed that during the period of investigation, the subject goods originating in China PR were sold in the Indian market at prices which were lower than the domestic industry's prices. It is thus seen that imports were undercutting the

domestic prices though the extent of undercutting is not considered significant during the POI.

Particulars	Units	2005-06	2006-07	2007-08	POI
Landed Value	Rs./Kg	****	****	****	****
Net sales realization	Rs./Kg	****	****	****	****
Indexed	Trend	100	94	102	117
Price Undercutting	Rs./Kg	****	****	****	****
Indexed	Trend	100	23	88	38
Price Undercutting	%	****	****	****	****
Price Undercutting	% Range	10 to 15	1 to 5	10 to 15	1 to 5

51. The Authority has also examined price depression, price suppression and price underselling if any, suffered by the domestic industry on account of dumped imports from subject country. After examination, it is determined that the landed value of imports from subject country is significantly below the cost of production and non-injurious price of the domestic industry. The imports are thus resulting in price underselling being faced by the domestic industry. It is further noted that selling prices of the domestic industry have increased during the injury period but this increase is much less than increase in the cost of production of domestic like product sold by the domestic industry resulting in price suppression.

	Unit	2005-06	2006-07	2007-08	POI
Cost of Sales	Rs./kg	****	****	****	****
Trend	Index	100	101	110	128
Domestic selling price	Rs./kg	****	****	****	****
Trend	Index	100	94	102	117

52 It is thus determined that whereas the costs increased by 28%, the domestic industry could increase its selling prices only by 17%. It is thus noted that the dumped imports from subject country are preventing the domestic industry from effecting legitimate price increases. It is thus concluded that the effect of dumped imports on the domestic industry has been adverse and significant.

Economic parameters of the domestic industry

53. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. 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. The various injury parameters relating to the domestic industry are discussed below.

(i) Production

54. It is noted that production of the domestic industry declined over the injury period. It is further noted that whereas demand for the product increased by 17%, production declined by about 35% during the injury period.

	Unit	2005-06	2006-07	2007-08	POI
Capacity	MT	400	400	400	400
Production	MT	259	175	182	170
Trend	Indexed	100	68	70	66
Demand	MT	251	257	278	294
Trend	Indexed	100	102	111	117
Production in % of demand	%	103.11	68.06	65.20	57.99

(ii) Capacity & capacity utilization

55. Capacity & capacity utilization of the domestic industry moved as shown in the table below. It is seen that capacity installed by the company during the injury period remained the same. It is also noted that petitioner is using the production capacities dedicatedly for the product under consideration. Whereas demand for the product increased during the injury period, decline in production led to decline in capacity utilization. Decline in capacity utilization is in tandem with the decline in production. Thus, whereas demand for the product increased by about 17%, capacity utilization declined by 34%.

	Unit	2005-06	2006-07	2007-08	POI
Capacity	MT	400	400	400	400
Production	MT	259	175	182	170
Capacity Utilization	%	64.76	43.81	45.38	42.56
Trend	Indexed	100	68	70	66
Demand	MT	251	257	278	294

Trend	Indexed	100	102	111	117
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(iii) Domestic sales

56. It is noted that domestic sales of the domestic industry declined significantly over the injury period. It is also noted that petitioner does not have any captive consumption. However, petitioner does have significant exports. The impact of dumping was therefore examined only with reference to domestic sales.

	Unit	2005-06	2006-07	2007-08	POI
Domestic Sales	MT	63	63	59	42
Trend	Indexed	100	100	94	67
Demand	MT	251	257	278	294
% of sales in demand	%	25.07	24.61	21.17	14.37
Change in					
Domestic sales	MT		0	-4	-17
Demand	MT		6	21	16

(iv) Profitability

57. The profitability of the domestic industry in respect of domestic like product has been examined only in respect of domestic sales. It is seen that profitability of the domestic industry for the subject goods has significantly deteriorated over the injury period. The domestic industry is in significant losses since 2006-07. Further, the losses increased over the injury period.

	Unit	2005-06	2006-07	2007-08	POI
Cost of Sales	Rs./Kg	****	****	****	****
Indexed	Trend	100	101	110	128
Net Sales Realization	Rs./Kg	****	****	****	****
Indexed	Trend	100	94	102	117
Profit/Loss	Rs./Kg	****	****	****	****
Indexed	Trend	100	(76)	(93)	(152)
Profit before tax	Rs. Lacs	****	****	****	****
Indexed	Trend	100	(77)	(87)	(102)
Profit before interest	Rs. Lacs	****	****	****	****
Indexed	Trend	100	(77)	(87)	(102)

(v) **Employment and Wages**

58. Employment with the domestic industry and wages paid were as follows

Productivity	Unit	2005-06	2006-07	2007-08	POI
Employment	Nos.	****	****	****	****
Indexed	Trend	100	84	72	67
Wages	Rs. Lacs	****	****	****	****
Indexed	Trend	100	104	109	155

It is thus noted that employment has been adversely affected due to decline in domestic sales, production and continuing low capacity utilization.

(vi) **Productivity**

59. Productivity of the domestic industry was as follows

Productivity	Unit	2005-06	2006-07	2007-08	POI
Productivity per employee	MT	4.54	3.65	4.43	4.48
Indexed	Trend	100	80	97	99

It is noted that productivity of the domestic industry was almost at similar levels during the injury period. Thus, this parameter is not considered relevant for assessing the injury of the domestic industry.

(vii) **Return on investments and cash flow**

60. The return on investment has been determined considering profit before interest and capital employed in the product. Impact on cash flow has been determined considering profit before depreciation but after interest cost. It is noted that return on capital employed and cash profits have significantly deteriorated over the injury period. It is also noted that the performance of the domestic industry with regard to profits and return on capital employed & cash profits moved in same direction and deteriorated adversely during the injury period.

	Unit	2005-06	2006-07	2007-08	POI
ROCE	%	****	****	****	****

Indexed	Trend	100	(28)	(36)	(58)
Cash Profit	Rs.Lacs	****	****	****	****
Indexed	Trend	100	(47)	(50)	(71)

(viii) Inventories

61. There is significant increase in the level of inventories since 2007-07 to the POI though it has declined at an absolute level during the injury period. However, inventories equal to number of days sales have increased during the injury period. Further, the domestic industry has argued that in spite of 40% capacity utilization during the investigation period, the domestic industry was not able to sell the subject goods completely. The domestic industry further argued that despite existing level of demand where the domestic industry would have easily reached 100% plant utilization, imports at dumped prices have adversely impacted the production and inventory level with the domestic industry.

	Unit	2005-06	2006-07	2007-08	POI
Inventories	MT	15	12	5	12
Inventories equal to no. of days sales	Days	21	22	10	27

(ix) Growth

62. Information with respect to growth in various parameters is given in the table below. It is seen that growth in terms of both volume & price parameters is negative.

Particulars	Unit	2005-06	2006-07	2007-08	POI
Growth					
Production	%		(32.35)	3.60	(6.22)
Domestic sales	%		0.64	(7.01)	(28.41)
Inventory	%		(23.12)	(57.54)	139.24
Selling Price/KG	%		(5.64)	8.14	14.34
Cost/KG	%		1.39	8.58	16.05
ROI	%		(13.51)	(0.80)	(2.32)

(ix) Ability to raise capital investments

63. The domestic industry has argued that given the current state of affairs where running the product is consistently not performing well because of persistent dumping over last more than five years, substantial fresh investments cannot even be imagined. It is noted that the product under consideration forms a very significant part of the company's

overall operations. The Authority holds that continued dumping of the product and financial losses in the product are bound to adversely impact the ability of the domestic industry to raise capital investments.

(x) Level of dumping & dumping margin

64. The dumping margin established hereinabove in respect of responding exporters and non cooperative exporters are quite significant and above the de minimus level.

(xi) Lost sales

65. The domestic industry has submitted various instances of the orders lost by it from various customers who have cited availability of Chinese subject goods at lesser prices.

H. CAUSAL LINK

66. The Authority has examined whether other factors listed under the AD Rules could have contributed to injury to the domestic industry. It was found as follows.

(i) Imports from third countries.

67. The Authority has collected the transaction-wise imports data of the subject. From the information available on record, the Authority notes that there are no significant imports of subject goods countries other than subject countries.

(ii) Contraction in demand

68. The Authority notes that the demand for the subject goods has shown significant improvement during the injury period. Possible contraction in demand could not have caused injury to the domestic industry.

(iii) Changes in the pattern of consumption

69. The pattern of consumption with regard to the product under consideration has not undergone any change, nor there is any quantified allegation in this regard. The investigation so far has not shown existence of alternate competing products and possible injury being caused by such alternate products.

(iv) Trade Restrictive practices of and competition between foreign and domestic producers

70. The Authority notes that there is a single market for the subject goods where dumped imports from China PR compete directly with the subject goods supplied by the domestic industry. It is noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(v) Developments in Technology

71. There is no allegation of developments in technology, nor the investigation so far has shown that possible injury to the domestic industry could have been caused by developments in technology.

(vi) Export performance

72. The petitioner has significant exports. However, the Authority has considered only domestic operations and domestic profitability. Further, it has been determined that per unit exports price during the POI was 17% higher than the domestic selling price.

(vii) Productivity of the Domestic Industry

73. There is no material change in productivity of the domestic industry. Possible decline in productivity cannot be the reason for the established injury to the domestic industry.

Level of dumping margin and injury margin

74. The level of dumping margins and injury margins as determined are mentioned below. It is thus noted that these levels are considered significant.

	Unit	Yinghai	Others
Dumping Margin	US\$/Kg	****	****
Dumping Margin	%	9.23	28.14
NIP	Rs./Kg	****	****
Exchange Rate	Rs./US\$	43.46	43.46
NIP	US\$/Kg	****	****
Injury Margin	US\$/Kg	****	****
Injury Margin	%	****	****
Injury Margin	% (Range)	4-8	20-25

I. Conclusion on Injury and causation

75. There has been a significant increase in the volume of dumped imports from China PR at the absolute level and also in relation to demand of subject goods in India. It is noted that the market share of the dumped imports has increased and that of domestic industry has declined. The dumping margin from subject country has been determined and is considered significant. Further, production, sales volumes and capacity utilization of the domestic industry have declined and inventories with the domestic industry have

increased. Thus, the dumped imports from subject country show adverse volume effect. It is also noted that the dumped imports were undercutting the prices of the domestic industry in the market though the undercutting margin is not significant. It could be assumed that the domestic industry was trying to match its selling prices close to the landed price of imports of subject goods from China PR. Further, it has been noted that, the domestic industry has not been able to increase its prices in proportion to the increase in the cost of production and the domestic industry has been forced to sell the product at prices much below non injurious price. Thus, as a result of price underselling and price suppression, the domestic industry has suffered significant decline in profits, return on investments and cash profits. Thus, it is determined that the dumped imports have had significant adverse price effect in terms of price underselling and price suppression which in turn lead to significant deterioration in profits, return on investments and cash profits.

76. As per the material available on record, the Authority holds that various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury caused by the dumped imports from the subject country.

J. Conclusions:

77. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority holds that:

- (a) The product under consideration has been exported to India from the subject country below Normal values.
- (b) The domestic industry has suffered material injury on account of subject imports from subject country.
- (c) The material injury has been caused by the dumped imports of subject goods from the subject country.

K. Indian industry's interest & other issues

78. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way; and therefore, would not affect the availability of the product to the consumers.

79. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. 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 the subject goods.

L. Recommendations

80.The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the Act and the AD Rules and having established definitively positive dumping margins concerning imports of the subject goods originating in or exported from the subject country and as well as material injury and threat thereof to the domestic industry caused by such dumped imports; the Authority is of the view that imposition of definitive duty is required to offset the dumping and ‘injury’ in the instant matter. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duties concerning imports of the subject goods from the subject country in the form and manner described hereunder.

Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the difference between the amount indicated in Col 8 of the table below and the landed value is recommended to be imposed on all imports of subject goods originating in or exported from China PR.

Duty Table

SI. No	Sub-headi ng	Descripti on of goods	Count ry of origin	Count ry of export	Producer	Exporter	Amo unt	Unit of meas urement	Curr e ncy
-1	-2	-3	-4	-5	-6	-7	-8	-9	-10
1	2932. 21	Coumarin of all types	China PR	China PR	Yinghai (Cangzh ou) Aroma chemical Co., Ltd.	Yinghai (Cangzhou) Aroma chemical Co., Ltd.	14.02	Kg.	US\$

2	- do -	- do -	China PR	China PR	Any combination of producer and exporter other than at S. No. 1 above		14.02	Kg.	US\$
3	- do -	- do -	China PR	Any country other than China PR	Any	Any	14.02	Kg.	US\$
4	- do -	- do -	Any country other than China PR	China PR	Any	Any	14.02	Kg.	US\$

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

81. Subject to the above, the Authority confirms the preliminary findings dated 29th January, 2010.

82. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

P.K Chaudhery
Designated Authority