

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES
UDYOG BHAWAN, NEW DELHI

NOTIFICATION

Dated the 29th May, 2008

FINAL FINDINGS

Subject: Antidumping investigations involving imports of Diclofenac Sodium originating in or exported from China.

NO. 14/4/2007-DGAD:- Having regard to the Customs Tariff Act, 1975 as amended in 1995 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;

A. PROCEDURE:

1. The procedure described below has been followed:

i. On 4th June 2007, the Designated Authority (hereinafter also referred to as the Authority issued an initiation notification, duly notifying the same in the Gazette of India, initiating an anti dumping investigation with regard to imports of Diclofenac Sodium (hereinafter referred to as DFS) originating in or exported from China PR, (hereinafter referred as subject country). The Anti dumping proceeding was initiated following an application received from M/s. Kairav Chemicals Limited, M/s. Amoli Organics Pvt. Limited and M/s Aarti Drugs Limited (hereinafter referred as applicants) on behalf of the domestic industry representing a major proportion of the domestic production of said product. The application contained evidence of dumping of the said product from the subject countries and material injury resulting there from, which was considered sufficient to justify the initiation of the proceedings.

ii. The Authority notified the Embassy of China in India about the receipt of fully documented application made by the applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.

iii. According to sub rule (2) of the rule 6 supra, the Authority forwarded copy of the said initiation notification to the known exporters, importers, industry associations, embassy of the subject country and to the applicants and gave them an opportunity to make their views known in writing.

iv. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of non-confidential version of the application to all the known exporters in subject countries and Embassy of China in India. According to Rule 6 supra, the Authority provided a copy of the relevant questionnaire to all the known exporters and Embassy of China in India. The Embassy of China in New Delhi were also informed about the initiation of investigation and were requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters and producers were also sent to the respective embassies along with the names and addresses of the known exporters.

v. The Authority sent questionnaires, to elicit relevant information, to the following known exporters from China.

1Shandong Yibao Biologics Co., Ltd
Xinglong Industrial Garden,
Xinglongzhuang Town
Yanzhou City, Shandong Province.
China

2Comfortcomms Group Co. Limited
26d, DushiHuayuan, Xinzhou Road,
Futian Dist., Shenzhen, Guangdong,
China

3Gbb Group Co., Ltd.
Development Zone, Binzhou
Shandong, China

4Hebei Jiheng(Group) Pharmaceutical Co., Ltd.
368 Jianshe Street Hengshui City Hebei
China,

5Hebei Veyong Animal Pharmaceutical Co., Ltd.
383 East Heping Road. Shijiazhuang City,
Hebei Province. China

6Medico (Shijiazhuang) Industries & Trade Co., Ltd.
Room 7G, Block A, City Garden, 159 Xinhua Road,
Shijiazhuang City, Hebei Province.
China

7Shandong Reyoung Pharmaceutical Co., Ltd.

6 Erlangshan Road, Yiyuan County,
Shandong Province. China

8 Shandong Yibao Biologics Co., Ltd.
Xinglong Industrial Garden,
Xinglongzhuang Town, Yanzhou City,
Shandong Province. China

9 Shanxi Haizheng Scientific Tech. and Trade Co., Ltd
6/F, Building 1, 17 Liu Lane, Yingze
District, Taiyuan City, Shanxi Province.
China

10 Skyrun International Group Sunshine Corporation
50 Zhonghua Road, Nanjing, Jiangsu,
China

11 The TNN Development Limited
Room 2901, Rainbow Building, 23 Renmin Road,
Zhongshan District, Dalian City, Liaoning Province.
China

12 Wuhan Lihua International Trade Corporation
1205B Jiuyun Garden, 34 Jiangnan North Road,
Wuhan City, Hubei Province.
China

13 Shenzhen Zhijun Pharmaceutical Co., Ltd
Add: Block 5, Bagualing Industrial District
Shenzhen,
P.R.China

- vi. Only one of the exporters, M/s. Tangyin Yongqi, responded to the questionnaire in response to the above notification,
- vii. A copy of initiation notification along with the importer's questionnaire was also sent to the following known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4).

1 NATCO PHARMA LIMITED
NATCO HOUSE
Road No : 2, Banjara Hills
Hyderabad-500 033
Phone: +91-40-2354 7532
Fax: +91-40-2354 8243, +91-40- 2354 5298

E-mail: natinfo@natcopharma.co.in

2UNIBIOS LABS LTD

5, C-6, Poonam Darshan Poonam Nagar,
Andheri (E)
Mumbai-400093,
Maharashtra, India

3MARKSANS PHARMA LTD

Corporate Office
601-622, 6th Floor,
Chintamani Plaza, Mohan Studio Compound,
Andheri - Kurla Road, Andheri (East).
Mumbai - 400 099.
Tel: + 91 (22) 4001-20-00 (30 lines).
Fax: + 91 (22) 6702-10-04.
Email: info@marksanspharma.com
Web: www.marksanspharma.com

viii. In response to the above notification, none of the importers or users has filed response to the questionnaire in the form and manner prescribed.

ix. The Authority notified Preliminary findings vide Notification no. 14/4/2007-DGAD dated the 28th January, 2008 followed by a corrigendum to the same dated March 12, 2008 and requested the interested parties to make their views known in writing within forty days from the date of its publication.

x. The Central Govt. imposed the provisional duties vide Notification No.46/2008 dated 10.04.2008.

xi. The Authority held a public hearing on 27th March 2008 to hear the interested parties orally, which was attended by the representatives of the domestic industry only. The parties attending the public hearing were requested to file written submissions of views expressed orally. Authority in this Finding has considered the written submissions thus received from interested parties. The parties were allowed liberty to file rejoinder submissions on views expressed by other interested parties.

xii. Arguments or submissions were made by only one exporter, M/s. Tangyin Yongqi (other than the domestic industry) before notification of preliminary findings. However, arguments that arose and have been put forth by the domestic industry after the preliminary findings have been dealt while finalising the Findings.

xiii. The Authority kept available non-confidential version of the evidences/submissions presented by interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties.

xiv. **** In this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

xv. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and no comments were received on the same.

xvi. The investigation of dumping covered the period from 1st January 2006 to 31st December 2006 (Also called the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 1st April 2003 to the end of period of investigation. (Also called Injury period)

xvii. The Authority conducted on the spot investigation of the domestic industry. The cost of the production of the domestic industry was also analysed to work out the cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the domestic industry so as to ascertain if anti Dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.

xviii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation.

xix. 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.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLES.

B.1 VIEWS OF THE DOMESTIC INDUSTRY

2. Following issues were raised by the domestic industry with regard to product under consideration and like article:

- i. Diclofenac Sodium is an organic chemical classified under chapter 29 of the customs Tariff Act under the sub-heading 29420090 as others.
- ii. DFS produced by the domestic industry and imported from China PR are like product.
- iii. DFS is white or slightly yellowish crystalline powder, slightly hygroscopic in nature and sparingly soluble in water.

- iv. There is no difference in Diclofenac sodium produced by the Indian industry and DFS exported from China. Diclofenac sodium produced by the Indian industry and imported from China are comparable in terms of characteristics such as physical & chemical characteristics.
- v. DFS is a non-steroidal anti-inflammatory drug (NSAID) taken to reduce inflammation and an analgesic reducing pain in conditions such as in arthritis or acute injury.
- vi. There is no difference in DFS produced by the domestic industry and imported from subject countries. DFS 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. DFS produced by the petitioners and imported from China is like article.

B.2 VIEWS OF THE IMPORTERS, CONSUMERS, EXPORTERS AND OTHER INTERESTED PARTIES

3. None of the importers, consumers, exporters and other interested parties filed any comments or submissions with regard to product under consideration, and like articles.

B.3 EXAMINATION BY THE AUTHORITY

4. The product under consideration is Diclofenac Sodium, originating in or exported from China PR. DFS is a basic organic chemical, normally classified under Chapter 29 of the Customs Tariff Act. DFS is a non-steroidal anti-inflammatory drug (NSAID) taken to reduce inflammation and an analgesic reducing pain in conditions such as in arthritis or acute injury. This product is classified under Customs Tariff heading no. 2942.0090 as per Indian Trade Classification. The Customs and ITC HS classifications are, however, indicative only and in no way binding on the scope of the present investigation.

5. Rule 2(d) of the Anti-dumping Rules 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.

6. The petitioners claimed that the goods produced by them are like articles to the goods originating in or exported from China. No other interested party has raised any objection to the claim of the Domestic Industry on this issue. In view of the above the Authority therefore holds that DFS produced by the domestic industry and that being imported from China as like articles within the meaning of the rules.

C. DOMESTIC INDUSTRY

C.1 VIEWS OF THE DOMESTIC INDUSTRY

7. Following submissions were made by the domestic industry with regard to standing of the domestic industry.

i. The petition was jointly filed by M/s. Kairav Chemicals Limited, M/s. Amoli Organics Pvt. Limited and M/s Aarti Drugs Limited. There is one more producer of DFS in India, M/s. Meditech Chemicals Ltd. M/s. Meditech Chemicals have supported the petition. The petitioners, therefore, constitute domestic industry under Rule 2(b) of the Rules, 1995.

ii. Production of petitioners constitutes a major proportion in Indian Production and therefore petitioners have been treated as “domestic industry” within the meaning of the Rules.

C.2 VIEWS OF THE EXPORTER, IMPORTERS, CONSUMERS AND OTHER INTERESTED PARTIES

8. The Authority notes that only one of the producers of the subject goods in China, M/s. Tangyin Yongqi, has responded to the Designated Authority.

C.3. EXAMINATION BY THE AUTHORITY

9. The Authority has examined the submissions made by the exporter.

10. The Authority notes that while perusing the response of the exporter, it came to the notice that M/s. Henan Dongtai Pharma Co. Ltd, a related Company of M/s. Tangyin Yongqi, but a separate legal entity, had not furnished a separate response. The Authority also notes that M/s. Henan responded to the MET questionnaire at the behest of the Authority. To that extent the Authority holds that the response of M/s. Henan Dongtai Pharma Co. Ltd was not voluntary.

D. OTHER ISSUES

11. Information available on various individual data sources related to imports of the subject goods from China does not reflect actual volume of imports. However Authority has considered data available in Data Sources IBIS and DGCI&S for the purposes of injury analysis.

D.1 VIEWS OF THE DOMESTIC INDUSTRY

12. The Authority notes that the petitioners have submitted that the preliminary findings show the actual volume of imports known to have been reported as per IBIS. However, in their submissions made post public hearing, the petitioners stated to have analyzed each and every transaction of import statistics provided by DGCI&S and IBIS.

Authority further notes that on comparison of the data received from the two sources, it was found that there are certain entries in DGCI&S transaction-wise import data, which are not reflected in transaction-wise IBIS data. The petitioners requested inclusion of these additional import volumes in the import information on record for the purpose of final findings as per following details. Authority, accepting the submissions of the Domestic Industry on this score has considered data available in Data Sources IBIS and DGCI&S for the purposes of injury analysis.

Year	Import Volumes in MT as per		
	DGCIS	IBIS	Consolidated
2003-04	5.00	29.35	29.35
2004-05	11.00	51.00	51.00
2005-06	28.50	51.83	58.88
POI	89.75	110.79	134.84

E. Normal Value and Export Price

E.1 China-PR

E.1.1 Normal Value for China-PR

13. The authority notes that only one exporter M/s. Tangyin Yongqi responded to the initiation notification and submitted information. However, the information provided by the exporter was found to be incomplete and unsatisfactory by the Authority for the purpose of claim for grant Market Economy status to the said Chinese producer. Authority found that the response received from the responding producers had a number of missing links with regard to original date of establishment of the company, whether it was transformed from an already existing enterprise, investments, source of finance and other related details, which could not find an appropriate reply to the questions raised by the Authority. The Authority further notes that these missing links were proposed to be examined during the course of verification of the responding exporter, which, of course could not be carried out on account of the withdrawal of consent by the subject exporter. The Authority notes that the so called co-operating exporter at one point of time submitted a consent letter showing their willingness to have the spot verification done by the Authority. However they withdrew the consent at the eleventh hour and a communication was sent to the Authority by their legal representatives in India, M/S Dua Associates, about the inability of the said responding exporter to have the verification got done by the Authority and to that extent the Non-Market economy treatment given by the Authority for determination of preliminary duty has remained un-rebutted. Further the Authority holds to treat the subject exporter as a non-cooperating exporter for the purposes of determination of MET and concludes that the subject exporter is operating under non-market economy conditions at par with all other non-cooperating exporters. Authority has relied upon the facts available as per Rule 6(8) of the Anti-dumping Rules, to determine the normal value. The Authority has constructed

the normal value on the basis of facts available. Normal value has been determined by considering the actual consumption of raw materials of the exporter, who had co-operated earlier and submitted a response to the initiation and on the basis of cost of production of the most efficient petitioner company. By adopting this methodology, the constructed normal value for DFS, as worked out by the Authority, has been calculated as US\$ *** per K.G.

E.1.2. Export price

14. The Authority notes that for preliminary determination Export price in case of responding Chinese company had been adopted on the basis of the claims made by the responding exporter / producer M/s. Tangyin Yongqi. Price adjustments claimed were allowed on account of Inland freight, Commission, bank charges and packing expenses on the CIF transaction and bank charges in respect of FOB transaction for the purpose of preliminary determination by the Authority. However on account of the inability of the Authority to verify the records of the responding exporter, because of the withdrawal of the consent for verification, the Authority treats the subject responding exporter as a non-cooperating exporter and determines only one export price for all the Chinese exporters. The Authority has determined net export price on the basis of lowest of the transactions in terms of CIF, in respect of exports to India by M/s. Tangyin Yongqi as per the information furnished by them in their exporter response and after making necessary adjustments on account of Inland freight, Commission, bank charges and packing expenses on the FOB transaction and 4% VAT refund allowed by the Chinese Government. By adopting the above method, the ex-factory export price has been calculated as **US\$ *** per KG.**

F. Dumping Margin

15. On the basis of normal values and export prices as determined above, the dumping margins for all exporters from China PR, determined by the Authority are detailed as per table below.

IN US\$ (PMT)						
Exporter/Producer From China PR	Normal Value (US\$)	Export Price (US\$)	Dumping Margin (US\$)	Conversion Rate	Dumping Margin (INR)	Dumping Margin (%)
All exporters from China	***	***	***	1 US \$ =Rs. 45.67	***	70-75%

16. The dumping margins so determined are significant and above de-minimus-level.

G. INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

G.1. Views of the domestic industry

17. The followings are the views of domestic industry:-

- a) The product was earlier attracting anti dumping duties and therefore the improvement in performance of the domestic industry from 2003-04 to 2005-06 is on account of this imposition of anti dumping duty. The performance has, however, materially deteriorated in the POI.
- b) Export price from the subject countries has remained at dumped level during POI. Further, these prices have not increased proportionate to increase in input prices from base period to POI.
- c) Production, sales volumes and capacity utilization of the domestic industry have shown improvement in response to increase in demand. However, the growth in the POI was lower as a result of increase in imports.
- d) Profit/Loss (PBT, PBIT and PBDIT) of the domestic industry have all shown improvement up to 2005-06 as a result of anti dumping duty being in force. However, the profit declined in the POI with significant increase in dumped volume of imports.
- e) Market share of the domestic industry declined. This is due to the fact that dumped imports have captured significant market share of demand in India.
- f) Imports from the subject country have been undercutting the prices of the domestic industry to a significant degree.
- g) Imports from the subject country have forced the domestic industry to reduce the price steeply during 2005-06 and proposed investigation period. Thus, the imports were suppressing the prices in this period.
- h) Employment levels with the domestic industry have declined in the POI.
- i) Salary & wages: - There is normal increase in salary and wages with the domestic industry.
- j) Demand and market share: - Whereas the market shares of the imports have increased, that of the domestic industry has declined.
- k) Growth:- Growth of the domestic industry in a number of parameters shows negative trend. k
- l) Domestic industry has suffered material injury and is trapped in a vicious cycle of volume effect and price effect. With increase in volume of imports of the subject goods from China into the Indian market as a result of excess capacity with the Foreign Producers, the domestic industry suffered loss of sale and market share. This resulted in adverse volume effect. Loss of sale forced the domestic industry to reduce their domestic selling price in order to sell the subject goods in the domestic market thus resulting in adverse price effect. The exporters further reduced the selling price and as a result, the domestic industry reduced the selling

price further and the process continued. Resultantly, domestic Industry faced adverse volume effect and adverse price effect as a result of unfair trade practices of the exporting countries.

- m) Imports from subject countries are adding to the material injury, already being suffered by the domestic industry.
- n) There is significant increase in the import volumes in absolute terms. This increase in imports is in spite of best efforts of the domestic industry to sell their material even at sub-optimal prices. The increase in imports would have been more, had the domestic industry not made efforts to curtail the same by offering lower prices.
- o) Price undercutting is significant. So significant is the price depressing effect on the domestic industry that should the domestic industry sell the product at prices matching the landed price of imports, it would not be able to recover its production cost (leave aside selling, general & administrative expenses).
- p) Petitioners conducted extensive analysis of capacities with the producers from the subject country and the demand in that country, clearly showing surplus unutilized capacities with the Foreign Producers, which are likely to be offloaded to Indian market at dumped prices.

G.2. Examination by the Authority

G.2.1 Volume Effect of dumped imports and Impact on domestic Industry

18. The Authority collected transaction wise details of imports of subject goods from DGCI&S. The Authority also examined the import data submitted by the petitioners from secondary sources. As per the data, imports from the subject country, after considering imports from both the sources, have increased significantly in absolute terms and in relation to imports in India. Imports from China constitute 100% of the total imports in the country in the POI and 15.33% of the total Indian demand.

G.2.1.1 Import Volumes and share of subject country

Source: IBIS & DGCI&S	Unit	2003-04	2004-05	2005-06	POI(Jan-Dec'06)
China PR	MT	29.35	51.00	58.88	134.84
Other Countries	MT	0	0	0.31	0

Total Imports	MT	29.35	51.00	59.19	134.84
Trend	Indexed	100	174	202	459

G.2.1.2. Market share in imports

Source: IBIS & DGCI&S	Unit	2003-04	2004-05	2005-06	POI(Jan-Dec'06)
Market Share in Imports					
China PR	%	100	100	99.47	100
Trend	Indexed	100	100	99	100
Other Countries	%	0	0	0.53	0
Total	%	100	100	100	100
Production of DI	MT	***	***	***	***
Imports from Subject country	MT	29.35	51.00	58.88	134.84
Imports from Subject country as a percentage of production of DI	%	6.07	7.91	6.95	15.22

G.3 Demand, Output and Market shares

G.3.1 Growth In Demand

Source: IBIS & DGCI&S	Unit	2003-04	2004-05	2005-06	POI
Domestic Industry	Mt	***	***	***	***
Other Producers	Mt	***	***	***	***
Total Import	Mt	29.35	51.00	59.19	134.84
Total Demand	Mt	***	***	***	***
Trend	Indexed	100	112	141	157

19. Demand of subject goods has been determined by the Authority by addition of domestic sales of domestic industry and all imports from all countries. The Authority concludes that demand for the subject goods has grown significantly from base year to POI. It grew by 57% during POI as compared to base year i.e. 2003-04.

20. Authority further concludes that Imports from subject countries show a growing trend in relation to production of the domestic industry. The imports from subject countries was only 6% in relation to the production of the domestic industry in the base year 2003-04, which has gone up in percentage terms to 15% in POI.

G.4 Capacity, production and capacity utilization of the Domestic Industry

	Unit	2003-04	2004-05	2005-06	POI
Plant Capacity	Mt	***	***	***	***
Trend	Indexed	100	126	133	138
Plant Production	Mt	***	***	***	***
Trend	Indexed	100	112	151	158
Plant Capacity Utilization (%)	%	72.54	64.22	82.88	83.02
Trend	Indexed	100	89	114	114
Production	Mt	***	***	***	***
Trend	Indexed	100	133	175	183

21. The Authority notes that data of domestic industry on capacity, production and capacity utilization reveals that the capacity of the domestic industry for the group as a whole was 1032 MT during 2003-04, which increased to 1428 MT during POI, in anticipation of increase in demand. The production of subject goods was 483 MT during 2003-04 and has increased constantly, in view of rising demand. The trend indicates the production rose by 83% during POI as compared to the base year.

G.4.1. Sales volume of Domestic Industry

	Unit	2003-04	2004-05	2005-06	POI
Domestic Industry	Mt	***	***	***	***
Trend	Indexed	100	127	143	145

22. The data on sales indicates that the domestic industry sold *** MT of subject goods during 2003-04 and it increased to *** MT during POI. The Authority notes that the sale of domestic industry has increased by 45% during POI as compared to base year 2003-04. It is further noted that the increase in sales of Domestic Industry is less than increase in demand of the product in the country, particularly in investigation period. Thus, the Authority concludes that, whereas, demand grew by about 16 index points between 2005-06 and POI, sales of the domestic industry grew only by 2% over this period.

G.4.2. Demand and Market Share

	Unit	2003-04	2004-05	2005-06	POI
Domestic Industry	Mt	***	***	***	***
Indexed		100	127	143	145
Other Producers	Mt	***	***	***	***

Indexed		100	72	128	132
Total Import	Mt	29.35	51.00	59.19	134.84
Indexed		100	174	202	459
Total Demand	Mt	***	***	***	***
Trend	Indexed	100	112	141	157
Market share in demand					
Domestic Industry	%	***	***	***	***
Trend	Indexed	100	113	101	92
Other Producers	%	***	***	***	***
Trend	Indexed	100	64	91	84
Subject Countries	%	5.25	8.16	7.47	15.33
Trend	Indexed	100	155	142	292
Import from Other countries	%	-	-	0.04	-

23. Authority notes that whereas the total demand in India went up by 57% during POI compared to base injury period 2003-04, the market share of imports from China PR increased by a whopping 359% during the same period whereas the share of domestic industry increased by just 45% and that of other domestic producers by 32%. Authority concludes that imports from subject countries have increased significantly in relation to consumption in India.

24. Authority notes that there has been a steady growth in demand of the subject goods. Over the base year 2003-04, the demand in POI was higher by 57%. The share of domestic industry which was at ***% in 2003-04 declined to ***% during POI. During the same period the share of imports from subject countries, which was 5.25% in 2003-04, went up to 15.33% during POI. The Authority therefore concludes that dumped imports have captured significant share in demand.

G.5 Price Effect of the Dumped imports on the Domestic Industry

25. With regard to the effect of 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 to the price of like product in India or whether 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.

26. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined by the Authority with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject country.

G.5.1. Evaluation of price over period under consideration

Unit	Unit	2003-04	2004-05	2005-06	POI
Cost of sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	93	101	102
Selling Price (NSR)	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	121	119

G.6. Price undercutting and underselling effects (POI)

POI	Unit	Jan 06 to Dec 0
Net sales realization	Rs./Kg	***
Landed price - China	Rs./Kg	***
Price undercutting	Rs./Kg	***
Price undercutting (%)	%	62-67%
Non Injurious Price	Rs./Kg	***
Price Underselling	Rs./Kg	***
Price Underselling (%)	%	65-70%

G.6.1. Argument raised by interested parties

27. The responding exporter has claimed that they have exported the product under consideration to India at a profit and above the normal value and thus there is no question of price undercutting by Yongqi. It has been argued that the Authority has not provided any reasons for concluding that the imported subject product from Yongqi has been sold at suppressed prices as this has to be seen in the context of the raw material and costs levels of Yongqi. They further argue that Yongqi has not suppressed the prices of raw materials and other cost involved in manufacturing the subject product and have exported the said product to India above its normal value and at profit.

G.6.2 Examination by the Authority.

28. Authority notes that the Rules require determination of price undercutting for the dumping POI and not over the entire injury period. However, considering the argument, the Authority has determined price undercutting for the previous years as well as per details given below.

	Unit	2003-04	2004-05	2005-06	POI
Net Sales Realization	Rs./Kg	***	***	***	***

Trend	Indexed	100	98	121	119
Landed Price - China	Rs./Kg	***	***	***	***
Price undercutting	Rs./Kg	***	***	***	***
Price undercutting (%)	%	31.24	23.22	9.36	62-67%

29. While working out the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

30. Price undercutting has been determined by the Authority by comparing the weighted average landed value of dumped imports from the subject country over the entire Injury period, and the landed value for POI based upon the minimum of export price reflected by M/s. Tangyin Yongqi in their response with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% landing charge and applicable basic customs duty to the minimum of export price reflected by M/s. Tangyin Yongqi in their response during POI. The price undercutting from subject country was found to be in the range of 62-67% during POI.

31. For the purpose of price underselling the landed prices of imports from the subject country determined based upon minimum of export price reflected by M/s. Tangyin Yongqi in their response have been compared with the Non-injurious price of the domestic industry determined for the POI. It shows that underselling was in the range of 65-70%.

32. Further the argument put forth by M/s. Tangyin Yongqi they have not suppressed the prices of raw materials and other cost involved in manufacturing the subject product and have exported the said product to India above its normal value and at profit cannot be relied upon in view of the Authority not being able to verify the records of M/s. Tangyin Yongqi on account of the withdrawal of the consent for verification by the said producer / exporter.

G.7. Price suppression and depression effects of the dumped imports:

33. The price suppression effect of the dumped imports has also been examined by the Authority with reference to the cost of production, net sales realization and the landed values from the subject countries.

34. The Authority notes that analysis of the trend of import prices over the injury period shows that selling price moved in tandem with cost of production between 2003-04 and 2005-06. However, the trend got reversed in the investigation period, when the cost of production increased and selling price declined. Landed price of imports also declined in POI as compared to previous year. The Authority therefore concludes that imports are having adverse effect on the prices in the market.

G.8. Examination of other Injury Parameters

35. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, Authority has examined other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

G.8.1. Profits and actual and potential effects on the cash flow

	Unit	2003-04	2004-05	2005-06	POI
Cost of sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	93	101	102
Selling Price (NSR)	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	121	119
Profit/Loss	Rs./Kg	***	***	***	***
Trend	Indexed	-100	-55	45	18
Profit/Loss before Tax	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-70	65	27
PBIT	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-71	113	72
Cash Profit	Rs./Lacs	***	***	***	***
Trend	Indexed	100	70	-65	-27

36. The data indicates that cost of production of the domestic industry went up by 2% during POI as compared to base year against which the selling price increased by 19% during POI. The profit per unit which was negative in the base year and 2004-05 resulted in profits by 22% (indexed) during 2005-06 and declined to 9% (indexed) from base year during POI. The profit of domestic industry on the domestic sales (PBIT) followed the same trend. The Authority concludes that, whereas the situation of the domestic industry was improving during 2005-06 and POI, the same can be attributed to increase in per unit selling price.

G.8.2 Return on investment and ability to raise capital

	Unit	2003-04	2004-05	2005-06	POI
PBIT	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-71	113	72
Net Fixed Assets	Rs./Lacs	***	***	***	***
Trend	Indexed	100	172	175	142
Working Capital	Rs./Lacs	***	***	***	***
Trend	Indexed	100	110	131	109
Capital Employed - NFA	Rs./Lacs	***	***	***	***

Trend	Indexed	100	146	157	128
Return on Capital Employed (NFA Basis)	%	***	***	***	***
Trend	Indexed	-100	-48	72	56

37. The Authority notes that capital employed increased by 46% in 2004-05, 57% in 2005-06 and 28% during POI as compared to base year. The return on capital employed was negative in the base year and 2004-05; became positive 72% in 2005-06 and declined to 56% during POI. It is thus found that whereas the situation of the domestic industry showed improvement in 2005-06, the same deteriorated in POI.

G.8.3. Productivity

	Unit	2003-04	2004-05	2005-06	POI
Productivity per employee	Mt	***	***	***	***
Trend	Indexed	100	124	164	175

38. The Authority notes that data on production per employee shows that the productivity increased by 75% during POI as compared to base year.

G.8.4. Employment and wages

	Unit	2003-04	2004-05	2005-06	POI
Employment (Manpower strength)	Nos.	***	***	***	***
Trend	Indexed	100	107	107	105
Wages	Rs./Lacs	***	***	***	***
Trend	Indexed	100	109	123	150

39. The Authority notes that the employment level does not show significant change. In indexed form it increased to 105% during POI as compared to base year. The wages increased by 50% during POI as compared to base year.

G.8.5 Inventories

	Unit	2003-04	2004-05	2005-06	POI
Opening Stock	KG	***	***	***	***
Closing Stock	KG	***	***	***	***
Average Stock	KG	***	***	***	***
Trend	Indexed	100	149	107	38
Average Stock in terms of No. of Days' sales	Nos.	***	***	***	***
Trend	Indexed	100	131	78	27

40. The Authority notes that trends in the average inventory show that average inventory declined from 100 in the base year to 38 during POI. The Authority notes that the stock was equivalent to ***days of sales in 2003-04 and declined to equivalent of ***days during Period of Investigation.

G.8.6. Growth

41. The growth in demand shows positive trend from base year to POI on year to year basis. The growth in production and sales also show positive trend throughout the POI. The cost of production and selling price declined in 2004-05 and then increased in 2005-06 and in POI. Growth of profits shows positive trend up to 2005-06 and decline in POI.

G.8.7. Investment

42. The authority notes that the domestic industry has enhanced the capacity of subject goods from base year to Period of Investigation in view of rising demand and in anticipation of increase in sales as a result of imposition of anti-dumping duty on the dumped imports from the subject country.

G.8.8. Magnitude of Dumping

43. The Authority concludes that the magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject country named, for the POI, are significant.

G.8.9. Factors affecting prices

44. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been significant price undercutting by the dumped imports as compared to 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. It was found that the landed value per KG of imports from the subject country in POI was lower than both the net selling price and non-injurious price of the subject product. 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 that might be affecting the prices in the domestic market. The cost of production has increased by 2% during POI. The net selling prices increased by 19% during the same period. The Authority concludes that Landed values of imported material from subject countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. The undercutting during POI was in the range of 62-67% and underselling was in the range of 65-70% during POI.

G.9. Conclusion on injury

45. The examination of above injury parameters by the Authority indicates that growth in demand was 57% during POI as compared to base year. The production of the domestic industry increased by 58% during POI as compared to the base year whereas the sales of the domestic industry increased only by 45% during POI as compared to the base year. During the same period, the imports of subject goods from subject countries increased significantly from 29.35 MT in 2003-04 to 134.84 MT during POI i.e. it increased by 359%. The share of the imports from subject countries in relation to demand increased from 5.25% in 2003-04 to 15.33% during POI whereas the share in demand of the domestic industry declined from 63.08% to 58.18% during the same period. The profitability became positive in 2005-06 but declined during POI. Similar trend is observed in case of profits (PBIT) and return on net capital employed.

46. The Authority concludes that Imports from subject countries have increased significantly and these had significant adverse price effect resulting in price suppression and price undercutting.

47. It was argued by the exporter that the domestic industry has enhanced capacity of the subject product in view of rising demand. However, the Authority at the same time also presumes that the capacity of the subject product has been enhanced in anticipation of imposition of anti dumping duty. The exporter has further argued that it is apparent that there is strong presumption in favour of the domestic industry and the contentions and submissions of Yongqi have not been duly considered, particularly in view of the fact that the said exporter withdrew the consent for verification of their records. Domestic Industry has provided a detailed analysis and the same are elaborated below.

	Unit	2003-04	2004-05	2005-06	POI
Plant Capacity	Mt	***	***	***	***
Trend	Indexed	100	126	133	138
Plant Production	Mt	***	***	***	***
Trend	Indexed	100	112	151	158
Plant Capacity Utilization (%)	%	***	***	***	***
Trend	Indexed	100	89	114	114
Production	Mt	***	***	***	***
Trend	Indexed	100	133	175	183
Domestic Sales	Mt	***	***	***	***
Trend	Indexed	100	127	143	145
Cost of production	Rs./Kg	***	***	***	***
Trend	Indexed	100	93	101	102
Selling Price	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	121	119

Profit/Loss	Rs./Kg	***	***	***	***
Trend	Indexed	-100	-55	45	18
Profit/Loss	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-70	65	27
PBIT	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-71	113	72
Cash profit	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	1	514	415
ROCE	%	***	***	***	***
Trend	Indexed	-100	-48	72	56
Productivity per employee	Mt	***	***	***	***
Trend	Indexed	100	124	164	175
Import from subject countries	Mt	29.35	51.00	58.88	134.84
Trend	Indexed	100	174	201	459
Import from other countries	Mt	0	0	0.31	0
Total Import	Mt	29.35	51.00	59.19	134.84
Trend	Indexed	100	174	202	459
Sales of domestic industry	Mt	***	***	***	***
Sales of other producers	Mt	***	***	***	***
Total demand	Mt	558.89	624.98	788.012	879.48
Trend	Indexed	100	112	141	157
Market share in demand					
Domestic industry	%	***	***	***	***
Other producers	%	***	***	***	***
Subject countries	%	5.25	8.16	7.47	15.33
Other countries	%	-	-	0.04	-

48. While issuing the disclosure statement it was made clear that the interested parties are free to respond to the same after the copy of the disclosure statement is made available to them and the same shall be taken care of in the final findings in case need arises. However the Authority notes that none of the interested parties, except the domestic industry responded to the disclosure statement. In their response domestic industry has re-iterated the stand taken by them in the form of submissions made at the conclusion of public hearing and the same have already been considered. Submissions with regard to injury determination have also been considered in these final findings.

49. On the basis of above analysis, the Authority concludes that the performance of the domestic industry improved between 2003-04 and 2005-06 in respect of profits, cash profits, return on investments, but deteriorated thereafter in the POI. Further, even though performance with regard to sales volumes improved, the rate of growth of sales volumes was negative in investigation period as compared to preceding year with significant

increase in imports in this period. Market share of the domestic industry improved till 2004-05 and declined significantly thereafter. While decline in market share in 2005-06 was due to other Indian Producers, the decline, which was more pronounced in POI, was due to dumped Chinese imports in POI. It is also found that the landed price of imports is below the direct cost of production of the domestic industry, thus indicating significant adverse impact in case Chinese imports are allowed at dumping prices. It is thus concluded that the domestic industry has suffered material injury.

G.10. Causal Link

50. In order to reach its conclusions on the cause of the injury suffered by domestic industry and in accordance with article 3.5 of Agreement on Anti-Dumping and as per Para (v) of Annexure-II under Rule 11 under Customs Tariff Act as amended, the Authority examined the impact of all known factors and their consequences on the situation of the domestic industry. Known factors other than dumped imports, which could at the same time have injured the domestic industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports. The significant increase in volume of dumped imports from the subject country (both in absolute terms as well as in relation to the share in demand) has resulted in significant decline in market share of the domestic industry. Decline in market share of domestic industry as a consequence of increase in market share of subject country prevented the domestic industry from increasing their sales commensurate to increase in demand in the market. As a result, domestic industry could not optimally utilize its plant capacity, as the utilization during POI was only 83%. Consequently growth in production, sales and capacity utilization of the domestic industry suffered as a result of the decline in market share of domestic industry.

51. Significant price undercutting caused by imports prevented the domestic industry from increasing its prices. Consequently, profits, cash flow and return on investment deteriorated during POI after showing improvement in 2005-06. While domestic industry was able to increase prices, its performance deteriorated in the POI due to dumped imports, which prevented it from effecting legitimate price increases.

52. The Authority therefore concludes that the imports from the subject country have caused material injury to the domestic industry.

H. Examination of Other Known Factors

H.1. Volume and prices of imports from other sources

53. The Authority notes that there are no imports from other countries and therefore concludes that the injury cannot be attributed to imports from other countries.

H.2. Contraction in demand and / or change in pattern of consumption

54. The Authority concludes that there is no contraction in the overall demand during POI. On the contrary; overall demand for subject goods has shown positive growth during the injury period. The total demand of subject goods has shown growth of 57% during Period of Investigation as compared to the base year. There is also no significant change in consumption pattern of the product in the domestic market, which the Authority attributes to the injury to the domestic industry.

H.3. Trade restrictive practices of and competition between the foreign and domestic producers

55. The Authority concludes that there is no restricted practice prevalent in the industry, which could be attributed to the injury to the domestic industry.

H.4. Development of technology

56. On the basis of examination of the records of the petitioner, the Authority holds that development in technology has not been a relevant factor for the injury to the domestic industry.

H.5. Export performance

57. The Authority concludes that the export volume of the domestic industry has declined during the POI. Petitioner alleged that decline in export volumes was due to Chinese producers resorting to dumping in other market as well, where the Chinese producers are competing not only with the Indian Producers, but also amongst themselves. However, the Authority has considered only domestic operations and therefore, injury, if any, caused to the domestic industry due to decline in exports has not been attributed to dumped imports from subject country.

H.6. Productivity of the Domestic Industry

58. Productivity of the domestic industry has increased which is a result of increase in production. It cannot, thus be said that the injury to the domestic industry has been caused by decline in production.

59. No other factor which could have possibly caused injury to the domestic industry has been brought to the knowledge of Authority.

I. Conclusion On Causation

60. On the basis of the above examination it is concluded that the subject goods exported from the subject countries are at prices below their normal values, Non Injurious Price of the domestic industry and the net sales realization of the subject goods of the applicants, and have caused injury to the domestic industry indicating causal links between dumping of subject goods and injury to the domestic industry. Significant

increase in the volume of dumped imports has resulted in significant decline in the market share of domestic industry. It is further seen that decline in market share of domestic industry as a consequence of increase in market share of subject imports from the subject country prevented the domestic industry from increasing their sales commensurate to growth in demand. As a result, sales of domestic industry during POI did not increase to such an extent that domestic industry could have optimally utilized its capacity. Consequently, production, sales and capacity utilization of the domestic industry suffered as a result of the decline in the market share of the domestic industry. Significant price undercutting caused by dumped imports prevented the domestic industry from increasing its prices. Resultantly, profit, cash flow and return on investment of the domestic industry deteriorated in the POI. Significant price-undercutting and substantial increase in the volume of dumped imports adversely affected the performance of the domestic industry in terms of profits, cash flow, and return on investment, these parameters deteriorated in POI after improving till 2005-06.

61. The Authority, therefore, concludes that the dumped imports originating in the subject country have caused material injury to the domestic industry within the meaning of Rule 11 of Anti-dumping Rules and article 3.5 of Agreement of Anti-dumping.

J. FINAL FINDINGS:

62. Having regard to the issues raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current dumping and injury, the Authority concludes that:

- i. Imports originating in the subject country are taking place at dumped prices and the same have caused material injury to the domestic industry
- ii. Subject goods exported from the subject countries are at prices below their normal values, Non Injurious Price of the domestic industry and the net sales realization of the subject goods of the applicants, and have caused injury to the domestic industry
- iii. Decline in market share of domestic industry as a consequence of increase in market share of subject imports from the subject country prevented the domestic industry from increasing their sales commensurate to growth in demand
- iv. Significant price-undercutting and substantial increase in the volume of dumped imports adversely affected the performance of the domestic industry in terms of profits, cash flow, and return on investment.
- v. Significant increase in volume of dumped imports from the subject country (both in absolute terms as well as in relation to the share in demand) has resulted in significant decline in market share of the domestic industry

63. Accordingly, the Authority recommends definitive anti dumping duty of Rs. 144/- per K.G on imports of Diclofenac Sodium, falling under Tariff Heading 2942 or imported into India under any other Tariff Heading, originating in or exported from China PR or originating in China PR and exported to India from any third Country.

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.

R. Gopalan
Designated Authority