

To be published in Part-I Section I of the Gazette of India Extraordinary

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping and Allied Duties
NOTIFICATION

5th August, 2011

Final findings

Subject: Anti-dumping Investigation concerning import of Para Nitro aniline (PNA) originating in or exported from China PR. –Final Findings.

No.14/13/2010-DGAD – 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. PROCEDURE

2. The procedure described below has been followed.

i). The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from M/s. Abhilasha Texchem Pvt. Ltd., Mumbai and M/s. Amarjyot Chemicals Pvt Ltd., Mumbai on behalf of the domestic industry, alleging dumping of Para nitroaniline (PNA) originating in or exported from China PR (hereinafter referred to as subject country).

ii). Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented.

iii). The Authority, on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject country.

iv). The Authority notified the embassy of the subject country in India about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.

v) The Authority issued a public notice dated 8th June 2010 published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.

vi) 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.

vii) 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.

viii) 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.

ix) The Authority sent questionnaires to elicit relevant information to the following known exporters in subject country in accordance with Rule 6(4) of the AD Rules:

- a) Green Fine Chemical (Shanghai) Co., Ltd., 17/F Time Square, No.500 Zhang Yang Road, Pudong, Shanghai, P.R.China
- b) Junwee Chemical Co., Ltd., 12-A, Building 1, 182 Zhaohui Road, Hangzhou 310014, P.R.China
- c) Long Island Pharmaceutical & Chemical Co. Ltd., Purchase & Sales Department 15th Wanshou Road, Nanjing Pukou, 211816, P.R.China

x). In response to the initiation notification, the following exporters / producers from China have responded:

- a) Suzhou Luosen Auxiliaries Co. Ltd.(Luosen)
- b) Wujian City Yilin Foreign Trading Co. Ltd.(Yilin)
- c) Hangzhou Dengsheng Chemical Co. Ltd.(Dengsheng)
- d) HebeiYongtai Create Chemicals Co Ltd (Yongtai)

xi. 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:

- a) Bodal Chemicals Limited, Plot No.123-124, Phase-I, G.I.D.C., Vatva, Ahmedabad-382445, Gujarat
- b) Juimex/Chemex, A-502, Maruti tower, Satellite, Ahmedabad-380015

xii. In response to the initiation notification, the following producers, importers and users have responded

1. Ambuja Intermediates Pvt Ltd.
2. Chemstar
3. Panoli Intermediates (Idnia) Pvt Ltd.
4. Saurabh organics Pvt Ltd.
5. GopinathChem Tech Ltd.
6. Cosmo Chemicals Pvt Ltd.
7. Chem-Org
8. Premier Orgochem Industries Pvt Ltd.

xiii) 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.

xiv). 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 was directed to provide sufficient non confidential version of the information filed on confidential basis.

xv). Information was sought from the other applicants and other domestic producers also to submit the information in the form and manner of domestic industry proforma. However, no information was received from these producers.

xvi) The Authority held a oral hearing on 18th January, 2011 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6), which was attended by interested parties. The parties attending the oral hearing were advised to file written submissions of the information presented orally. The interested parties were allowed to present rebuttal arguments on the views/information presented by other interested parties. The Designated Authority has considered submissions received from the interested parties appropriately.

xvii) Subsequently, the Authority held another public hearing on 30th March 2011 to provide another opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6). It is noted that in this second hearing also, none of the interested parties except the domestic industry participated in the public hearing. Arguments raised and information/evidence provided by the interested parties during the course of the investigation, to that extent the same are considered relevant to the present investigation, have been appropriately considered by the Authority.

xviii).. 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.

xix) In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments have been received on the same from the following interested parties.

- Jay Organics, Ahmadabad
- World Trade Consultants and Advocates on behalf of Dingsheng, a Chinese exporter
- Chem- Org., Thane
- Continental Chemicals, Ahmadabad
- Ambuja Intermediates Pvt. Ltd.
- Chemstar, Dombivli, Maharashtra
- Gurudev Dyestuff (India) Pvt. Ltd.
- Aarti Organic.
- The Domestic Industry

These comments have been examined by the Authority under the appropriate headings.

xx) Investigation was carried out for the period starting from 1st January 2009 to 31st December 2009 (POI). The examination of trends, in the context of injury analysis covered the period from 2006-07, 2007-08, 2008-09 and POI.

xxi) The Central Government granted extension of time up to 7th August 2011 for completing the subject investigation.

B. PRODUCT UNDER CONSIDERATION AND DOMESTIC LIKE ARTICLE

B.1 Product under consideration

3. The product under consideration in the present investigation is Paranitroaniline (hereinafter referred as "subject goods"). It is an organic chemical compound. Paranitroaniline is also known as 4-nitroaniline, 1-amino-4-nitrobenzene, or p-nitrophenylamine. 4-Nitroaniline is a starting material for the synthesis of Para Red, the first Azo dye. This chemical is commonly used as an intermediate in the synthesis of dyes, antioxidants, pharmaceuticals and gasoline, in gum inhibitors, poultry medicines, and as a corrosion inhibitor.

4. The scope of the product is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act under Customs Sub-heading No. 2921.42.26. However, the customs classification is indicative only and is not being considered in any way binding on the scope of the present investigation.

Views expressed by the domestic industry

5. a) The product under consideration in the present application is “Paranitroaniline”.
- b) The product is sold in different concentrations based on the requirements of the consumers. However, the net weight of the product is taken into consideration for calculating the cost and price on 100% concentration basis

Views expressed by interested parties

6. The following exporters have claimed in their responses that the product concerned is a kind of chemical product with the content of around 90/93% of PNA and 10/7% of water. For each transaction of export sales to India, they had attached a copy of certificate of analysis representing the actual weight (wet weight with water), the content of PNA %, and 100% weight (dry weight without water), and in the commercial documents such as contract and invoice, the quantity and unit value where the quantity and unit value related to the 100% weight.
- 1) Hangzhou DingshengChemical Co., Ltd.
 - 2) Wujiang City Yilin Foreign Trading Co., Ltd
 - 3) HebeiYongtai Create Chemical Co., Ltd

Examination by the Authority

7. The Authority notes that the scope of product under consideration as defined in the initiation notification is Paranitroaniline (hereinafter referred as "subject goods"). It is an organic chemical compound. Paranitroaniline is also known as 4-nitroaniline, 1-amino-4-nitrobenzene, or p-nitrophenylamine. This chemical is commonly used as an intermediate in the synthesis of dyes, antioxidants, pharmaceuticals and gasoline, in gum inhibitors, poultry medicines, and as a corrosion inhibitor.

8. The scope of the product is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act under Customs Sub-heading No. 2921.42.26. However, the customs classification is indicative only and is not being considered in any way binding on the scope of the present investigation.

9. The Authority has therefore considered that the product under consideration remains the same irrespective of the concentration level.. It is noted that the normal value, export price, dumping margin, domestic industries information including Non injurious price determination have been made at 100% concentration level.

Like Article

9. With regard to like article, Rule 2(d) of the AD rules 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."

10. The applicant claimed that there is no known difference in applicants' product and subject goods exported from the subject country and 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 and there is no significant difference in the subject goods produced by the applicant and those exported from the subject country and both are technically and commercially substitutable.

Examination by the Authority

11. The Authority has examined the matter and notes that there is no known difference in subject goods produced by the Indian industry and exported from the subject country. The subject goods produced by the Indian 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. None of the opposing interested parties has raised any objection in this regard. Subject goods produced by the petitioner companies are being treated as domestic like articles to the subject goods imported from subject country in accordance with the anti-dumping Rules.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

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

"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 only”

13. The application has been filed by M/s. Abhilasha Tex Chem Pvt. Ltd. and Amarjyot Chemical Pvt. Ltd. as domestic industry and supported by M/s. Panoli Intermediates, M/s. Saurabh Organics and M/s. Premier Orgochem Industries.

14. The Authority after examination holds that (a) production by the petitioner companies constitutes a major proportion in Indian production; (b) domestic producers expressly supporting the application accounts for more than 50 percent of total production of the like product produced by the domestic industry. The Authority thus determines that the application satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules.

D. DUMPING MARGIN

Submissions of the domestic industry

15. It has been contended by the domestic industry that China PR should be treated as non market economy country, *inter alia*, stating that:

a) Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity – It has been contended by the Domestic industry that the European Commission has consistently held that possibilities of State interference cannot be ruled out in cases, where there is significant share of a State owned/controlled entity. It has been contended that it is not only the question of past interferences alone, but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant for granting market economy treatment.

b) Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values: It has been contended by the Domestic industry that “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The Domestic Industry contends that the fact that such prices are comparable to the price prevailing in China PR is grossly insufficient.

c) Major inputs include utilities: It has been contended by the Domestic industry that production of the products concerned require power and fuel as a major item of utility. Admittedly, while the power supplier is a State owned entity, insufficient information is available with regard to fuel supplier. It has not been established by the exporters that the price of utilities reflect fair market values.

d) Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards: It has been contended by the Domestic industry that Chinese exporters have repeatedly disputed the treatment of European Commission to reject market economy treatment in such situations where Chinese exporters are unable to establish that their books are consistent with Chinese GAAP. Chinese companies in such cases have been contending that the requirement of insisting on compliance with International Accounting Standards is beyond law.

e) Market economy status cannot be granted even if one of the parameters is not satisfied: It has been contended by the Domestic industry that the European Commission has repeatedly insisted that market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the Rules.

f) Onus/obligations: It has been contended by the Domestic industry that it is not for the Authority to establish that the responding companies are indeed operating under market economy environment and are entitled for market economy treatment. On the contrary, it is for the responding Chinese exporters to establish that they are operating under market economy conditions.

g) Transformation: It has been contended by the Domestic industry that in a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.

16. It has been contended by the Domestic industry that failure to satisfy a number of conditions mentioned above 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.

Submissions by other interested parties (Exporters)

17. In response to the initiation notification, the following producers and exporters have submitted their response to the initiation notification and have requested the Authority to base their dumping margin determination on the basis of their questionnaire response.

- M/s HebeiYongtai Create Chemical Co Ltd (Yongtai) (Producer and exporter)
- M/s Suzhou Luosen Auxiliaries Co. Ltd.(Producer)
- Wujian City Yilin Foreign Trading Co. Ltd. (Exporter)
- Hangzhou Dingsheng Chemical Co Ltd (Exporter)

Both the producers namely M/s Yongtai and M/s Lousen submitted the response to MET questionnaire and requested the Authority to grant them market economy treatment.

Examination by Authority

D.1 NORMAL VALUE

18. 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 exporters in terms of the above Rules for the purposes of preliminary determination.

19. 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.

20. The Authority notes that responding producers/exporters of the subject goods from China PR have submitted their questionnaire responses and have submitted response to the market economy questionnaire consequent upon the initiation notice issued by the Authority. The questionnaire responses and the market economy responses of the responding producers and exporters have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows. In this regard, a verification visit was undertaken to verify the responses of

the responding producers and a verification report was issued to all producers and exporters whose data were verified and comments received from these interested parties have been taken into account.

Hebei Yongtai Create Chemical Co Ltd (Yongtai)

Examination of MET response

21. In its response, the company has claimed Market economy status. In particular, the company had submitted the response where it had sought to rebut the various criteria as specified in sub paragraph (3) in Paragraph 8 of the Annexure 1 of the Anti dumping rules. Their claim was examined and the information submitted by the company was verified by the Authority. A detailed verification report was issued to the company wherein the detailed examination of their claim about market economy status and export price was made.

22. During the verification, it was noted that M/s HebeiYongtai Create Chemical Co., Ltd. (Yongtai), producer and exporter of the subject goods, was established on **** as a Chinese-foreign joint venture and the shareholders include two entities viz **** and ****. The registered capital of Yongtai Create was RMB ****. While RMB **** was invested by Hebei Yongtai Create Chemical Co., Ltd. in the form of ****, accounting for **** of the total registered capital, and RMB **** was invested by the US shareholder in cash, accounting for ****% of the registered capital. It was submitted that the shareholders of HebeiYongtai Chemical Co., Ltd. (Group company) include three individuals **** (whose investment accounts for ****% of the total registered capital), **** (whose investment accounts for ****% of the total registered capital) and **** (whose investment accounts for ****% of the total registered capital); and the other shareholder is ****. (whose investment accounts for ****% of the total registered capital).

23. In particular, it was noted that the subject company was founded as a Chinese-foreign joint venture and the shareholders include two entities viz **** and ****. However, verification scrutiny of the constitution of the ****, revealed that the Co. had been registered in the State of California in **** with a registered capital of ****. All the registered capital had been issued to ****, one of the majority shareholders of the Group Co. viz. ****. No details of the sources of the funds invested by **** in the group Co. as well as in **** Ltd., were made available to the team.

24. During verification, the company placed some documents in support of its claim for market economy status. In particular, the company placed Business Licence of the company, some purchase invoices for some of the assets of the company, details of some of the assets outstanding during POI along with their date of commissioning, copy of business license and other approvals obtained from Chinese Govt. agencies before start of business and of the shareholding company, organizational Chart of the company, information on the change in the structure of the company since inception along with details of share capital and details of ownership, information of parent companies, articles of Association, Capital Verification Report of the Parent Company HebeiYongtai

Chemical Co. Ltd. of year 2005 and capital Verification Report of Yongtai Create for the year 2006 and 2010, VAT Return, labour payment contract, list of suppliers of raw materials and utilities along with sample Invoices, balance Sheets and Income statements of Parent Company Hebei Yongtai Chemical Co. Ltd. of year 2006, 2007, 2008 and 2009, assets evaluation Report of ****of year 2002 and 2004, land Use right evaluation report of August 2005, Joint Venture Contract of Hebei Yongtai Chemical Co. Ltd, Joint Venture Contract of HebeiYongtai Create Chemical Co. Ltd etc.

25. However, the company was not able to submit the computation of depreciation for the years 2006, 2007, 2008 and 2009, copies of purchase orders/invoices for plant and machinery, production equipments purchased in 2006 and 2007, date of commissioning of the plant and commercial production, copies of orders placed on construction contractor for construction of factory/office buildings and details of other receivables, details of other receivables and other payables in respect of Yongtai Chemical Co. (group company) for 2006, 2007, 2008 & 2009, supporting documents for the capacity of the plant indicated in the response to the questionnaire, cost of the project and how the project was funded.

26. The accounting records were examined and found to have been audited by independent CPAs. In terms of the audit report, the financial position as well as the operating results of the Co., were in accordance with the Accounting Standards for Enterprises and Accounting Systems for Enterprises. However, it is noted that the financial statements as well as the audit reports have not disclosed the fact that the Co. was having related party transactions with its group company. Further, the audit reports are silent on whether all the related party transactions were at arm's length. Board Resolution for not declaring dividends for the year 2009 submitted by the Co. was taken on record. It was also noted that during the POI, the Co. had received tax refund of **** RMB on purchase of equipment and was shown as subsidy income. The details of the tax refund/subsidy scheme were not made available to the team.

Board of Directors

27. With regard to board of directors, it was submitted that M/s Yongtai create was managed by a board of directors consisting of **** persons out of which ****persons were nominated by major shareholders i.e. ****and one person was nominated by shareholder from **** All the directors had only **** vote. Thus, it was noted that none of the directors were represented by state or state owned companies.

Production and sales of the product concerned

28. It was explained to the verification team that the products produced and sold by Yongtai Create include ****. With regard to production process, it was noted that the Production Process includes two stages: [high-pressure ammonolysis and segregation & crystallization]. It was submitted that production process includes high-pressure ammonolysis (**** hours) after mixing of **** and ****which is followed by **** (**** hours) and this is then followed by Packing of finished goods. It was further

mentioned that the company began to produce PNA products since the end of ****, and exported the products to India since the year ****. During the investigation period Yongtai Create exported the product concerned to India in two shipments and most of the product concerned is sold in domestic market. Yongtai Create has not exported the subject material to any other countries. It has been claimed by the Exporter that there are **** employees including ****workers in the company. Only **** workers are claimed to be working in PNA workshop. A labor contract was submitted wherein it was explained that there is no restrictions in the movement of labor and their recruitment by the company.

29. With regard to sourcing of the inputs, including raw materials, and the fact that if they 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, it was noted that M/s Yongtai create was procuring their raw materials from companies which included state owned company. The primary raw materials used in the manufacture of PUC are ****and ****. These materials were procured from several suppliers including ****. which is a state company. However, during the verification, neither the business licenses of the other suppliers nor any other documents to indicate the legal status of those companies were submitted. Further, when the team requested Yongtai create to substantiate that the procurement of major raw materials reflect market prices or reflect market forces of demand and supply, the company was not able to produce any comparative analysis or substantiate their claim that these prices are reflecting the market prices free of state control.

30. Thus, in view of the above, it could not be concluded that 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. In view of the above, market economy treatment has not been granted to M/s Yongtai Create Chemical Co Ltd and the Normal Value has been constructed based on facts available under Rule 6(8).

Normal value for M/s Suzhou Luosen Auxiliaries Co. Ltd (Luosen) (producer)

31. M/s Suzhou Luosen Auxiliaries Co Ltd. China PR is one of the producers of the subject material in China PR which has participated in the investigation and filed both MET as well as Exporters Questionnaire Responses. From the response filed by the producer and exporter, it is noted that M/s Luosen is a producer of subject goods and sells the subject goods in the domestic market and it is not a direct exporter of subject goods to India. It has been noted from the responses of two exporters namely M/s Hangzhou Dinsheng Chemical Co Ltd and M/s Wujiang City Yilin Foreign Trade Co. Ltd. that they have exported the subject goods to India produced by M/s Luosen, the producer of subject goods. Both the above exporters have filed the MET Questionnaire response. The information submitted by M/s Suzhou Luosen Auxiliaries Co. Ltd and two exporters mentioned above have been verified and a verification report was issued to the company for their comments. It is noted that no comments to the verification report had been received from Luosen within the time limit.

Examination of MET Treatment of M/s Luosen

32. It has been claimed by the producer that it was first established as a collectively owned company in 1990 and then was reconstructed into a fully limited liability company in 2007. It has been submitted that shareholders of Luosen are ***** persons and there is no parent company and one of its related company M/s Wujiang City Yilin Foreign Trade Co. Ltd has exported the subject goods to India during the POI.

33. The Authority has gone through the MET response of the company. After examining the response, it is noted that the company was initially constituted as a collectively owned company and it was later transformed into private owned company.

Examination of response to the MET questionnaire

34. It may be recalled that Luosen had submitted response to the MET questionnaire and had agreed for verification of the documents submitted by them for grant of MET to them. During the process of examination, detailed structure of the company was made available to the verification team. It was submitted during the verification that Suzhou Luosen Auxiliaries Co., Ltd. is a Chinese producer and domestic seller of the product concerned, but it is not an exporter. Luosen was firstly established on ***** as a collective-owned enterprise, and then was reconstructed to be a private-owned company on ***** under the China Company Law. The shareholders of Luosen are two private person, *****and Ms. *****. Both these two shareholders are not related to any other company engaged in production and sale of the subject goods. It was submitted that Luosen has ***** factory involved in production of the product concerned which is located at *****, Jiangsu Province. During the POI, there was one related company with the name of ***** involved in the export sale of product concerned to India. It was added that Yilin's shareholders are ***** private Chinese person, and the relationship between Luosen and Yilin is that ***** shareholder named as ***** of Yilin is in the position of the General Manger of Luosen. Except Mr. *****, Luosen and Yilin do not share any other board members and senior executives.

35. It is noted that in response to the MET questionnaire, M/s Luosen had sought 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 investigation team asked the producer 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 required documents to the investigation team. In addition, the subject exporter and producer informed that the required documents relating to market economy claims are almost not available and accordingly the same cannot be provided to the verification team. In view of the above, no further examination for grant of MET was considered necessary.

36. In view of the above, market economy treatment has not been granted to the above firm.

Determination of Normal Value for producers and exporters in China PR who have not claimed MET and also for those whose MET Claim has not been accepted

37. 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 of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected 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”

38. As stated above, Authority does not consider it appropriate to give market economy treatment to the above two producers, who have claimed market economy treatment as per the reasons mentioned above. Therefore, normal value is being determined in accordance to the Rules. In the initiation notification, comments were invited from all interested parties to suggest an appropriate surrogate country for determination of normal value for China PR. However, none of the parties have suggested any appropriate surrogate country. It has been claimed by the applicants that normal value cannot be determined on the basis of prices in third countries because the imports are practically from China. Para nitro Chloro benzene (PNCB) is a major raw material required for production of the product under consideration. The applicants have claimed that the fact that the prices of major inputs do not substantially reflect market values in China is clearly established by the fact that the import price of PNCB from China have not increased in the same manner as the same have increased in the Indian market. In view of the above, the Authority has proceeded to determine the normal value in terms of para 7 of the Annexure 1 to the AD rules and determined it on the basis of “ any other reasonable basis”. Accordingly, the Authority has determined the “normal value” by taking into account international prices of the major raw materials and all other cost as per cost of production in India duly adjusted to include selling, general & administrative expenses and reasonable profit margin.

Export Price for cooperating exporters

General methodology followed

39. For all the responding exporters, 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. Further, the CIF export price has been adjusted for ocean freight, marine insurance, inland freight, port expenses and bank commission etc. For determining net export price, information provided by these exporters and subsequently verified by the Authority has been taken into account.

Determination of Export Price for M/s Hebei Yongtai Create Chemical Co Ltd (Yongtai)

40. Exports sales to India (Appendix-2): It was noted that during period of investigation there were only 2 transactions of exports of subject goods to India. It was noted that the Company had exported **** Kgs of PNA on wet basis and **** Kgs on dry basis to India. Both these transactions have been made to one importer. It was also noted that delivery terms in both the transactions were CIF Nhava Sheva basis. In respect of both the transactions adjustments were claimed on account of Ocean Freight, Inland Freight, Port Surcharge, Overseas Insurance, Credit Cost and VAT adjustment and Bank Charges. All the supporting documents pertaining to these adjustments were verified with their claims made in Appendix 2.

41. The company was asked to provide documentary evidence to show that the exchange rate adopted for conversion from US \$ to RMB. In support of their claim the company has provided copies of exchange rate published by Bank of China for the period of transaction and the same was found to be in order. It is stated that a verification report was earlier issued to this company indicating the verification of adjustments claimed by the producer and exporter. No comments have been received in this regard. These adjustments have been allowed to arrive at Net export price.

Determination of export price for subject goods produced by Luosen and exported by Yilin

42. It was noted that during period of investigation there were significant export sales to countries including India. In fact, it was submitted during the verification that they sourced the subject goods from many sources including Luosen and exported the subject goods to India. It was also seen from back to back VAT invoice filed by these exporters that they purchased the subject goods from Lousen.

43. It is noted that M/s Wujiang City Yilin Foreign Trade Co. Ltd (Yilin) (Exporter) has filed MET as well as response to exporters questionnaire. It was noted that though this company is legally separate from Lousen, their General Manager is also the principal shareholder in Lousen. In fact, it was submitted that these are basically a family relationship. It was also noted during verification that Yilin has made purchases of subject goods from Luosen and also other producers during the POI which they have exported to India and other countries. It is also noted that in their response, Yilin has given an account of exports of subject goods to India which were purchased from Lousen during the POI. It was further noted that they exported **** MT of subject goods sourced from Luosen to India during this period at total gross value of US ****. They have also given monthly account of their sales to India in Appendix 2A.

44. It is noted that export transactions were made to several importers in India. It is further noted that adjustments were claimed on account of Ocean Freight, Inland Freight, Port Surcharge, Overseas Insurance, Credit Cost and VAT adjustment and Bank Charges. All the supporting documents pertaining to these adjustments were verified with their claims made in Appendix 2. The set of commercial documents includes commercial invoice, commercial contract, packing list, bill of lading, certificate of analysis, customs declaration, recording invoices, letters of credit, sea freight invoices, handling invoices, oversea insurance invoices, collection certificate, VAT refund sheets and purchase VAT invoices.

45. The company was asked to provide documentary evidence to show that the exchange rate adopted for conversion from US \$ to RMB. In support of their claim the company has provided copies of exchange rate published by Bank of China for the period of transaction and the same was found in order. . It is recalled that a verification report was issued to this company indicating the verification of adjustments claimed by the producer and exporter. No comments have been received in this regard. With regard to VAT Adjustments, adjustments on account of VAT refund in Appendix-2 had been claimed @ 9% while adjustment on account of non-refund of VAT of 8% has been claimed in the revised Appendix-2. These adjustments have been allowed to arrive at Net export price.

Determination of export price for subject goods produced by Luosen and exported by Hangzhou Dingsheng Chemical Co Ltd (Exporter)

46. M/s Hangzhou Dingsheng Chemical Co., Ltd. (hereinafter referred to as Dingsheng) is the exporter/trader of the product concerned, but is not the producer of the product concerned. It is noted that Dingsheng purchased the product concerned in domestic market from several suppliers and then exported to the world market including India During examination of their export prices to India as per Appendix 2 of the exporters questionnaire, it was noted that out of the total exports made to India by them of the subject goods sourced from Lousen, as evidenced in Appendix 2, they had exported *** MT of subject goods to India through a trader M/s Asiatic Hong kong who had not submitted their response. In fact, it was noted that no export price has been made available to the Authority of the subject goods exported by Dingsheng and sold to India through Asiatic Hong Kong. It may be stated that a deficiency letter was earlier issued to the exporter to submit the details of Asiatic Hong Kong and their response in terms of response to exporter's questionnaire. However, no such details were made available to the Authority within time limit. It is stated that a verification report was issued to this company inter alia indicating the fact that they did not provide the details of all exports made by them to India as shown in Appendix 2 of the exporters questionnaire. It is noted that M/s Dingsheng has commented in its reply to the verification report that separate dumping margin should be given to them as they had direct exports to India also. They have also cited earlier findings of the Authority granting separate margin to the exporters in similar situations.

Comments of M/s Dingsheng after the disclosure statement

47. The exporter M/s Dengsheng in his comments to the disclosure statement has submitted that they should be given separate dumping margin as some of their exports were direct to India even though evidence with regard to export prices and adjustments for majority of exports to India was not available to the Authority. They have also cited some of the earlier cases done by the Authority wherein separate dumping margin has been granted to the producer in the alleged similar circumstances.

Examination by the Authority

48. The Authority has examined the comments made by M/s Dingsheng and other interested parties in this regard and notes that facts of those cases are not comparable to the subject case. It is noted that M/s Dengsheng has not provided the details in respect of all the exports to India as mentioned in Appendix 2 which have been sourced from Producer M/s Luosen. It is also noted that except few invoices of Asiatic Hong Kong, no information has been submitted to the Authority despite the deficiency letter issued to Dingsheng asking them to get all relevant documents as required in the response to exporter's questionnaire. Given the above fact, separate dumping margin has not been granted to Dingsheng as exporter and Luosen as producer.

Export Prices for Other Producers/Exporters

49. In case of other non cooperating producers and exporters from China PR, export price is determined considering transaction export price at a lower representative level on the basis of facts available. For determining net export price of the cooperating exporters, adjustments have been made on account of ocean freight, marine insurance, credit cost etc.

Table showing dumping margin and dumping margin %

Producer	Exporter	DM (US\$/Kg)	DM%
----------	----------	-----------------	-----

M/s HebeiYongtai Create Chemical Co Ltd (Yongtai)	M/s HebeiYongtai Create Chemical Co Ltd (Yongtai)	*****	34-38
M/s Suzhou Luosen Auxiliaries Co. Ltd.(Producer)	Wujian City Yilin Foreign Trading Co. Ltd	*****	28-32
Others	Others	*****	60-65%

E. INJURY

E.1. Submissions by the domestic industry

50. The domestic industry has argued that:

(i) Volume of dumped imports from China PR has increased very significantly in absolute terms over the injury period.

(ii) Imports have increased significantly in relation to total imports, production and consumption in India.

(iii) 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.

(iv) The dumped CIF export price triggered 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.

(v) With the increase in imports, the performance of the domestic industry deteriorated in terms of capacity utilization, inventories, market share, profits, return on investments, etc.

(vi) The demand of the product in the country shows a positive trend whereas sales of the domestic industry and Indian producers as a whole at the same time show a negative trend.

(vii) As a result of increase in imports in absolute term and relative to production and consumption, share of the domestic industry has declined.

(viii) The performance of the domestic industry for product under consideration has deteriorated over the injury period.

(ix) ROI (NFA Basis) of the domestic industry has significantly deteriorated over the injury period. 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.

(x) The level of inventories is significantly high.

(xi) The dumping margin from subject country is not only more than de minimis but also very substantial. The impact of dumping on the domestic industry is significant and is gradually intensifying.

(xii) Significant dumping of subject goods in the Indian market resulted in significant financial losses to the industry. Resultantly, some of the producers have been forced to suspend the production. Producers who have suspended the production in the period of investigation are: -

- Priti Chemicals
- Sai Amines Pvt. Ltd.
- New India Biz Chem Pvt. Ltd.
- AmarantDyechem
- K&T Chemicals
- Muktesh Chemicals Pvt. Ltd.
- Vibgyor Chemicals
- Omi Industries
- Volga Organics Pvt. Ltd.
- YashRasayan

(xiii) In reply to remarks of the importers about limited capacities of two Indian producers and creation of monopoly situation in the event of levy of anti dumping duty, it has been submitted that the estimated Indian production is 1200 MT per month (Petitioners 600-700 and Panoli 500-600) and several units manufacturing subject goods have closed down. With regard to pricing of subject goods at their will, it has been submitted that by the importers own admission, the petitioners are forced to sell at prices comparable to imports and a party selling the product at their will shall not be forced to follow the import prices. This clearly establishes that petitioners constitute domestic industry and that dumping of the product has forced a large number of companies to close their production.

E.2. Response from other interested parties (importers and users)

51. The following importers and users have submitted comments on the investigations.

- Ambuja Intermediates Pvt Ltd.
- Chemstar
- GopinathChem Tech Ltd.
- Cosmo Chemicals Pvt Ltd.
- Chem-Org
- M/s Guruev Dyestuff (India) Pvt Ltd.

It has been submitted by importers and users that there are only two major manufacturers of PNA in India and price of PNA are decided at their will. It has also been submitted that there is not much difference between Chinese import and Indian market prices of PNA and prices of Indian manufacturers are found to be matching the Chinese prices or even lower than those prices. They have added that any anti dumping duty will give them a free hand in deciding prices of PNA creating a monopoly on the product and the consumers of end product will become non competitive. It has also been added that if PNA imports are restricted with anti dumping duty, then Chinese exporters will start exporting end product prepared from PNA to India. It has also been added that Chinese imports do not add any threat to the domestic manufacturers. It has also been brought before the Authority that starting raw material for manufacturing PNA is PNCB and there are only 2-3 major PNCB manufacturers who are the major PNA manufacturer in India as well. It has also been added that the main petitioner in this case are Abhilasha Texchem Pvt. Ltd. and M/s Amarjyot Chemicals Pvt. Ltd. who are the group companies of Aarti Industries Ltd. M/s Panoli Intermediates Limited is another petitioner and major manufacturers of PNCB and PNA. It has been submitted that before any decision for levying anti dumping duties is taken, the balance sheet of Amarjyot and Abhilasha should be taken into account and it should be verified if they are incurring losses and also the price at which PNCB is sold by Aarti to Abhilasha and Amarjyot compared to their sale price to the local market. It has also been added that both the major manufacturers of PNA do not have the capacity to cater increasing demand of PNA hence an alternate source of supply should be made open.

Comments of the interested parties after disclosure statement

52. The following interested parties have submitted comments to the disclosure statement

- Jay Organics, Ahmadabad
- World Trade Consultants and Advocates on behalf of Dengsheng, a Chinese exporter
- Chem- Org., Thane
- Continental Chemicals, Ahmadabad
- Ambuja Intermediates Pvt. Ltd.
- Chemstar, Dombivli, Maharashtra
- Gurudev Dyestuff (India) Pvt. Ltd.
- Aarti Organic.
- The Domestic Industry

(i) Some of the users and importers have objected to the procedure and methodology followed by Authority during the investigation process. In particular, they have objected to the little time given to them to offer their comments on the Disclosure Statement. They have also objected that they could not receive a copy of public notice after initiation of investigation despite being the fact that they were importers of the subject goods in India. Some of the importers and users have also commented that they have neither been contacted by the applicant nor by this office and were not given a chance for their submission. With regards to price effect of imports, they have objected to the determination of price under cutting by the Authority during the period of investigation. In their reply, they have given an account of some consignments of imports made by them during that period and have stated that the Chinese prices were much higher than domestic industry prices during that time. With regard to production, capacity of domestic industry and demand they have again highlighted the fact that the domestic industry can cater to only 52% of the demand while remaining 48% quantities have been imported to meet to the demand of Indian consumer which cannot be treated as dumping and therefore anti dumping duty on such imports would be totally injustice on Indian consumers. With regard to domestic industries argument about closer of 10 units due to significant dumping, they have stated that these facts are false and wrong and have further added that at least five of these companies have nothing to do with the imports from China PR. They have also objected to taking the DGCIS data for year 2006-07 and IBIS data for 2007-08 onwards to period of investigation for determination of volume and price effect. They have further stated that this is a wrong way of making assessment of injury which will not stand in the court of law. Some of these importers and users have also asked for more time to submit their views to the Authority. One of the cooperating producer and exporter M/s Yongtai in their letter dated 26th May 2011 submitted that they were willing to furnish price undertaking under rule 15 of Anti dumping rule in case the Authority arrives at the conclusion that M/s Yongtai is dumping the subject goods into India. They have requested that they be informed accordingly.

(ii) The domestic industry on the other hand has requested the Authority for early issuance of final findings. The domestic industry has further requested the Authority to deny market economy status to the responded companies. The domestic industry has also stated that separate dumping margin to Dengsheng should not be granted for want of response from Asiatic Hong Kong. They have reiterated the arguments about injury and casual link as made by them in their application as well as in the written submission after the public hearing. In particular, they have mentioned the significant increase in the volume of imports, price under cutting, price suppression and significant deterioration during injury period in terms of market share, profit, return on investment, cash flow and inventories. With regard to relationship between Aarti and the petitioners it has been submitted that an amount of Rs. 1500 per metric ton is required to be added to the non-injurious price on account of selling expenses incurred by Aarti Industries. They have also requested the Authority to examine the fact that negative working capital has been considered for determination of non-injurious price for domestic industry. They have requested the Authority to kindly consider the working capital on the basis of some standards norms such as three months working capital. They have also requested the

Authority for imposition of adequate anti dumping duty in order to protect the domestic industry. In their submission, they have requested the Authority to impose the anti dumping duty on fixed basis and in terms of Indian rupee.

E.3. Examination by the Authority

53. 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.

54. 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.”

55. The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties. For analyzing the injury parameters, all relevant documents including the audited balance sheets of both the producers have been examined and verified by the Authority. The Authority also notes from the audited accounts of both the domestic producers that they were incurring losses on the domestic sales of subject goods during POI. The issues relating to Indian industry interest and other issues have been dealt by the Authority under appropriate headings. On the issue of consumers becoming non competitive on account of levy of anti dumping duty and impact of anti dumping duty on end product, it is noted that the question of consumers becoming non-competing on account of levy of anti dumping duty on subject goods do not arise, particularly when the quantum of anti-dumping duty is restricted to lower of dumping margin and injury margin. Further, it is recognized that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping 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.”

Examination by the Authority of the Comments made after Disclosure statement

56. The Authority has also examined the comments of all interested parties made after disclosure statement. With regard to time given to them for offering their comments on disclosure statement and initiation notification, it is noted that copies of initiation notification was duly sent to all the interested parties which were made known by the applicant in their application before the Authority. Further the same was available as Gazette publication and was posted on the website of Department of Commerce. Further all the interested parties including most of the importers and users mentioned above were duly granted time to respond to the initiation notification after they made request for extension of time to submit their response. Further, all interested parties were intimated well in advance about the public hearing which was held on 18th January, 2011. Further, the interested parties were given another opportunity by the way of another public hearing which was held on 30th March, 2011. It is noted that with the exception of M/s Ambuja Intermediates Pvt. Ltd., none of the importers and users participated in the public hearing. Further, the written submission were only filed by M/s Ambuja Intermediates Pvt. Ltd while M/s Chemstar, M/s Gurudev Dyestuff India Pvt. Ltd M/s Ambuja Intermediates Pvt. Ltd. M/s Chem-Org had earlier submitted their views to the Authority. Their views were duly taken into account in the disclosure statement issued by the Authority on 27th May 2011 and sent by email on the same day to all interested parties to offer their comments if any. Further, public file was maintained by the DGAD for which none of importers and users requested for inspection. Thus, it is noted that adequate opportunity has been given to all interested parties to respond to in the subject investigation at all stages. With regard to price effect on the imports, it is noted that the Authority has determined price under cutting after taking into account the landed price of all the subject goods being imported into India during the injury period from China PR. Thus, the price under cutting has not been determined with respect to few consignments only imported by some of the users and importers. With regard to mis-match between demand and supply and the applicants not having required capacity to meet the demand of subject goods in India, it is noted that the purpose of anti dumping duty is to mitigate the un-fair trade practices adopted by exporters from subject countries. More ever, the views of the Authority with regard to Indian industry interest have been specifically dealt by the Authority under appropriate headings in this finding. with regard to period and source of data collection for the injury period, it is noted that the DGCIS data has been adopted for the base year as the same was higher in volume and taking the IBIS data for the volume analysis could have given a distorted picture of volume effect much in favour of the domestic industry as much less volume was reported in the IBIS data for the base year (much of the imports coming from Ahmadabad was not reflected in the IBIS during 2006-07). Further, it has also been noted and also confirmed by some of the importers mentioned above that the prices per unit have not changed much between the two

sources during the injury period. With regard to acceptance of price undertaking, it was decided not to accept price undertaking from M/s Yongtai in terms of rule 15(2) and 15(3) of the rules as it was noted that no provisional findings was issued in this case.

57. With regard to domestic industry contention for increasing the non-injurious price of the subject goods in view of selling expenses of M/s Aarti Organic Limited, it is noted that the same has not been substantiated by them during and after the verification of the information of the applicant industries and hence the same cannot be allowed. Further with regard to determination of working capital, it is noted that the same has been determined as per the consistent practices followed by the Authority. With regard to submission of domestic industry to impose duty on fixed basis and in terms of Indian rupees, it is noted that all the examination of dumping margin has been done in US\$ and therefore the duty has been imposed as fixed duty and in terms of US\$/Kg.

Import, Demand, Volumes and Market share:-

58. 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.

General remarks about Import and Basis of determination of import volumes

59. 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). It was found that the volume of imports reported in DGCI&S is significantly higher than the volume of imports reported by the petitioners on the basis of IBIS data in 2006-07, for the reason that IBIS has not reported imports cleared at Ahmadabad Port. However, in all subsequent periods, the volume of imports reported in IBIS is significantly higher than the volume of imports reported in DGCI&S. This is for the reason that DGCI&S has provided import information only for the dedicated classification i.e. 2921-4226, whereas IBIS has provided information on the basis of product description; and therefore, imports reported under other classifications i.e. 2921- 4211, 4221, 4290 have also been covered in IBIS. Further, it is noted that there is not much difference in the import prices from these two sources. In fact, import prices reported in IBIS for the period of investigation are slightly higher than the import prices reported in DGCI&S. After detailed examination, it was considered appropriate to take into account the information from DGCI&S for 2006-07 and IBIS for 2007-08, 2008-09 and POI for the purpose of the present investigations.

60. 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	2006-07	2007-08	2008-09	Jan-Dec'09
Imports from China	MT	1,000	3,202	3,470	3,829
<i>Trend</i>		<i>100</i>	<i>320</i>	<i>347</i>	<i>383</i>
Other Countries	MT	2	-	0	0
<i>Trend</i>		<i>100</i>	<i>-</i>	<i>0</i>	<i>1</i>
Total Imports	MT	1,002	3,202	3,470	3,829
<i>Trend</i>		<i>100</i>	<i>319</i>	<i>346</i>	<i>382</i>

61. It is noted that that imports of the subject goods from China PR have shown a significant increase over the injury period. Further, imports have increased significantly in absolute terms in each successive year. Imports from other countries have, at the same time, significantly declined and are nil during the POI.

Demand

62. It is noted that demand for the product under consideration increased throughout the injury period and has grown by 77% during the injury period. Further, imports of the subject goods from the subject country have 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	2006-07	2007-08	2008-09	Jan-Dec'09
Sales (domestic) of Domestic industry	MT	4,107	4,572	4,865	5,590
<i>Trend</i>		<i>100</i>	<i>111</i>	<i>118</i>	<i>136</i>
Sales of supporters	MT	783	1,168	1,524	1,686
<i>Trend</i>		<i>100</i>	<i>149</i>	<i>195</i>	<i>215</i>
Sales of other producers	MT	864	864	864	864
<i>Trend</i>		<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
Imports in India	MT	1,002	3,202	3,470	3,829

Trend		100	319	346	382
Demand in India	MT	6,757	9,806	10,722	11,969
Trend		100	145	159	177

It is noted that the demand for the product has successively increased over the injury period. Though sales of the domestic industry have also increased during the same period, increase in sales of the domestic industry is less than increase in demand in the period of investigation.

Imports in relation to various parameters

63. It is noted that the demand for the product has successively increased over the injury period. Though sales of the domestic industry have also increased during the same period, increase in sales of the domestic industry is less than increase in demand in the period of investigation.

Imports in relation to various parameters

64. The Authority has analysed the trend of subject imports in relation to production and consumption in India. It is noted that imports of the subject goods from subject country increased in relation to production of the like product in India during the injury period. Further this has also increased in relation to consumption as well as sales of the domestic industry in India.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Imports from China PR	MT	1,000	3,202	3,470	3,829
<i>Trend</i>		<i>100</i>	<i>320</i>	<i>347</i>	<i>383</i>
Demand in India	MT	6,757	9,806	10,722	11,969
<i>Trend</i>		<i>100</i>	<i>145</i>	<i>159</i>	<i>177</i>
Production in India	MT	5,550	6,525	6,889	6,809
<i>Trend</i>		<i>100</i>	<i>118</i>	<i>124</i>	<i>123</i>
Imports as % of total imports	%	99.75	100.00	100.00	100.00
<i>Trend</i>		<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
Imports as % of demand	%	14.80	32.65	32.36	31.99
<i>Trend</i>		<i>100</i>	<i>221</i>	<i>219</i>	<i>216</i>
Imports as % of Indian Production	%	18.01	49.07	50.37	56.23
<i>Trend</i>		<i>100</i>	<i>272</i>	<i>280</i>	<i>312</i>

Imports as % of domestic industry sales	%	24.35	70.04	71.33	68.49
<i>Trend</i>		<i>100</i>	<i>288</i>	<i>293</i>	<i>281</i>

Market share of domestic industry

65. The Authority has determined the market share of the domestic industry by taking into account the total demand of the subject goods and sales of the domestic industry. It is noted from the table below that the market share of the domestic industry declined by 14% during the injury period while at the same time market share of subject goods from China PR has increased by 17% during the same period. The decline in market share of the domestic industry is considered significant.

Market Share in Demand	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Sales (domestic) of Domestic industry	%	60.78	46.62	45.37	46.71
<i>Trend</i>		<i>100</i>	<i>77</i>	<i>75</i>	<i>77</i>
Sales of supporters	%	11.59	11.92	14.21	14.09
<i>Trend</i>		<i>100</i>	<i>103</i>	<i>123</i>	<i>121</i>
Sales of other producers	%	12.79	8.81	8.06	7.22
<i>Trend</i>		<i>100</i>	<i>69</i>	<i>63</i>	<i>56</i>
Imports from China	%	14.80	32.65	32.36	31.99
<i>Trend</i>		<i>100</i>	<i>221</i>	<i>219</i>	<i>216</i>
Imports from other countries	%	0.04	-	0.00	0.00
<i>Trend</i>		<i>100</i>	<i>-</i>	<i>0</i>	<i>0</i>

Price effect of imports

66. 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. This comparison showed that

during the period of investigation, the subject goods originating in China were sold in the Indian market at prices which were lower than the domestic industry's prices.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Landed Value	Rs./Kg	****	****	****	****
Net Sales Realization	Rs./Kg	****	****	****	****
<i>Indexed</i>		100	110	138	118
Price Undercutting	Rs./Kg	****	****	****	****
<i>Indexed</i>		(100)	110	(252)	119
Price Undercutting	%	****	****	****	****
Price Undercutting	% Range	Negative	0-10%	Negative	0-10%

67. It is thus seen that imports were undercutting the domestic prices and margin of undercutting is considered significant.

68. 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 the subject country. After examination, it is determined that though there is no price depression suffered by the domestic industry during the injury period, the domestic industry has suffered significant price underselling during the investigation period.

Particulars	Unit	2006-07	2007-08	2008-09	Jan-Dec'09
Net Selling Price of Domestic Industry	Rs/Kg	****	****	****	****
Trend	Index	100	110	138	119
Cost of Sales – Domestic	Rs/Kg	****	****	****	****
Trend	Index	100	104	131	120

Non Injurious Price Rs/Kg					****
Landed Price	Rs/Kg	****	****	****	****
Price underselling	Rs/Kg				****
Price underselling (%)					7-15%

69. It is thus determined that whereas the costs declined by 11% in POI as compared to 2008-09, the selling price declined by 17% in the same period though there is little change in the cost and price from the base year.

Economic parameters of the domestic industry

70. 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, Capacity & capacity utilization

71. It is noted that the production has increased by 35% in POI. Further it is noted that the demand for the product has increased by 77% and the Domestic Industry could not fully utilize its capacity in POI even though the capacity utilization increased significantly during the same time.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Capacity	MT	6,300	6,300	6,300	6,300
Production	MT	4,132	4,692	4,856	5,567

<i>Trend</i>		<i>100</i>	<i>114</i>	<i>118</i>	<i>135</i>
Demand	MT	6,757	9,806	10,722	11,969
<i>Trend</i>		<i>100</i>	<i>145</i>	<i>159</i>	<i>177</i>
Capacity Utilization	%	65.58	74.48	77.08	88.36
Production in relation to demand	%	61.15	47.85	45.29	46.51

(ii) Domestic sales

72. It is noted that the domestic sales has increased over the injury period. Further it is also noted that the demand for the product has also increased over the injury period. The domestic industry has argued that they have not been able to increase sales in tandem with increase in demand due to the presence of dumped imports into the country.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Domestic Sales	MT	4,107	4,572	4,865	5,590
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>111</i>	<i>118</i>	<i>136</i>
Sales as a % of Demand		60.78	46.62	45.37	46.71
Change in					
Domestic Sales	MT		465	293	726
Demand	MT		3,050	916	1,247

(iii) Increase in price of major raw material

73. It is noted that PNCB is the major raw material used in the production of product under consideration. It has been submitted that though the PNCB prices have increased, the selling price of product under consideration has not increased in the same proportion.

	PNCB Price	Trend	Selling price	Trend
Jan-09	****	100	****	100
Feb-09	****	105	****	108
Mar-09	****	126	****	115
Apr-09	****	136	****	127

May-09	****	144	****	125
Jun-09	****	125	****	117
Jul-09	****	139	****	124
Aug-09	****	141	****	128
Sep-09	****	140	****	133
Oct-09	****	148	****	140
Nov-09	****	149	****	133
Dec-09	****	156	****	147

(iv) Profitability

74. 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 in the POI to the extent that losses have been reported.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Cost of Sales	Rs./Kg	****	****	****	****
Trend	Index	100	104	131	120
Net Sales Realization	Rs./Kg	****	****	****	****
Trend	Index	100	110	138	119
Profit/Loss	Rs./Kg	****	****	****	****
Trend	Index	100	10,101	12,341	(2,680)
Profit before tax	Rs. Lacs	****	****	****	****
Trend	Index	100	11,387	16,303	(3,974)

(v) Employment and Wages

75. It is noted that the production has increased over the injury period and so the employment and wages have increased over the injury period. This parameter does not indicate any injury or otherwise to the domestic industry.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Number of employees	No	****	****	****	****
<i>Trend</i>		100	120	107	107
Wages	Rs. Lacs	****	****	****	****
<i>Trend</i>		100	152	173	207
Wage per employee	Rs. Lacs	****	****	****	****
<i>Trend</i>		100	126	162	193

(vi) Productivity

76. It is noted that the productivity has increased over injury period. The production has increased over the injury period and so the productivity shows a similar trend.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Productivity per day	MT	****	****	****	****
<i>Indexed</i>	<i>Trend</i>	100	114	118	135
Productivity per Employee	MT	****	****	****	****
<i>Indexed</i>	<i>Trend</i>	100	94	110	126

(vii) Return on investments and cash flow

77. The return on investment has been determined considering profit before interest and capital employed for 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 has significantly deteriorated in POI.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
-------------	-------	---------	---------	---------	------------

Profit/Loss	Rs./Kg	****	****	****	****
<i>Trend</i>	<i>Index</i>	100	10,101	12,341	(2,680)
Profit before tax	Rs. Lacs	****	****	****	****
<i>Trend</i>	<i>Index</i>	100	11,387	16,303	(3,974)
Profit before interest	Rs. Lacs	****	****	****	****
<i>Trend</i>	<i>Index</i>	100	6,960	9,943	(2,366)
ROCE	%	****	****	****	****
<i>Indexed</i>	<i>Trend</i>	100	6,435	9,831	(2,128)
Cash Profit		****	****	****	****
<i>Indexed</i>	<i>Trend</i>	100	242	263	63

It is noted that the profitability of the domestic industry improved till 2008-09, however, it deteriorated significantly in the period of investigation to the extent that losses have been reported.

(viii) Inventories

78. It is noted that is the domestic industry has significant level of inventories in hand in the POI in spite of increase in sales volumes.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Average Inventory	MT	57	113	183	59
<i>Indexed</i>	<i>Trend</i>	100	200	324	105
Inventory equal to no. of days' sales	No	6	12	16	5
<i>Indexed</i>	<i>Trend</i>	100	182	252	73

(ix) Growth

79. Information with respect to growth in various parameters is given in the table below. It is noted that though the growth in terms of volume parameters is positive; growth in terms of price parameters is negative.

Particulars	Units	2006-07	2007-08	2008-09	Jan-Dec'09
Production	%		13.56	3.49	14.63
Domestic Sales Volume	%		11.32	6.41	14.92
Selling price domestic	%		9.66	25.76	(14.03)
Cost of sales domestic	%		3.84	25.96	(8.11)
Average stock	%		99.94	62.03	(67.58)
Return on capital employed (NFA basis)	%		9.86	5.28	(18.61)

It is noted that the growth of the domestic industry, which was positive before commencement of dumping in terms of a number of parameters, became negative in the POI. Dumping has led to a situation of plant closures of a number of units.

Factors affecting domestic prices

80. 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. In order to assess the effect of imports on the domestic market, The Designated Authority analyzed import prices over the injury period and found that the landed value of imports per MT from subject country, in period of investigation, is lower than the net selling price and non-injurious price. Change in cost structure if any, due to competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors other than dumped imports that might be affecting the prices in the domestic market.

81. The Designated Authority determined the net sales realization of the domestic industry considering selling price, excluding taxes & duties, rebates, discounts and freight & transportation. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty and applicable cess.

82. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been worked out for the domestic producer by appropriately considering the cost of production for the product under consideration during the POI. It is noted that the landed value of imports per MT, in period of investigation, is lower than the non injurious price determined for the

domestic industry during the period of investigation in respect of the subject country. The underselling margin is significant.

(x) Ability to raise capital investments

83. The Petitioners have argued that given the current state of affairs where the product is not performing well and a number of units have closed down because of persistent dumping, substantial fresh investments cannot even be imagined.

84. It is noted that continued dumping of the product and decline in financial performance are bound to adversely impact the ability of the domestic industry to raise capital investments.

(xi) Level of dumping and dumping margin

85. The dumping margin established hereinabove in respect of responding exporters and non cooperative exporters are considered significant and above the de minimis level.

F. CAUSAL LINK

86. 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.

87 Imports of subject goods from other countries are negligible.

(ii) Contraction in demand

88. 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

89 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

90 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

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

(vi) Export performance

92. The petitioner has do not have any export sales. However, the Authority has considered only domestic operations and domestic profitability.

(vii) Productivity of the Domestic Industry

93. 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.

Effect of dumped imports

94. The Authority notes that the following parameters show that material injury to the domestic industry is due to dumped imports. It is noted that the following parameters show that material injury to the domestic industry is due to dumped imports.

(a) The dumped imports from subject country have significantly increased over the injury period. Resultantly, the market share of the domestic industry declined.

It is thus held that decline in market share of the domestic industry is directly due to increase in volume of dumped imports and its market share.

(b) Dumped imports from subject country are undercutting the prices of the domestic industry.

(c) Thus, it is noted that the domestic industry is forced to decrease prices due to presence of dumped imports in the market. This has resulted in decline in profits and return on investment. Thus, deterioration in profits and return on investment is attributed to presence of dumped imports from the subject country.

95. The Authority has determined non-injurious price for the domestic industry taking into consideration cost of production of the domestic industry. This non-injurious price

of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. The injury margin has been determined in line with the determination of dumping margins as mentioned in the appropriate heading. The injury margins have been worked out as follows:

Table showing Injury Margin

Producer	Exporter	IM (US\$/Kg)	IM%
M/s HebeiYongtai Create Chemical Co Ltd (Yongtai)	M/s HebeiYongtai Create Chemical Co Ltd (Yongtai)	****	15-20
M/s Suzhou Luosen Auxiliaries Co. Ltd.(Producer)	Wujian City Yilin Foreign Trading Co. Ltd	****	5-10
Others	Others	****	20-26

The level of injury margins as determined are considered significant.

G Conclusion on Injury and causation

96. 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. Capacity utilization of the domestic industry has not been fully utilized and inventories with the domestic industry have increased. Thus, the dumped imports from subject country show adverse volume effect.

97. It is also noted that the dumped imports were undercutting the prices of the domestic industry in the market. It is also determined that the dumped imports have had significant adverse price effect which in turn have led to significant deterioration in profits and return on investments. Therefore, the Authority concludes that the domestic industry has suffered material injury and such injury has been caused significantly by price and volume effects of dumped imports from the subject country.

98 The Authority therefore, holds that material injury to the domestic industry has been caused by the dumped imports of subject goods from the subject country.

H. Conclusions:

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

- (a) The product under consideration has been exported to India from the subject country below Normal value.
- (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.

I. Indian industry's interest & other issues:

100. 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.

101. 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.

J. Recommendations

102. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted a investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material 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 and injury.

103. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of 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, antidumping duty equal to the amount indicated in Col 7 of the table below is

recommended to be imposed on all imports of subject goods originating in or exported from China PR.

Duty table

Col. No.	1	2	3	4	5	6	7	8	9
SN	Heading/ subheading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount of duty	Unit	Currency
1	29214226	Para nitroaniline	China PR	China PR	Hebei Yongtai Create Chemical Co Ltd	Hebei Yongtai Create Chemical Co Ltd	0.19	Kg	US\$
2	29214226	Para nitroaniline	China PR	China PR	Any combination other than mentioned in Sr. no. 1 of above producer and exporter		0.26	Kg	US\$
3	29214226	Para nitroaniline	China PR	China PR	M/s Suzhou Luosen Auxiliaries Co. Ltd	Wujian City Yilin Foreign Trading Co. Ltd	0.09	Kg	US\$
4	29214226	Para nitroaniline	China PR	China PR	Any combination other than mentioned in Sr. no. 3 of above producer and exporter		0.26	Kg	US\$

5	29214226	Para nitroaniline	China PR	Any other than China PR	Any	Any	0.26	Kg	US\$
6	29214226	Para nitroaniline	Any other than China PR	China PR	Any	Any	0.26	Kg	US\$

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

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

(Vijaylaxmi Joshi)
Designated Authority