

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

**NOTIFICATION**

New Delhi the 25th March, 2011

**Final Findings**

**Subject: Sunset review of Anti-dumping duty on import of Pentaerythritol originating in or exported from China PR and Sweden to India.**

**No.15/3/2010- DGAD :** Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

**BACKGROUND**

2. The Designated Authority (hereinafter referred to as Authority) initiated a Sun Set Review antidumping investigation on 26<sup>th</sup> March, 2010 into alleged dumping of Pentaerythritol originating in or exported from China PR and Sweden. The provisional antidumping duty in the original investigation was imposed on imports of Pentaerythritol from China PR and Sweden vide customs notification no. 93/2005-CUS dated 20th October, 2005 on the basis of the preliminary findings of the Authority dated 5th August, 2005. The final findings were notified by the Authority vide notification dated 2<sup>nd</sup> February 2006 and the Department of Revenue imposed definitive anti dumping duties on the subject goods from subject countries vide notification no. 37/2006-CUS dated 20th April, 2006.

3. And whereas the Rules require the Authority to review, from time to time, the need for continued imposition of Anti-Dumping Duty and if it is satisfied, on the basis of information received by it that there is no justification for continued imposition of such duty, the Authority may recommend to the Central Government for its withdrawal.

4. In terms of the above provision, Designated Authority, received an application filed by the Domestic Industry substantiating the need for sunset review of the anti dumping duty imposed on the subject goods originating in or exported from China PR and Sweden and required for enhancement / revision of the anti dumping duty imposed on subject goods.

**Procedure**

5. The procedure described below has been followed with regard to the investigation:

- i. The Designated Authority, in line with the Orders passed by the Hon'ble High Court of Delhi in WP No. 16893 of 2006, initiated Sun-Set Review in accordance with Section 9A (5) of the Act read with Rule 23 of Anti dumping Rules to examine whether cessation of duty would lead to continuation or recurrence of dumping and injury. The Authority issued a public notice dated 26<sup>th</sup> March, 2010 published in the Gazette of India, Extraordinary, initiating antidumping sunset review investigation concerning imports of the subject goods originating in or exported from China PR and Sweden.
- ii. The Authority wrote to the Domestic producers on 12<sup>th</sup> April 2010 to provide data relating to the product to substantiate need for continued imposition of AD Duty.
- iii. The Authority received an application filed by M/s. Kanoria Chemicals & Industries Ltd. requesting continuation of the investigation for review and enhancement of anti dumping duties in force concerning imports of Pentaerythritol (hereinafter referred as Penta or subject goods) originating in or exported from China PR and Sweden (hereinafter referred to as subject countries).
- iv. The information provided by the applicant showed sufficient prima facie justification for initiation of sunset review investigation. On being satisfied, the Authority requested the Central Govt. to extend the existing quantum of AD Duty by one year to facilitate the Authority to complete the investigation.
- v. The Authority forwarded a copy of the public notice to the following known producers and/or exporters in the subject countries and provided them opportunity to provide relevant information and make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2).

<b>S.N.</b>	<b>Name of Company</b>	<b>Country</b>
1.	M/s. Hubei Yihua Group Limited Liability Company	China PR
2.	M/s. Guizhou Crystal Chemical Co., Ltd.	China PR
3.	M/s. China National Chemicals Construction Corporation	China PR
4.	M/s. Sinochem Jiangsu Import & Export Corporation	China PR
5.	M/s. Hubei Yihua Chemical Industry Co., Ltd.	China PR
6.	M/s. Shanxi Sanwei Group Co., Ltd.	China PR
7.	M/s. Perstorp Specialty Chemicals AB	Sweden

- vi. The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation, in accordance with Rule 5(5) with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
- vii. The Authority forwarded a copy of the Initiation notification to following known importers, consumers, industrial users of subject goods in India and advised them to provide relevant information in the form and manner prescribed and make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).

<b>S.N.</b>	<b>Name of Company</b>	<b>S.N.</b>	<b>Name of Company</b>
1.	M/s. Vibgyor Paints Pvt. Ltd., Mumbai	17.	M/s. H.R. Trading Co., Pvt. Ltd., Mumbai
2.	M/s. Sanman Trade Impex Pvt. Ltd., Mumbai	18.	M/s. Leo Chemoplast Pvt., Ltd., Mumbai
3.	M/s. Saraf Chemicals Ltd., Mumbai	19.	M/s. Samir Dye Chem. Mumbai
4.	M/s. Alcon Enterprises, Kolkata	20.	M/s. Berger Paints India Ltd., Mumbai
5.	M/s. A.V.M. Sales Pvt. Ltd., Kolkata	21.	M/s. Century Inka Limited, Mumbai
6.	M/s. Ciba Speciality Chemicals (India) Ltd., Mumbai	22.	M/s. Addison Paints & Chemicals, Chennai
7.	M/s. Decro Paints, Hyderabad	23.	M/s. Coates of India Ltd., Mumbai
8.	M/s. Dujodwala Paper Chemicals Ltd., Raigad	24.	M/s. Hardcastle & Waul Mafg. Co., Ltd., Mumbai
9.	M/s. Gargi Industries Prop. Navi Mumbai	25.	M/s. Goodlass Nerolac Paints Ltd., Mumbai
10.	M/s. Mitsu Industries Ltd., Mumbai	26.	M/s. Hero Dye Chem Industries, Mumbai
11.	M/s. Resins & Pigmenhts, Pithampur (MP)	27.	M/s. Hindustan Inks & Resins Ltd., Mumbai
12.	M/s. Chemi Colour Agency, Kolkata	28.	M/s. IVP Ltd., Thane
13.	M/s. Shalimar Paints Ltd., Hawra	29.	M/s. Jenson & Nicholson (I) Ltd., Kolkata
14.	M/s. Dujodwala Paper Chemicals, Mumbai	30.	M/s. Paras Dyes & Chemicals, Mumbai
15.	M/s. Eastcorp International, Kolkata	31.	M/s. Perstorp Aegies Chemicals Pvt. Ltd., Valsad
16.	M/s. Garware Polyester Ltd., Mumbai	32.	M/s Goodlass Nerolac Paint Ltd., Mumbai

- viii. None of these parties however filed any response to questionnaire in the form and manner prescribed.
- ix. Request was made to the Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata to provide details of imports of subject goods in India for the period of investigation and preceding three years. Information was received from the DGCI&S.
- x. The Authority provided copies of the non-confidential version of the application to the known producers and/or exporters and the Embassies of the subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential application was also made available for other interested parties, wherever requested.
- xi. None of the producers/exporters/importers has filed their submission/ response/ information to the Designated Authority.
- xii. Investigation was carried out for the period starting from 1<sup>st</sup> January 2009 to 31<sup>st</sup> December 2009 (POI). However, injury examination was conducted for a period from 2006-07, 2007-08, 2008-09 and POI.
- xiii. The Authority held a oral hearing on 1<sup>st</sup> December 2010 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6), which was attended by M/s. Kanoria Chemicals & Industries Ltd. (through

their consultants). The parties attended 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. Designated Authority has considered submissions received from various interested parties appropriately.

- xiv. Arguments raised and information/evidence provided by various interested parties during the course of the investigation, to that extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority.
- xv. The Authority during the course of investigation satisfied itself as to the adequacy and accuracy of the information supplied. For that purpose, the Authority conducted on-the-spot verification of the domestic industry to the extent considered relevant and necessary.
- xvi. In accordance with Rule 16 of the Rules supra, the essential facts/basis under consideration of the Authority are being disclosed to known interested parties and comments received on the same shall be considered in the final findings.
- xvii. The Authority made available non-confidential version of the evidence presented by various interested parties through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
- xviii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available.
- xix. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xx. \*\*\* in this finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

### **Product Under Consideration And Like Article:**

### **VIEWS OF THE DOMESTIC INDUSTRY**

6. Following submissions have been made by the domestic industry with regard to product under consideration and like article:

- i. The present review investigation is a sunset investigation. The product involved in the original investigation and in the present sunset review investigation is Pentaerythritol. The product under consideration in the present sunset review is the same as has been held by the Designated Authority in the original investigation.
- ii. Pentaerythritol is an organic chemical classified under chapter 29 of the customs Tariff Act. However, scope of the investigations excludes di-pentaerythritol.
- iii. Pentaerythritol produced by the domestic industry and imported from China PR and Sweden are like product.
- iv. Pentaerythritol is a basic organic chemical normally classified under chapter 29 of the customs Tariff Act. It is produced and marketed in two grades technical and nitration. However there is no material difference found between these two grades and both the grades are produced out of same process. During the production process less than 2% of entire production of Penta results into the production of nitration grade whereas more than 97% constitutes as technical grade and they are the like product within the meaning of AD Rules. This has been established and held by the Designated Authority in the original investigations.
- v. There is no difference in Pentaerythritol produced by the Indian industry and Pentaerythritol exported from the subject countries. Pentaerythritol produced by the Indian industry and imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics.
- vi. Pentaerythritol is used in the manufacture of Alkyd Resin, Rosin Esters, Plasticizers, Printing Inks, Synthetic Rubber, Stabilizers for Plastics, Modified drying oils, Detonators, Explosives, Pharmaceuticals, Core oils and Synthetic Lubricants.
- vii. There is no difference in Pentaerythritol produced by the domestic industry and imported from subject countries. Pentaerythritol produced by the domestic industry and imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology (followed by most of the producers' world over), functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Pentaerythritol produced by the petitioners and imported from subject countries is like article.
- viii. Present investigation is a review investigation. The Designated Authority has examined the issue of product under consideration and like article in the original investigation, which is relied upon.

### **Views Of The Importers, Consumers, Exporters And Other Interested Parties**

7. None of the importers, consumers, exporters and any other interested party has filed any comment or submissions with regard to product under consideration, and like articles.

### **Examination By The Authority**

8. The product under consideration is Pentaerythritol, an organic compound which finds application in manufacture of Alkyd Resin, Rosin Esters, Plasticizers, Printing Inks, Synthetic

Rubber, and Stabilizers for Plastics, Modified Drying Oils, Detonators, Explosives, Pharmaceuticals, Core Oils and Synthetic Lubricants. Pentaerythritol can be of technical grade or nitration grade and both grades are included within the scope of product under consideration and present investigation. Pentaerythritol is classified under Customs sub heading No 2905.42 under chapter 29 of the Customs Tariff Act, 1975.

9. Rule 2(d) of the Anti-dumping Rule specifies that like articles mean an article, which is identical and alike in all respects to the product under investigation or in the absence of such an article, another article having characteristics closely resembling those of the articles under examination.

10. The petitioner claimed that the goods produced by them are like articles to the goods originating in or exported from subject countries. The Authority notes that pentaerythritol produced by domestic industry has characteristics, which are similar to those of pentaerythritol imported from subject countries. In view of the above the Authority holds that pentaerythritol produced by the domestic industry and that being imported from the subject countries are like articles within the meaning of the rules. Further the scope of Product Under Consideration for the present Review shall be the same as was in the original investigation.

### **Domestic Industry**

#### **Views Of The Domestic Industry**

11. Following submissions have been made by the domestic industry with regard to standing of the domestic industry.

- a. The petition has been filed by M/s. Kanoria Chemicals & Industries Ltd. There are two other companies in India who created capacity for production of Pentaerythritol namely Asian Paints (India) Ltd. and Perstorp Chemicals India (P) Ltd.
- b. Whereas Asian Paints produces the product under consideration primarily for captive consumption; it has undertaken some sales in the Indian Market in the relevant period. Production of Asian Paints to the extent of captive consumption should not be included on the grounds that
  - i. such captive consumption does not compete with the dumped imports in the merchant market and therefore the company is unaffected by the dumping practices to such an extent;
  - ii. They have not actively participated in the previous as well as present investigations even though they are affected by the dumping to the extent petitioner is affected;
  - iii. WTO decision on this subject does not state that captive consumption cannot be excluded; it merely states that injury examination cannot be restricted to

one type if the “domestic industry” is having both captive and merchant market.

- c. Perstorp is largely an importer of the subject goods. In fact, as per petitioner’s knowledge, Perstorp has completely switched over to imports and closed production in the POI. Perstorp Aegis cannot be considered as domestic industry on the grounds that
  - i. The company is itself a major importer from one of the subject countries;
  - ii. The company is related to the foreign producer in Sweden;
  - iii. The company reduced its own production and increased imports;
  - iv. The company sold its own production and imported product interchangeably in a mixed manner;
  - v. Company did not provide relevant injury information to the Authority in spite of all claims of cooperation in the original investigation.
  - vi. The company has not responded in the current investigations, too.
- d. The petitioner has established that production of petitioner constitutes a major proportion in Indian Production (both after including and excluding captive consumption by Asian Paints) and therefore petitioner should be treated as “domestic industry” within the meaning of the Rules.

### **Views Of The Exporter, Importers, Consumers And Other Interested Parties**

12. None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to the standing of the domestic industry.

### **Examination By The Authority**

13. Authority notes that although the standing is not required to be established in a SSR, the applicant fulfils the requisite criteria to satisfy standing and constitutes domestic industry, as required under Rule 5(a) and (b) and Rule 2(b) of AD Rules.

### **Normal value, Export Price and Dumping Margin**

#### **Views Of The Domestic Industry**

- 14. Domestic industry has made following submissions with regard to dumping.
  - i. In the original investigations, the Designated Authority has constructed the normal value for exporters/producers from Sweden based on facts available as per Rule 6(8) of AD Rules. In view of this, the normal value should be constructed for the exporters/producers from Sweden based on international raw material prices, consumption norms of the industry, estimates of conversion costs, selling, general & administrative expenses and reasonable profit margin. Since, the present application is for the review of the existing measures, the Authority may consider

the same methodology to calculate the normal value for the purposes of market economy countries.

- ii. As per the export statistics for the subject countries collected by them from UN Com trade, the exports of Penta from EU as a whole have increased in the POI, as a result of fall in prices. The export price from EU is comparable to the Chinese prices during the POI. Therefore, there is a strong likelihood of further exports coming at dumped prices in future.
- iii. The capacity with the only known producer/ exporter of Penta in Sweden, Perstorp is 27,000 MT per annum.
- iv. China is a non market economy country and the Designated Authority has also treated China as a non market economy country in anti-dumping investigations. Similarly USA and European Commission have also treated China as a non-market economy country in anti-dumping investigations.
- v. None of the producers/ exporters of the subject goods have filed any response to the Authority, and therefore, normal value cannot be determined in the absence of the domestic sales price or the cost of production of the manufacturer. The domestic industry has argued that China is a non market economy country, therefore, normal value may be constructed as per para 7 of Annexure I of AD Rules.
- vi. Substantial volumes of exports from China have been reported in 2008 and the POI as is evident from the information collected from UN Com trade. If such is the quantum of imports in the presence of existing measures, likelihood of increased dumped imports entering in to the country cannot be ruled out in case the anti dumping duty is revoked.
- vii. The Chinese producers have not only huge capacities (3.2 lac MT per annum as claimed by a report posted by China Chemical Reporter on the website), but also surplus capacity of 1.5 lac MT per annum to manufacture the product under consideration after meeting the domestic demand in China. Further expansions are also expected in the future.

### **View Of Exporters/Importers And Other Interested Parties**

15. None of the exporters, importers or any other interested party has raised any issue in this regard.

### **Examination By The Authority**

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

- i. The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or
- ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of

the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either

- a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

### **Dumping margin for Sweden**

#### **Normal value**

17. The Authority notes that even the known exporter from Sweden has not filed any response. As information about actual domestic sales price, information on exports to third countries or cost of production in Sweden and other information as per the questionnaire have not been furnished by any of the producers / exporters from Sweden; the Authority has relied upon the best available information for determination of normal value. The petitioners have provided details of normal value in Sweden on the basis of price of Methanol published in ICIS-LOR and estimates of cost of production in Sweden. In the absence of any response from the exporters from Sweden in the form and manner prescribed, the Authority has determined normal value in Sweden on the basis of construction by estimating cost of production in accordance with Rule 6(8) supra. Pentaerythritol exported from Sweden is of both, technical and nitration grade, wherein major quantity exported to India is of nitration grade in the POI. The normal value so determined for Sweden is US \$ \*\*\* per MT for technical grade Penta and US\$ \*\*\* per MT for nitration grade Penta. The weighted average normal value for both the grades is given in the Dm table below. The normal value has been constructed by adopting duly adjusted domestic industry's raw material prices, best consumption factors for the raw materials and best known estimates of conversion cost during the relevant period. Selling, general & administrative costs and reasonable profit margin has been added to the cost of production so determined.

#### **Export Price**

18. The Authority has taken into account transaction wise data from IBIS with regard to imports from Sweden as in DGCI&S data no such imports are reported where as in IBIS data source a total of \*\*\* MT of imports of subject goods are reported. Similarly in respect of imports from China PR, IBIS import statistics has been adopted for the reason that the information reported by DGCI&S also includes di-penta which is not in the scope of product under consideration. Further, IBIS reports information on the basis of item description where product under consideration can be identified. In addition the volumes reflected in IBIS information are higher than DGCI&S during the POI.

19. The Authority notes that the IBIS information shows imports of \*\*\* MT of Pentaerythritol from Sweden, which includes \*\*\* MT of technical grade Penta and \*\*\* MT of

nitration grade Penta. The export price has been taken from transaction-wise information provided by IBIS. After making adjustments on account of ocean freight and overseas insurance, the ex-factory export price is calculated at US\$ \*\*\* per MT for technical grade Penta and US\$ \*\*\* per MT for nitration grade Penta. The weighted average ex-factory export price is calculated at US\$ \*\*\* per MT. The dumping margin is calculated at US\$ \*\*\* per MT for technical grade and US\$ (\*\*\*) per MT for nitration grade. The weighted average dumping margin is calculated at US\$ (\*\*\*) per MT.

### **Dumping Margin Calculations:**

	Technical Grade	Nitration Grade	Average
Normal value(US\$)	***	***	***
Export price(US\$)	***	***	***
Dumping margin(US\$)	***	(***)	(***)
Dumping Margin %	***	(***)	(Negative)
Import volumes (MT)	***	***	***

### **Dumping margin for China PR**

#### **Normal value**

20. The Authority notes that none of the exporters from China PR have filed any response. As information about domestic sales price, exports to third country, cost of production in China PR and other information as per prescribed questionnaire have not been furnished by any producer/exporter in China PR; the Authority has relied upon the best available information for determination of normal value. The petitioners have claimed normal value in respect of China PR on the basis of estimates of cost of production. The Authority has constructed normal value as per para 7 of Annexure I of AD Rules. The normal value so determined works out to US \$ \*\*\* per MT.

#### **Export Price**

21. The Authority has taken into account transaction wise data from IBIS with regards to imports from China PR in view of non cooperation from producers/exporters from China PR. The Authority notes that China PR has exported \*\*\* MT of Penta in the POI. The export price has been taken from transaction-wise details of the IBIS data. After making adjustments on account of ocean freight and overseas insurance, the ex-factory export price is calculated at US\$ \*\*\* per MT.

### **Dumping Margin Calculation:**

	Per MT
Normal value(US\$)	***
Export price(US\$)	***
Dumping margin(US\$)	***

Dumping Margin %	50-60%
Import volumes (MT)	***

### **Likelihood of Continuation / Recurrence of Dumping**

22. The petitioner has submitted that there is a strong likelihood of dumping and injury in case the existing anti dumping duty on imports from subject countries is revoked. In this context it has been stated that as regards China, there is significant increase in imports of the product under consideration from China. Freely disposable production capacities of 150,000 MT with the Chinese producers are sufficient to meet more than entire Indian demand of 23,000 MT. The Chinese imports will significant undercut the domestic industry prices. Thus, it is noted that in case domestic industry does not reduce its prices, the Chinese imports are likely to increase significantly. It is also noted that if the domestic industry reduce its prices, its profitability (which is already adverse) will deteriorate further.

23. As regards Sweden, it has been submitted that the sole producer of Pentaerythritol in Sweden has a facility for production of the product under consideration in Germany. It is noted that the company is already exporting significant volumes from Germany. In view of prima facie evidence of imports from Europe (excluding Sweden) causing injury to the domestic industry, the Authority has already initiated investigations in respect of imports from Europe (excluding Sweden).

24. The Authority has considered the submissions as above. As regards the submission of domestic industry that Swedish producer, Perstorp is having capacity of 27,000 MT per annum. However, no evidence in support has been placed before the Authority substantiating dumping evidence of subject goods from Sweden. As already detailed above, the total imports from Sweden during POI, as reported in IBIS data source is barely, 81 MT, which cannot be treated as a representative volume of imports for determination and reliance on the individual DM. In absence of any information/ cooperation by the Swedish exporters, the data provided in the World Trade Atlas was also analyzed to examine the likelihood of dumping. On the basis of world trade atlas data it is seen that there is no exports volume from Sweden to other countries during POI and previous year. Thus, it is noted that there is no substantiated evidence on record which signifies that in the event of revocation of dut on Sweden, the import of subject goods would start coming at dumped prices. The Authority, therefore, holds that there is no likelihood of continuation/ recurrence of dumping from Sweden. As regards China PR, the Authority notes that existing volumes of exports to India is substantial. Further, considering freely disposable capacities available in China PR and Indian demand, the surge in dumped imports from China cannot be ruled out. This fact is apart from the establishment of continued dumping from China PR as determined above. The Authority further holds that cessation of duty on imports from China PR is likely to lead to recurrence of dumping.

### **Methodology For Injury Determination And Examination Of Injury And Causal Link**

#### **Views Of The Domestic Industry**

25. The domestic industry has submitted as under:-

- i. The imports are still continuing and are being reported at low and dumped prices.
- ii. The circumstances, which were prevalent at the time of original investigations, are very much in existence even till date. There has been no change in the circumstance, which could suggest that the dumping would not recur at the aggravated level at which it was at the time of original investigation.
- iii. Export price from the subject countries have remained at dumped level.
- iv. Production, sales and capacity utilization of the domestic industry has shown some improvement after the imposition of anti dumping duty on dumped imports.
- v. Profit/loss had shown improvement up to 2007-08 and then started deteriorating in 2008-09 to the extent that losses were suffered in the POI.
- vi. Profit before interest & taxes, cash profits, return on investments have all shown a similar trend.
- vii. Imports from each of the subject countries have been undercutting the prices of the domestic industry in the market to a significant degree.
- viii. Imports from the subject countries have forced the domestic industry to reduce the prices steeply during investigation period. Thus, the imports were depressing the prices in this period.
- ix. Employment levels with the domestic industry have not undergone any significant change. Wages paid have increased.
- x. Inventory level with the domestic industry declined and then increased in the POI.
- xi. Domestic industry posted negative growth in terms of price parameters, viz., cash flow, profits, return on investments etc. and market share. Overall, the domestic industry faced negative growth.
- xii. Considering the huge production capacities of the subject goods in subject countries and their export orientation and the increasing demand for the subject goods in India, in all likelihood any reduction or revocation of the anti-dumping duty may lead to spurt in the dumped imports injuring the domestic industry.
- xiii. In the event of revocation of anti dumping duties, the domestic industry would face much bigger threat of imports from subject countries.

26. The various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.

### **Views Of The Exporters, Importers And Other Interested Parties**

27. None of the exporters, importers and other interested parties has raised any issues in this regard.

### **Volume Effect of Dumped Imports**

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

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

### **Assessment of demand and market share**

29. Designated Authority has determined demand as the sum of domestic sales of the domestic industry, sales of other Indian producers and imports of the subject goods in India from all sources after considering both including and excluding captive consumption by Asian Paints. The demand so assessed is shown in the following table. It would be seen that demand of the product in the country has increased in the POI after a decline in 2008-09.

Demand – MT(excluding captive consumption)	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Sales of Domestic industry	***	***	***	***
Sales of other Indian producers	***	***	***	***
Imports from Subject Countries - SSR				
China PR	1296	1553	2461	1235
Sweden	--	36	35	81
Total	1296	1588	2496	1316
Imports from Subject Countries-MTR	260	1,252	247	2,786
Imports from Subject Countries-Fresh	256	2,900	3,575	6,980
Imports from Other Countries	1,428	1,136	378	583
<b>Total Demand</b>	<b>16,469</b>	<b>21,335</b>	<b>17,189</b>	<b>20,175</b>
<i>Trend</i>	<i>100</i>	<i>130</i>	<i>104</i>	<i>122</i>
Demand – MT(including captive consumption)	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Sales of Domestic industry	***	***	***	***
Sales of other Indian producers (including captive consumption)	***	***	***	***
Imports from Subject Countries - SSR				
China PR	1296	1553	2461	1235
Sweden	--	36	35	81
Total	1296	1588	2496	1316
Imports from Subject Countries-MTR	260	1,252	247	2,786
Imports from Subject Countries-Fresh	256	2,900	3,575	6,980
Imports from Other Countries	1,428	1,136	378	583
<b>Total Demand</b>	<b>19,220</b>	<b>24,212</b>	<b>19,564</b>	<b>23,175</b>
<i>Trend</i>	<i>100</i>	<i>126</i>	<i>102</i>	<i>121</i>

Market Share in demand excluding captive (%)	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Domestic industry	***	***	***	***
Trends (Indexed)	100	82	90	91
Other Indian Producers	***	***	***	***
Trends (Indexed)	100	86	65	23
Imports from Subject Countries-SSR				

China PR	7.87	7.28	14.32	6.13
Sweden	Nil	0.16	0.20	0.40
Total	7.87	7.44	14.52	6.53
Imports from Subject Countries-MTR	1.58	5.87	1.44	13.81
Imports from Subject Countries-Fresh	1.55	13.59	20.80	34.60
Imports from Other Countries	8.67	5.32	2.20	2.89
Market Share in demand including captive (%)	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Domestic industry	***	***	***	***
Trends (Indexed)	100	84	92	92
Other Indian Producers	***	***	***	***
Trends (Indexed)	100	86	65	23
Imports from Subject Countries-SSR	6.74	6.56	12.76	5.68
Imports from Subject Countries-MTR	1.35	5.17	1.26	12.02
Imports from Subject Countries-Fresh	1.33	11.98	18.27	30.12
Imports from Other Countries	7.43	4.69	1.93	2.52

30. The Authority notes that the imports from subject countries, which includes both Nitration and Technical grade from Sweden and only Technical grade from China PR, have marginally declined over the injury investigation period. Sales of the domestic industry have however increased over the injury period, although they show some decline in 2008-09, which is claimed to be on account of recessionary effect. Market share of the domestic industry has marginally come down during POI compared to the base injury period i.e 2006-07. The imports on the contrary have gone up considerably during 2008-09 and thereafter declined during POI. This decline is considerable when compared to the immediate preceding period and marginal when compared to the base injury period. Considering that the present investigations are sunset review investigations, the Authority holds that imports from China PR continue to hold significant share in Indian demand and share of Sweden in total demand is insignificant over the injury period.

### **Price Effect**

31. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows“

*"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."*

32. In a review investigation, it is required to examine whether there has been a significant price effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of recurrence of price effect after revocation of duty.

	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)	Sweden - TG	Sweden - NG
Landed Value-China	Rs./MT	***	***	***	***		
<i>Indexed</i>		100	123	135	90		
Landed Value-Sweden	Rs./MT	-	***	***	***	***	***
<i>Indexed</i>		-	100	99	94		
Landed Value-Subject countries	Rs./MT	***	***	***	***		
<i>Indexed</i>		100	124	135	94		
Net Sales Realization	Rs./MT	***	***	***	***	***	***
<i>Indexed</i>		100	115	119	97		
Price Undercutting-China	Rs./MT	***	***	***	***		
<i>Indexed</i>		100	78	52	130		
Price Undercutting-Sweden	Rs./MT	-	(***)	(***)	(***)	***	(***)
<i>Indexed</i>		-	(100)	(72)	(142)		
Price Undercutting-Subject countries	Rs./MT	***	***	***	***		
<i>Indexed</i>		100	74	50	112		
Price Undercutting-China	%	***%	***%	***%	***%		
Price Undercutting-Sweden	%	-	- ***%	- ***%	- ***%	***%	- ***%
Price Undercutting-Subject countries	%	***	***%	***%	***%		
<b>Non injurious price</b>					***		
Price underselling-China					***		

Price underselling-Sweden					(***)		
Price underselling-Subject countries					***		

33. The Authority notes that the goods continue to have significant price undercutting and underselling effects so far as China PR is concerned although the effect on this score is negative in so far as imports from Sweden are concerned.

34. Considering the fact that the Authority is also required to look into the likelihood of recurrence of Dumping and consequential injury to the Domestic Industry and also considering the fact that none of the exporters have provided data, Authority concludes that it is necessary to re-evaluate the injury margins for the purposes of comparison with dumping margin for determination of duty component, as per table below.

### Sweden

	Unit	Technical Grade	Nitration Grade	Wt. Avg.
NIP	Rs./MT	***	***	***
Landed cost	Rs./MT	***	***	***
Injury Margin	Rs./MT	***	(***)	(***)
Injury Margin in US \$	US \$	***	(***)	(***)
Injury margin		***	(***)	(***)

### China PR

	Unit	
NIP (Technical Grade)	Rs./MT	***
Landed cost	Rs./MT	***
Injury Margin	Indian Rupees	***
Injury Margin in US \$	US \$	***
Injury margin		50-60

35. Further, there being no response from, either China PR or Sweden, the Authority has relied upon the trade data available in World Trade Atlas as also other available information from UN Comtrade and China Chemical Reporter to assess the impact on likelihood of continuation of recurrence of dumping and consequential injury to the Domestic Industry in the event of either discontinuation or even reduction of the duty component from the present levels.

### Price suppression and depression

Particulars	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Cost of sales	Rs/MT	***	***	***	***

Change from base year	Indexed	100	94	108	101
Net sales realization	Rs/MT	***	***	***	***
Change from base year	Indexed	100	115	119	97

36. The cost and price structure of the domestic industry and the landed value of imports from the subject countries show that the cost of sales of domestic industry has increased by about 1% over the base year whereas the domestic selling prices have declined by 3%. The price at which material is being sold by the Indian Producers does not provide reasonable return on investment and is below non-injurious price of the domestic industry. The Authority notes that whereas the domestic industry prices declined significantly in POI (Rs. \*\*\* PMT), the cost of production over the entire injury period increased slightly (Rs. \*\*\* PMT). The Authority therefore concludes that imports were thus suppressing the prices in the market.

### **Other Economic Parameters Relating To The Domestic Industry**

37. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down as follows“

*"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."*

### **Actual and potential Production, Capacity and Capacity Utilization, Sales**

38. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:-

Particulars	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Installed capacity	Mt	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
Production	Mt	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>99</i>	<i>102</i>
Capacity utilization	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>99</i>	<i>102</i>
Domestic sales	Mt	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>94</i>	<i>111</i>
Export Sales	Mt	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>43</i>	<i>24</i>	<i>12</i>
Demand including captive consumption	Mt	***	***	***	***

<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>126</i>	<i>102</i>	<i>121</i>
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39. The Authority notes that the production and capacity utilization of the domestic industry shows improvement. However, increase in demand is significantly higher than increase in production and sales of the domestic industry.

### **Profits, return on investment and cash flow**

40. Profits, return on investment and cash flow of the domestic industry has been examined as under:

Particulars	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Profit before interest and tax	Rs/Lacs	***	***	***	(***)
Trend	Indexed	100	1,031	553	(144)
Return on capital employed (NFA basis)	%	***	***	***	(***)
Trend	Indexed	100	951	484	(79)
Cash profit	Rs/Lacs	***	***	***	(***)
Trend	Indexed	100	1,051	574	(44)

41. The above data shows that the profitability improved in 2007-08 and 2008-09, however, the position deteriorated significantly in the investigation period. Similar trend is observed with respect to cash profit and return on investment. The Authority concludes that the profitability of the domestic industry, even though improved substantially, has once again declined in POI, and has not been able to recover back to its earlier established position. This is attributed to continued dumping from some of the existing sources and also fresh dumping from new sources as claimed by the domestic industry.

### **Employment and wages**

42. The Authority notes that the constituent of the domestic industry is a multi product multi location company; therefore, there may not be direct effect of dumping on employment levels of the domestic industry. Status of employment levels and wages of the domestic industry has been as under:

Particulars	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Employment (Manpower strength)	Nos	***	***	***	***
Trend	Indexed	100	108	112	114
Wages	Rs/Lacs	***	***	***	***
Trend	Indexed	100	116	128	140

43. The Authority concludes from the above that employment level of the domestic industry has almost remained stagnant whereas wages show a positive trend.

### **Actual and potential decline in Productivity**

44. The productivity of the domestic industry is given in the following table:

Particulars	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Productivity per employee	Mt	***	***	***	***
Trend	Indexed	100	92	89	90
Productivity per day	Mt	***	***	***	***
Trend	Indexed	100	100	99	102

45. The Authority notes from above table that productivity of the domestic industry declined between 2007-08 and 2008-09, but improved again in POI. However, the productivity levels per employee in POI, even though better than 2008-09, were lower than productivity levels in 2006-07.

### **Inventories**

46. Designated Authority has examined the inventory level of the domestic industry, which is given in the following table:-

Particulars	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Average stock	MT	***	***	***	***
Trend	Indexed	100	24	39	83
Average stock in terms of No. of days sales	Nos	***	***	***	***
Trend	Indexed	100	25	39	81

47. Based on the above, Authority notes that the inventory levels of the domestic industry declined in 2007-08 and then increased in 2008-09 and the POI. It has been submitted by the domestic industry that they cannot afford to hold high stock of inventories and have to dispose of the same at whatever prices it can sell the product in the market.

### **Factors affecting domestic prices**

48. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In order to assess the effect of imports on the domestic market, Designated Authority analyzed import prices over the injury period and found that the landed value of imports per MT, in period of investigation, is lower than the net selling price and non-injurious price from China PR. 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. The Authority concludes that there is no viable substitute to this product and the prices were affected due to dumped prices.

49. 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. The comparison is done between net sales realization and landed price of imports. The Authority concludes that landed value of imports from the China PR was lower than the net sales realization of the domestic industry for the subject goods during the POI thereby, undercutting the selling price of the domestic industry. The undercutting margin was 15-25%.

50. 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. The Authority found 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 China PR. The underselling margin was 50-60%.

### **Growth**

51. On examination of various economic parameters of the domestic industry, Authority notes that though the volume parameters such as production and sales show improvement; various price parameters of the domestic industry show negative trend, which is in spite of anti dumping duty in force against subject countries, and concludes that resultantly, growth of the domestic industry remained negative.

### **Ability to raise capital**

52. The domestic industry is a multi product company. Their ability to raise further investment is not a significant factor in this case. However, should the dumping from the present sources persist, ability of the domestic industry to raise capital would suffer severely.

### **Other Known Factors**

53. During the POI, imports have taken place from subject countries of present investigation, and other countries against which investigation is in progress. Imports from countries other than these countries are at higher prices.

### **Contraction in demand and / or change in pattern of consumption**

Particulars	Unit	2006-07	2007-08	2008-09	POI (Jan-Dec-09)
Total demand excluding captive	MT	***	***	***	***
Trend	<i>Indexed</i>	<i>100</i>	<i>130</i>	<i>104</i>	<i>122</i>
Total demand including captive	MT	***	***	***	***
Trend	<i>Indexed</i>	<i>100</i>	<i>126</i>	<i>102</i>	<i>121</i>

54. The data shows demand of the product under consideration had declined in 2008-09 and then increased in the POI. Decline in demand cannot be considered as the factor that would have impacted the domestic industry.

#### **Trade restrictive practices of and competition between the foreign and domestic producers**

55. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. The domestic industry competes among one another and at the same time competes with the landed price of the subject goods. The price of the domestic industry is determined by the landed price of subject goods. Moreover, imports from other sources have sizable presence in the Indian market.

#### **Development of technology and export performance**

56. Technology or technology related issues have not been raised by any interested party as cause of injury to the domestic industry.

#### **Exports by the domestic industry**

57. The exports of the domestic industry are only 141 MT during the POI and it constitutes nearly 2% of their production. Therefore, exports could not have affected its overall performance.

#### **Likelihood of Continuation / recurrence of injury.**

58. The Authority has taken note of the information on record. It is noted that the margins of both dumping and injury are negative so far as imports from Sweden are concerned besides low volume of imports from Sweden considering total demand in Indian market. No evidence have been placed on record by any interested party that in the event of discontinuation of anti-dumping duties on imports of subject goods from Sweden, the injury to the domestic industry is likely to recur. It can therefore be concluded that in the event the duty is revoked, there is no likelihood of continuation or recurrence of injury from Sweden.

59. As regards China PR, the Authority holds that dumping of subject goods has continued in spite of AD duty in place. The said dumping has continued to cause injury to the Domestic Industry. The Authority concludes that there is likelihood of continuation of injury in case of revocation of anti dumping duties on imports from China PR.

#### **Comments to the Disclosure Statement**

60. None of the interested parties including the domestic industry, who otherwise actively participated in the investigations, has submitted any comments to the disclosure statement.

#### **FINAL FINDINGS:**

61. Having regard to the contentions raised, information provided and submissions made by the interested parties at various stages of investigation and facts available before the Authority

and on the basis of the above analysis of the state of current and likely dumping and injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:

- i) The subject goods are entering the Indian market at dumped prices and dumping margins of the subject goods imported from China PR are substantial and above de-minimis.
- ii) The subject goods are likely to enter the Indian market at dumped prices and the likely dumping margins in respect of imports from China PR is substantial going to be substantial and above de-minimis.
- iii) The subject goods are likely to enter Indian market at dumped prices, should the present measures be withdrawn from China PR.
- iv) The situation of domestic industry continues to be fragile and dumped imports from China PR continue to cause a substantial injury to the domestic industry. Further, should the present anti dumping duties be revoked from China PR, injury to the domestic industry is likely to continue and intensify.
- v) It is noted that the margins of both dumping and injury are negative so far as imports from Sweden are concerned besides low volume of imports from Sweden considering total demand in Indian market.
- vi) It can therefore be concluded that in the event the duty is revoked, there is no likelihood of continuation or recurrence of injury from Sweden.

62. Having concluded that the situation of the domestic industry continues to be fragile and there is likelihood of continuation or resumption of dumping and injury on account of imports from China PR, if the duties are revoked, the Authority is of the opinion that the measure is required to be extended in respect of imports from China PR.

63. Authority, having examined all the submissions made by interested parties, and available information on record, concludes that the quantum of anti dumping duty in force need to be revised so far as China PR is concerned and needs to be discontinued from Sweden. Therefore, the Authority considers it necessary and recommends continuation of anti dumping duty at the revised rate of US \$ 515 per MT on all imports of subject goods originating or exported from China PR and discontinuation of existing anti dumping duty on all imports of subject goods, originating in or exported from Sweden, as notified by Central Government vide Customs notification no 37 / 2006-Customs dated 20<sup>th</sup> April 2006. The individual duty in respect of Shanxi and Hubei in the above said Customs notification shall cease to be valid and both these producers will be liable to AD Duty of US \$ 515 per MT at par with any other producer / exporter from China PR.

64. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

**Vijaylaxmi Joshi**  
**Designated Authority**