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

NOTIFICATION

Jeevan Tara Building, 4th Floor
5, Parliament Street, New Delhi-110001

Dated, the 19th February, 2015

Final Findings

Subject: Mid-term Review (MTR) Anti-dumping investigation concerning imports of Morpholine, originating in or exported from China PR, European Union and USA.

No.15/5/2013-DGAD: Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

A. Background of the case

2. The Designated Authority (hereinafter also referred to as the Authority), had notified its final findings vide Notification No. 14/41/2010-DGAD dated 5th December, 2011 and recommended imposition of definitive anti-dumping duty on imports of "Morpholine" (hereinafter also referred to as the subject goods) originating in or exported from China PR, EU and USA (hereinafter also referred to as the subject countries) and the definitive anti-dumping duty was imposed by the Central Government vide Notification No. 10/2012-Customs dated 24th January, 2012.
3. M/s NOCIL Ltd has submitted an application requesting for initiation of a mid-term review of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from the subject countries in accordance with section 9A of the Customs Tariff Act 1975 read with Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. They have claimed that the

circumstances that were prevalent during the period of investigation of the original investigation have changed significantly leading to a situation where the existing anti-dumping duties are no longer warranted.

B. Initiation

4. Rule 23 of the Rules read with Section 9A of the Act require that the Designated Authority shall review the need for the continued imposition of any anti-dumping duty, where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the Designated Authority shall recommend to the Central Government for its withdrawal, where it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said anti-dumping duty is removed or varied and is therefore no longer warranted.
5. Having regard to the information provided by the applicant substantiating the need for such review and indicating changed circumstances necessitating a review of the measure in force, the Designated Authority, vide Notification No. 15/5/2013-DGAD dated 18th September, 2013, initiated the subject Mid-term Review (MTR) investigation of the final findings notified vide Notification No. 14/41/2010-DGAD dated 5th December, 2011 published in the Gazette of India, Extraordinary Part I, Section I and the definitive duties imposed by the Central Government vide Notification No. 10/2012-Customs dated 24th January, 2012, to review the need for continued imposition of the anti-dumping duties.

C. Procedure

6. The procedure described below has been followed by the Authority with regard to the present investigation:
 - i. The Authority sent copies of the initiation notification dated 18th September, 2013 to the embassies of the subject countries in India, known exporters from the subject countries, known importers and other interested parties, and the domestic producer, as per the available information. The known interested parties were requested to file the questionnaire responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters were also sent to embassies of the subject countries along with a list of known exporters/producers, with a request to advise the exporters/producers from the subject countries to respond within the prescribed time.

- ii. Copy of the non-confidential version of the application filed on behalf of the applicant was made available to the known exporters, domestic producer and the embassies of the subject countries in accordance with Rule 6(3) of the AD Rules.
- iii. The Authority forwarded a copy of the public notice initiating the MTR to the following known producers/exporters in the subject countries and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4) of the Rules:
 - a) M/s. Huntsman Corporation UK Ltd. Llanelli Plant, Bynea Llanelli, Carmarthenshire Sa 149 Te, UK
 - b) M/s. BASF SE, 67056 Ludwigshafen, Germany
 - c) M/s. Huntsman Corporation , 10003 Woodloch Forest Drive, The Woodlands, Tx 77380, USA
 - d) M/s. BASF Corporation, Geismar Site 8404 River Road, Geismar, La-70734, Louisiana, USA
 - e) M/s. Anhui Haoyuan Chemical Group Co. Ltd, No.1 Fukang Road, Fuyang Anhui, China PR
 - f) M/s. Puyang Willing Chemicals Co. Ltd. Industrial And Commercial Newzone, Puyang, Henan, China PR
 - g) M/s. Tianyou Pharma Co.Ltd, Buliding 4-1-501, Jialv Beiyuan, Hangzhou, China PR
- iv. In response to the initiation of the subject investigation, only following producer/exporter from China PR has responded by filing exporters questionnaire response:
 - a) M/s. Anhui Haoyuan Chemical Group Co.Ltd No.1 Fukang Road, Fuyang Anhui, China PR
- v. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping Rules:
 - a. Urmi Chemicals, Maharashtra
 - b. Kanthilal Manilal & Co., Maharashtra

- c. Sajjan India Ltd, Maharashtra
- d. Orchid Chemicals & Pharmaceuticals, Chennai
- e. Thermax Ltd, Maharashtra
- f. BASF India Ltd, Maharashtra
- g. NOCIL Ltd, Maharashtra
- h. Harman Finocem Ltd, Maharashtra
- i. AMJEY Chemicals, Maharashtra
- j. Banwarilal Jhanwar& Sons, Maharashtra
- k. Khyati Chemicals Pvt Ltd, Gujrat
- l. Hindustan Specialty Chemicals, Maharashtra
- m. Paramount Minerals & Chemicals Ltd, Maharashtra
- n. Leo Chemoplast Pvt Ltd, Maharashtra
- o. Diamond Dye-Chem Ltd, Maharashtra
- p. Shakti Chemicals, Maharashtra
- q. C J Shah & Co, Maharashtra
- r. Sanjay Chemicals (India) Pvt Ltd, Maharashtra
- s. Alfa Chemical Corporation, Maharashtra
- t. Bilag Industries Ltd, Maharashtra
- u. Merchem Ltd, Kerala
- v. Indoco Remedies Ltd, Maharashtra
- w. Unimark Remedies Ltd, Maharashtra
- x. CIPLA Limited, Maharashtra
- y. Lupin Ltd, Maharashtra
- z. Clariant Chemicals (I) Ltd, Maharashtra
- aa. Clariant Chemicals (I) Ltd, Chennai
- bb. ION Exchange (I) Ltd, Andhra Pradesh
- cc. Aarti Industries Ltd, Maharashtra
- dd. RMC Rubber Chemicals India Pvt Ltd, Tamil Nadu
- ee. Lofty Laboratories Pvt Ltd, Andhra Pradesh
- ff. Aurobindo Pharma Ltd, Andhra Pradesh
- gg. Hetero Drugs Ltd, Andhra Pradesh
- hh. Surya Pharmaceuticals Ltd, Chandigarh
- ii. GAIL India Ltd, Delhi
- jj. Sri Krishna Drugs Ltd, Andhra Pradesh
- kk. Laffane Petrochemicals Ltd, Maharashtra
- ll. Reliance Industries Ltd, Maharashtra
- mm. Bajaj Hindustan Ltd, Uttar Pradesh
- nn. Virchow Laboratories Ltd, Andhra Pradesh
- oo. SMS Pharmaceuticals Ltd, Andhra Pradesh
- pp. Panchsheel Organics Ltd, Madhya Pradesh
- qq. Amines& Plasticizers Ltd, Maharashtra
- rr. Dhanuka Laboratories Ltd, Haryana
- ss. The Waxpol Industries Ltd, Jharkhand
- tt. IOCL Mathura, Uttar Pradesh

- uu. Jaipur Scientifics & Chemicals, Uttar Pradesh
vv. AVON Organics Ltd, Andhra Pradesh
ww. Surya Pharmaceuticals Ltd, Punjab
xx. Viswaat Chemicals Ltd, Maharashtra
- vi. In response to the above notification, only NOCIL Ltd, who is also the applicant in the present MTR investigation, has filed importer questionnaire response.
- vii. Questionnaires were sent to M/s. Balaji Amines Ltd., Sholapur, Maharashtra, the known domestic producer of the subject goods in India and domestic industry in the original investigation, for necessary information and response. Balaji Amines Ltd., the domestic producer of the subject goods constituting domestic industry in the subject investigation, has filed response/submissions along with injury related information/data.
- viii. Exporters, producers and other interested parties who have not responded to the Authority, nor supplied information relevant to this investigation, have been treated as non-cooperating interested parties.
- ix. 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, including the period of investigations, which was received by the Authority. The applicant provided information with regard to imports based on IBIS data (secondary source). The Authority has, however, relied upon the DGCI&S data for computation of the volume of imports and required analysis.
- x. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. The NIP has been determined by the Authority in terms of the principles laid down under Annexure III to the Anti-dumping Rules.
- xi. Investigation was carried out for the period starting from 1st April, 2012 to 31st March, 2013 (POI). However, injury examination was conducted for a period from 2009-10, 2010-11, 2011-12 and the POI. The Authority also called relevant information/data from the interested parties for post POI (1st April 2013 to 30th Sep. 2013) for conducting likelihood analysis.
- xii. In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 30th June, 2014. The parties, which presented their

views in the oral hearings, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.

- xiii. The submissions made by the interested parties during the course of the investigation have been considered by the Authority, wherever found relevant, in this final finding. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry and the co-operating producers/exporters.
- xiv. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as 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.
- xv. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final finding on the basis of the facts available.
- xvi. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed by the Authority to the known interested parties vide disclosure statement issued on 4th December, 2014 and comments received on the same, to the extent considered relevant by the Authority, have been considered in this finding.
- xvii. *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xviii. The Department of Revenue, vide their Letter No. 354/239/2011-TRU (Pt-1) dated 22.09.2014, extended the time limit for completing the investigation and notifying the final finding up to 17.03.2015.
- xix. Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs 54.65 as per customs notification from month to month.

D. PRODUCT UNDER CONSIDERATION AND DOMESTIC LIKE ARTICLE

- 7. The product under consideration in the present mid-term review investigation, as in the original investigation, is 'Morpholine', originating in or exported from China

PR, European Union and USA. The product scope therefore is the same as that defined in the original investigation.

8. Morpholine is an extremely versatile chemical and is used as a chemical intermediate in the rubber industry, in corrosion control, and in the synthesis of a large number of drugs. It is also used for crop protection agents, dyes and optical brighteners. Morpholine is a solvent for a large variety of organic materials, including resins, dyes and waxes. It can be used as a catalyst. Morpholine is used in the in toiletry and cosmetic products at concentrations up to 5% (Cosmetic Ingredient). It can be use for / in the several direct and indirect food additive applications. Morpholine is used as intermediates for rubber accelerators and as corrosion inhibitor in steam boiler systems. It is used for optical brighteners in detergent formulations. Morpholine derivatives are used in rubber vulcanization, stabilization and the manufacture of special high-speed tyres. Morpholine may be released during rubber processing. Morpholine has volatility similar to water. Morpholine derivatives such as Nmethylmorpholine and N-ethylmorpholine are used as Catalysts for the production of polyurethane foams. Morpholine derivatives are also used as analgesics and local anesthetics, antibiotics, antimycotics and for plaque control in dentistry. Morpholine is used in several direct and indirect food additive applications. Morpholine is used by the cosmetic industry also. The product falls under customs classification 29333917. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.
9. None of the interested parties have made any submission with regard to product under consideration and like articles.

E. SCOPE OF DOMESTIC INDUSTRY AND STANDING

10. The Authority notes that Rule 2(b) of the Anti-dumping Rules defines domestic industry as under:-

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

11. During the original investigation M/s. Balaji Amines Ltd was found to be the sole producer of the subject goods in the country and constituted the domestic industry. The position remains unaltered during the POI of the present

investigation and no submission has been made by any interested party to the contrary. In view of the said position, the Authority notes that M/s. Balaji Amines Ltd constitutes domestic industry in the present MTR investigation within the meaning of the Rule 2 (b) and satisfies the criteria of standing in terms of Rule 5 (3) of the Anti- dumping Rules.

F. CONFIDENTIALITY

Submissions made by producers/exporters/importers/other interested parties

12. The various submissions made by the producers/exporters/importers/other interested parties with regard to confidentiality and considered relevant by the Authority are as follows:

- i. Domestic industry has claimed excessive confidentiality in their submissions.
- ii. All the volume parameters were kept confidential by the domestic industry.

Submissions made by the domestic industry

13. The various submissions made by the domestic industry with regard to confidentiality and considered relevant by the Authority as follows:

- i. Applicant claimed excessive confidentiality on information restricting the domestic industry from offering any meaningful comments.
- ii. There are no proper reasoning provided for claiming any information as confidential.

EXAMINATION BY THE AUTHORITY

14. The submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed as follows:

- i. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information: (1) Notwithstanding anything contained in sub-rules and (7) of rule 6, sub-rule (2), (3) (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such

information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

- ii. The Authority notes that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

G. MISCELLANEOUS SUBMISSIONS

Submissions made by producers/exporters/importers/other interested parties

15. The miscellaneous submissions made by producers/exporters/importers/other interested parties and considered relevant by the Authority are as follows:

- i. The domestic industry has not submitted full information as prescribed and has merely provided only selective information.
- ii. It is an incorrect submission that the petitioner has not filed importer's questionnaire response.

Submissions made by the domestic industry

16. The miscellaneous submissions made by the domestic industry and considered relevant by the Authority are as follows:

- i. The present investigation is initiated at a premature stage that too based on an unsubstantiated petition.
- ii. In a Mid Term Review, the Designated Authority is required to consider and determine whether there is sufficient justification for withdrawal of anti dumping duty at a premature stage. However, the petition does not contain any positive information substantiating the need for such review and the petitioner relied upon mere averments and analogies of convenience to bring up a changed circumstance.
- iii. The present MTR is in violation of interpretation of Rule 23 with regard to MTR made by Hon'ble Supreme Court in Rishiroop Polymers Pvt. Ltd. Versus Designated Authority wherein the Hon'ble SC interpreted the provisions of Rule 23 of anti dumping rules inter alia as "*Having regard to the scheme of the above mentioned provisions of the statute, once anti-dumping duty has been initially imposed, it would be ordinarily continued for five years unless on a review it is found by the Designated Authority that there has been such a significant change in the facts and circumstances, that it is considered necessary either to withdraw or modify appropriately the anti-dumping duty which has been imposed. It is, therefore, clear that unless the Designated Authority suomotu or the applicant for review is in a position to establish clearly that there has been a significant change in the facts and circumstances relating to each of the basic requirements or conditions precedent for imposing duty, the finding given by the Designated Authority at the time of initial imposition of anti-dumping duty must be considered to continue to hold the field*".(Emphasis Supplied). In present case, the petitioner failed to bring on record such a significant change in the facts and circumstances, that it is considered necessary either to withdraw or modify appropriately the anti-dumping duty which has been imposed.

EXAMINATION OF THE AUTHORITY

17. Rule 23 of Anti-dumping Rules states as follows:

"(1) Any anti-dumping duty imposed under the provision of section 9A of the Act, shall remain in force, so long as and to the extent necessary, to counteract dumping, which is causing injury.

(1A) The Designated Authority shall review the need for the continued imposition of any anti-dumping duty, where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and

upon such review, the Designated Authority shall recommend to the Central Government for its withdrawal, where it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said anti-dumping duty is removed or varied and is therefore no longer warranted.

(1B) Notwithstanding anything contained in sub-rule (1) or (1A), any definitive anti-dumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

(2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.

(3) The provisions of rules 6, 7, 8, 9/10, 11, 16, 17, 18, 19, and 20 shall be mutatis mutandis applicable in the case of review.

18. Article 11.2 of the Agreement provides that the Authority shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti dumping duty, upon request by any interested party which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti dumping duty is no longer warranted, it shall be terminated immediately. The applicant and the other interested parties have contended that in a mid-term review change in any circumstance which was prevailing in the original investigation is sufficient to call for an MTR.

19. On the other hand, domestic industry contended that unless the applicant for review is in a position to establish clearly that there has been a significant change in the facts and circumstances relating to each of the basic requirements or conditions precedent for imposing duty, the finding given by the Designated Authority at the time of initial imposition of anti-dumping duty must be considered to continue to hold the field and any discontinuation of duty is contrary to the principles of Rule 23. Also in a a mid-term review, current performance alone is

insufficient to conclude whether the anti-dumping duty can be withdrawn at this stage and that the Authority is required to consider the likely situation when anti dumping duty is withdrawn.

20. The Authority has examined the issues raised by the interested parties and domestic industry and notes that Rule 23 of the Anti-dumping Rules requires the Authority to review the need for the continued imposition of an anti-dumping duty, inter alia, upon request by any interested party who submits positive information substantiating the need for such review after a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the Authority shall recommend to the Central Government for its withdrawal, where it comes to the conclusion that the injury to the domestic industry is not likely to continue or recur if the said anti-dumping duty is removed or varied and is therefore no longer warranted.

21. Various other miscellaneous issues raised by the interested parties and considered relevant by the Authority are examined herein below:

- i. As regards the submission that the domestic industry has not submitted full information as prescribed and has merely provided only selective information, it is noted that the domestic industry has provided required information to determine injury as per the prescribed formats which is verified to the extent necessary for the purpose of present investigation by the Authority.
- ii. As regards the submission that it is an incorrect submission that the petitioner has not filed importer's questionnaire response, the Authority notes that the petitioner has filed the importer questionnaire response.
- iii. As regards the contention that the present investigation is initiated at a premature stage that too based on an unsubstantiated petition, it is noted that the present MTR is initiated after a reasonable period of time has elapsed and sufficient prima facie evidences to undertake a review as per the provisions of relevant rule.
- iv. As regards the contention that there is absence of positive evidence in the application filed to justify initiation of this investigation, it is noted that there was sufficient justification to initiate the investigation. The investigations were initiated only upon receipt of a written application, which was in the form and manner as specified by the Authority and was supported by relevant and necessary evidence substantiating the need for a mid-term review.

- v. As regards the submission that the present MTR is in violation of interpretation of Rule 23 made by Hon'ble Supreme Court in Rishiroop Polymers Pvt. Ltd. Versus Designated Authority, it is noted that facts of the present final finding are self explanatory in this respect.

H. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

22. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules. Also, China PR has been treated as operating under NME conditions in the original anti dumping investigation concerning the subject goods.

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

- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d. The exchange rate conversions are carried out at the market rate.

24. The Authority notes that consequent upon the MTR initiation notice issued by the Authority; one of the Chinese producers namely M/s. Anhui Haoyuan Chemical Group Co. Ltd have responded to the Authority by filing EQ Response. However, Anhui neither filed MET Questionnaire nor claimed MET status.

25. The Authority notes that in the original anti dumping investigation concerning the same product, the Authority has found as follows at the end of the original investigation;

“37. The Authority notes that consequent upon the initiation notice issued by the Authority; one Chinese producer/exporter, namely M/s. Anhui Haoyuan Chemical Group Co. Ltd has submitted its questionnaires’ responses including the market economy questionnaire response and has sought to rebut the non-market economy presumption. The questionnaire responses of the respondent were examined for determination of Normal value of the responding producer/exporter of the subject goods from the subject country and deficiencies in the submissions were pointed out and clarifications were sought. From a perusal of the response, it was seen that M/s Shanxi Jincheng Anthracite Mining Group (“Jincheng Group”) has significant (35%) shareholding in M/s. Anhui Haoyuan Chemical Group Co. Ltd. The Authority notes that M/s Shanxi Jincheng Anthracite Mining Group is wholly owned by Shanxi provincial government and that M/s Shanxi Jincheng Anthracite Mining Group is controlled by the State-owned Assets and Administration Commission of Shanxi province. Besides, clarification was sought from the company to ascertain whether major inputs procured by them for manufacturing the subject goods substantially reflect market values.

38. In its response, M/s. Anhui Haoyuan Chemical Group Co. Ltd has stated that from the year 1970 to 2002, HaoyuanChemcial's name was Anhui Fuyang Chemical Factory and from the year 2002 to 2007, Haoyuan's name was Anhui Haoyuan Chemical Co., Ltd ("Haoyuan Chemical"). In the year 2002, there were certain individuals who held shares in the Company. At that point of time the shareholding ratio of Haoyuan Chemical was about 80% State-owned and 20% private owned. At the end of the year 2003, all of Haoyuan Chemical's State owned shares were transferred to individuals and employees of company. During the said time, the capital of the Company was also increased. From the year 2003 onwards, the Company has become a privately held company. In the year 2002, Anhui Fuyang Chemical Factory's asset and debts were transferred to Haoyuan Chemical. The factory's assets (including land using right) were valuated, and an Assets Valuation Report for land was provided. Furthermore, the operation of assets transfer from to Haoyuan Chemical was on the market price. It has been claimed that presently, there is no State interference in the operation of Haoyuan but it has also been acknowledged that M/s Shanxi jincheng Anthracite mining Group (“Jincheng Group”) has 35% of the shares of the Company.

39. However, the Authority notes that Article 2 of Chinese ‘Supervision and Administration of Enterprise State-owned Assets Tentative Regulations’ dated

May 27 2003 specifies that these Regulations shall apply to the supervision and administration of the State-owned assets of enterprises owned, controlled or participated in by the State. Considering the above facts, State interference in the decisions of the company regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment etc cannot be ruled out.

40. Besides, during the course of the on-spot verification, the company's representatives gave in writing that they choose not to further press their claim of Market Economy Status. In view of above, the company has been declared as the one which is operating under Non-Market conditions".

26. In view of the above positions, the Authority determines not to grant MET status to any of the producers/exporters from China PR in this MTR investigation also.

27. The submissions concerning market economy, normal value, export price and dumping margin made by the producers/exporters/importers/other interested parties and considered relevant by the Authority are as follows:

- i. Existence or otherwise of dumping is immaterial, if injury margin is negative in a mid- term review investigation.

28. The submissions made by the domestic industry concerning market economy, normal value, export price and dumping margin and considered relevant by the Authority are as follows:

- i. Since it was determined in the original investigation that China PR is a non-market economy, determination of normal value should be made as per Para 7 of Annexure I in the present investigation also.
- ii. Petitioner has not provided any information with regard to dumping and likely injury to the domestic industry.

EXAMINATION BY THE AUTHORITY

- i. As regards the submission that existence or otherwise of dumping is immaterial, if injury margin is negative in a mid- term review investigation, it is noted that the provisions of Rule 23 mandates the Authority to comprehensively look at various aspects of an anti dumping investigation which inter alia covers examination of dumping, injury, causal link, likelihood of dumping and injury etc.

- ii. As regards the NME treatment to China PR, it is noted that the Normal Value in case of China PR is determined as per the provision of Para 7 of Annexure I in the present investigation.
- iii. As regards the contention that the petitioner has not provided any information with regard to dumping and likely injury to the domestic industry, it is noted that the application contained prima facie information to justify an initiation of review based on certain grounds claimed by the petitioner.

I. DETERMINATION OF NORMAL VALUE

29. Under section 9A (1) (c), the 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):*

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of exporter there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Determination of Normal Value for producers and exporters in China PR

30. Paragraph-7 of the Annexure-1 to the Anti-dumping Rules provides as follows:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in

the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated Authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments”

31. The Authority notes in this respect that none of the producers/exporters from China PR including the one responding exporter have been accorded MET status in the present investigation as demonstrated herein above. Neither any of the interested parties, including the applicant and also responding domestic industry, have made available any material fact to the Authority to select an appropriate market economy third country for the purpose of determination of normal value in case of China PR, the Authority determined the normal value in respect of China PR on other reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules.

32. Accordingly, the ex-works Normal Value of the product under consideration for all exporters from China PR is constructed based on facts available, duly adjusted to include selling, general & administrative costs and profits. The normal value so determined is US\$ ***/ Kg.

Determination of Normal Value for producers and exporters in USA and EU

33. The Authority notes that no questionnaire response has been filed by any producers/exporters from USA and EU in the present investigation. In the absence of cooperation from the producers/exporters from USA and EU, the Authority determined the Normal Value in respect of USA and EU as per facts available. The normal value so determined for USA and EU is US\$ ***/ Kg.

J. EXPORT PRICE

Exporters from China PR

Export price for the responding exporter

M/s. Anhui Haoyuan Chemical Group Co. Ltd, China PR

34. The Authority notes that except Anhui Haoyuan Chemical Group Co. Ltd, China PR, no other producers/exporters of the subject goods from China PR has responded to the Authority in the present investigation.

35. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire response filed by the respondent. The respondent has furnished information in Appendix 2 relating to exports to India. The export prices have been allowed as verified during the on-the spot verification of the company. The adjustments on account of overseas freight, inland freight, insurance, clearing charges, packing costs, credit costs, bank charges, & VAT have been accepted as verified during the on-the spot verification of the company. After making the acceptable adjustments, the Authority determined the export price of Anhui Haoyuan Chemical Group Co. Ltd as US\$ ***/Kg during the POI.

Determination of Export Price in respect of Non-Co-operative Exporters/Producers

36. The Authority has determined the Export price as per 'facts available' in terms of Rule 6(8) of the AD Rules for non-cooperative exporters from China PR. Accordingly the net export price in respect of the non-cooperating exporters from China PR is determined as US\$ ***/Kg.

Exporters from USA

37. The Authority notes that no response has been filed by producers/exporters of the subject goods from USA in the present investigation.

38. In light of the above position, the Authority has decided to determine Export Price for all the exporters from USA as per facts available in terms of Rule 6(8) of the Anti-dumping Rules. The Authority has considered DGCI & S import data for this purpose. Adjustments on account of ocean freight, insurance, commission, port expenses, inland freight and bank charges, as per the available facts, have been considered to arrive at the net export price. Accordingly, the export price at ex-factory level is determined as US\$ ***/Kg in case of USA.

Exporters from EU

39. The Authority notes that no response has been filed by producers/exporters of the subject goods from EU in the present investigation.

40. In light of the above position, the Authority has decided to determine Export Price for all the exporters from EU as per facts available in terms of Rule 6(8) of the Anti-dumping Rules. The Authority has considered DGCI & S import data for this purpose. Adjustments on account of ocean freight, insurance, commission, port expenses, inland freight and bank charges, as per the available facts, have been considered to arrive at the net export price. Accordingly, the export price at ex-factory level is determined as US\$ US\$ ***Kg in case of EU.

K. DUMPING MARGIN

41. Considering the Normal values and Export prices as determined above, the dumping margins during POI and post-POI are determined as follows:

POI

Sl.No.	Exporter/Producer	Country	Normal Value - US\$/Kg	Export price - US\$/Kg	Dumping Margin - US\$/Kg	Dumping Margin - %	Dumping Margin Range - %
1	Anhui Haoyuan Chemical Group Co. Ltd (Producer & Exporter)	China PR	***	***	***	***	10-20
2	All other Producers/Exporters	China PR	***	***	***	***	20-30
3	All Producers/Exporters	USA	***	***	(***)	(***)	(-5-15)
4	All Producers/Exporters	EU	***	***	(***)	(***)	(-5-15)

Post-POI

Sl.No.	Exporter/Producer	Country	Normal Value - US\$/Kg	Export price - US\$/Kg	Dumping Margin - US\$/Kg	Dumping Margin - %	Dumping Margin Range - %
1	Anhui Haoyuan Chemical Group Co. Ltd (Producer & Exporter)	China PR	***	***	***	***	15-25
2	All other Producers/Exporters	China PR	***	***	***	***	20-30
3	All Producers/Exporters	USA	***	***	(***)	(***)	(-0-10)
4	All Producers/Exporters	EU	***	***	***	***	10-20

Post disclosure, the Authority reviewed the computation of post-POI dumping margin in respect of Anhui Haoyuan Chemical Group Co. Ltd, China PR (Producer & Exporter) and reworked the net export price as well as dumping margin after making necessary adjustments for VAT refund. The Authority notes that the dumping margin in respect of Anhui Haoyuan Chemical Group Co. Ltd, China PR (Producer & Exporter) and all other Chinese exporters during the POI is not only positive but also significant during POI. It is further noted that the dumping margin in respect of Chinese exporters including Anhui Haoyuan Chemical Group Co. Ltd, China PR has further increased during post POI. The Authority, therefore, holds that the dumping of subject goods from China PR continued despite the imposition of anti-dumping duty. Although no exporter from either EU or USA have filed exporters questionnaire response in the present investigation, the dumping margin in respect of both EU and USA is negative during the POI. During the post-POI, while the dumping margin in respect of EU is positive and substantial, the same in respect of USA is negative.

L. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions made by the producers/exporters/importers/other interested parties

42. The following are the injury related submissions made by the producers/exporters/importers/other interested parties:

- i. Reliance of domestic industry on DGCI&S published data for determining DEG prices have led to significant difference in DEG price considered by NOCIL and domestic industry leading to further differences in injury margins claimed. The IBIS transaction wise data is most appropriate in determining the correct prices of DEG as opposed to DGCI&S transaction wise data.
- ii. The situation prevailing now does not justify continuation of anti dumping duty as import prices from subject countries have increased significantly leading to “no injury”. Even the export price of the domestic industry has increased.
- iii. Landed price of imports are evidently above non injurious price leading to negative injury margin calling for revocation of duties in the present case.
- iv. Selling price of the domestic industry is significantly higher than non injurious price showing no need for continued protection of anti dumping duties.
- v. Change in injury margin requires review as the PUC is attracting fixed quantum of ADD.
- vi. If change in certain parameters can be shown which is different i.e. has shown positive betterment from the original investigation, a midterm review investigation ought to be considered and thereafter, either a reduction in quantum of duty or withdrawal of duty be recommended by the Designated Authority.
- vii. Analysis of various parameters in the submission filed by domestic industry clearly shows that there is no injury to the domestic industry. Table below summarizes the factual position of domestic industry which inter alia shows the following;
 - a) The domestic industry has enhanced capacity to almost 150% over the period.

- b) There is a continuous increase in production over the injury period.
 - c) The capacity utilization of the domestic industry has increased significantly.
 - d) Sales of the domestic industry have increased significantly. Increase in sales is more than increase in demand.
 - e) Profitability of domestic industry has increased significantly. The profitability of the domestic industry has increased by more than 100% since the base year.
 - f) Profitability of domestic industry has increased significantly. The profitability of the domestic industry has increased by more than 100% since the base year.
 - g) Domestic industry has captured significant market share. Market share of the domestic industry has increased and that of subject countries and other countries have declined.
 - h) Productivity of domestic industry increased significantly with the increase in production.
 - i) Return on investment has also improved significantly over the injury period.
 - j) Cash flow has increased to a great extent over the period.
 - k) There is no decline in employment. Employment increased. Hence, no injury can be claimed on this account.
- viii. It will be evident that the injury margin in the present review investigation would be in the negative which would occasion the recommendation for withdrawal of the anti dumping duty. Irrespective of the dumping margin, upon the injury margin being negative and given India's position of following the lesser of the two margins, the present review investigation should warrant the recommendation of withdrawal of the anti dumping duty imposed previously.

Submissions made by the domestic industry

43. The following are the injury related submissions made by the domestic industry:

- i. The ground based on which the present MTR were initiated does not show the need for withdrawal of existing anti dumping duties.
- ii. Significant increase in import price of the subject goods from the subject countries is meaningless in the present case since there is positive undercutting and underselling without taking applicable anti-dumping duties into consideration which itself suggest the need for continuation of existing anti dumping duties.
- iii. Exports being made by domestic industry at significantly higher prices have no nexus to the performance of the domestic industry in the domestic market as claimed by the petitioner. However, any increase in exports shows that the domestic industry has not been able to increase their prices in domestic market at the level of export price because of the presence of dumped imports in the domestic market that too in significant volume.
- iv. There is no merit in the submission that landed price of imports are above non-injurious price leading to negative injury margin. The relevant information provided by the domestic industry shows significantly positive injury margin.
- v. There is no merit in the submission that selling price of the domestic industry is significantly higher than the non-injurious price. Selling price of the domestic industry has been significantly lower than NIP because of presence of dumped imports in the domestic market that too in significant volumes.
- vi. There is no merit in the submission that change in injury margin requires review as the PUC is attracting fixed quantum of ADD. The changes alleged by the petitioner are neither of lasting nature nor significant and reasonable.
- vii. Since the domestic industry demonstrated that the grounds based on which the present MTR is initiated is nonexistent, then the natural outcome has to be termination of the present investigation by the Authority.
- viii. The burden of proof of establishing the need for withdrawal is on petitioner and they cannot shift the onus on to the domestic industry to prove the contra until and unless they comply with their burden.
- ix. The Authority should adopt import volume and value for the purpose of present MTR investigation based on DGCI&S data which is also has been the practice of the Authority in many investigations.

- x. The level of imports from subject countries during the injury period of original investigation and that of the present MTR remained at comparable levels and the consumers still have large preference for subject goods from subject countries showing no adverse effect of anti dumping duties on the consumers.
- xi. A comparison of price during the base year vis-à-vis POI is irrelevant in the present case as the duties came into force after base year of the injury period in the present investigation.
- xii. There is no basis to the contention that domestic industry has not provided information in the application proforma as the claim has no legal basis. The petitioner has not specified which information has not been provided by the domestic industry in the prescribed format relevant for the present MTR.
- xiii. Any improvement in the present situation of the domestic industry are solely on account of the anti dumping duties which is insufficient to reach out to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said antidumping duty is removed or varied and is therefore no longer warranted.
- xiv. The domestic industry has only shown signs of recovery from the material injury suffered due to dumped imports of subject goods into India from subject countries. A complete recovery is yet to be achieved.
- xv. Performance of the domestic industry even though has improved on some parameters however the overall performance is far below than the desired and reasonable levels warranting the continuation of existing anti dumping duties.
- xvi. There is a direct relation between imports of subject goods into India and performance of the domestic industry. Material injury situation during the original investigation improved as result of anti dumping duties and there is a causal link between imports from subject countries and performance of the domestic industry which warrants continuation of duties.
- xvii. Likelihood also is that the situation of dumping and material injury situation will aggravate upon revocation or modification of existing duties.
- xviii. In a mid-term review, current performance alone is insufficient to conclude whether the anti-dumping duty can be withdrawn at this stage and that the Authority is required to consider the likely situation when anti dumping duty is withdrawn. Improvements in performance on account of anti dumping duties alone are not sufficient to justify discontinuation of existing duties.

Examination by the Authority

44. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine 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 the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
45. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the AD Rules states 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 margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

46. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties. However, the specific submissions made by the interested parties are addressed by the Authority as below:
- i. As regards the differences in Di-Ethylene Glycol (DEG) prices claimed by the petitioner and domestic industry, it is noted that the Authority has determined raw material prices of the domestic industry on actual basis by relying upon the relevant records maintained by the domestic industry that too by conducting necessary verification of purchase and consumption details.
 - ii. As regards the contention that import prices from subject countries have increased significantly leading to “no injury”, it is noted that the present final finding are self explanatory on aspects of changes in the import prices

from subject countries and consequential effect of the same on performance of the domestic industry.

- iii. As regards the contention that landed price of imports are evidently above non injurious price leading to negative injury margin calling for revocation of duties in the present case, it is noted that the present final finding statement demonstrates the factual position in this respect at the appropriate places which is self explanatory.
- iv. As regards the contention that selling price of the domestic industry is significantly higher than non injurious price showing no need for continued protection of anti dumping duties, it is noted that the present final finding demonstrates the factual position in this respect at the appropriate places which is self explanatory.
- v. As regards the contention that change in injury margin requires review as the PUC is attracting fixed quantum of ADD, it is noted that the present MTR investigation was initiated based on an application by NOCIL Ltd which contains several grounds and the present review inter alia covers all such grounds.
- vi. As regards the contention that if change in certain parameters can be shown which is different, a mid-term review investigation ought to be considered, it is noted that the Authority shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti dumping duty, upon request by any interested party which submits positive information substantiating the need for a review.
- vii. As regards the contention that the grounds based on which the present MTR was initiated does not show the need for withdrawal of existing anti dumping duties, it is noted that the present investigation was initiated based on a prima facie case which substantiated the need for a review and the outcome of the final finding are based on the facts emerged during the course of the present investigation which is explained at appropriate places in this final finding.
- viii. As regards the contention that significant increase in import price of the subject goods from the subject countries is meaningless in the present case since there is positive undercutting and underselling without taking applicable anti-dumping duties into consideration, it is noted that the present final finding statement demonstrates the factual position in this respect at the appropriate places which is self explanatory.

- ix. As regards the contention that there is no merit in the submission that landed price of imports are above non-injurious price leading to negative injury margin, it is noted that the present final finding demonstrates the factual position in this respect at the appropriate places which is self explanatory.
- x. As regards the contention that there is no merit in the submission that selling price of the domestic industry is significantly higher than the non-injurious price, it is noted that the present final finding demonstrates the factual position in this respect at the appropriate places which is self explanatory.
- xi. As regards the contention that since the domestic industry demonstrated that the grounds based on which the present MTR is initiated is nonexistent, then the natural outcome has to be termination of the present investigation by the Authority, it is noted that the present final finding is self explanatory on this aspect.
- xii. As regards the contention that the burden of proof of establishing the need for withdrawal is on petitioner and they cannot shift the onus on to the domestic industry, it is noted that the present investigation was initiated based on an application filed by NOCIL Ltd and thereafter all the interested parties including the domestic industry were provided with ample opportunities to provide essential information on dumping and injury so as to enable the Authority to reach out to fair conclusions at the end of the investigation. Hence, the contention is rejected.
- xiii. As regards the contention that the Authority should adopt import volume and value for the purpose of present MTR investigation based on DGCI&S data, it is noted that the Authority has relied upon transaction wise import information as per DGCI&S for the purpose of present investigation.
- xiv. As regards the contention that a comparison of price during the base year vis-à-vis POI is irrelevant in the present case as the duties came into force after base year of the injury period in the present investigation, it is noted that as a matter of practice, performance of the domestic industry during the POI is compared with base year of the injury period.
- xv. As regards the contention that in a mid-term review, current performance alone is insufficient to conclude whether the anti-dumping duty can be withdrawn at this stage and that the Authority is required to consider the likely situation when anti dumping duty is withdrawn, it is noted that the Authority has examined the likelihood aspect also in the present

investigation and also post POI information covering 6 months were sought from all interested parties.

- xvi. As regards the submission that the injury margin in the present review investigation would be in the negative and irrespective of the dumping margin the present review investigation should warrant the recommendation of withdrawal of the anti dumping duty imposed previously, the Authority notes that factual position in this regard is demonstrated at the relevant part in this final finding based on the actual verified information.

M. Cumulative Assessment

47. Attention is invited to Annexure II para (iii) of the AD Rules which provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that:

a. the margin of dumping established in relation to the imports from each country is more than two per cent expressed as percentage of export price and the volume of the imports from each country is three per cent of the import of like article or where the export of individual countries is less than three per cent, the imports collectively accounts for more than seven per cent of the import of like article and

b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

48. In this regard the Authority notes that:

- The dumping margin of China PR is more than the limits prescribed above. While the dumping margin in the case of USA and EU during the POI was negative, during post-POI, the dumping margin in respect of all the subject countries except USA is more than the prescribed limits;
- The volume of imports from each of the subject countries is more than the limits prescribed;
- Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market. This is evident from the following:

- a) The subject goods manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by the domestic industry has comparable properties. In other words, the subject goods supplied from various subject countries and by the domestic industry are inter-se like articles.
- b) There are common parties who are resorting to use of imported material from various sources and domestic material. Imported and domestic materials are, therefore, being used interchangeably and there is direct competition between the domestic product & imported product and inter-se imported product.
- c) The exporters from the subject countries and domestic industry have sold the same product in the same periods to the same set of customers. The sales channels are comparable.
- d) Volume of imports from each of the subject countries is significant.
- e) Consumers make purchase decision on the basis of prices offered by various suppliers.

49. In view of the above, the Authority considers, it would be appropriate to assess injury to the domestic industry cumulatively.

50. The Authority has taken note of submissions made by the interested parties. Annexure II of the Anti-dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products. While examining the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports either in absolute term or relative to production or consumption in India. With regard to price effect of dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to price of the like article in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increase which would have otherwise occurred to a significant degree.

51. As regards the impact of dumped imports on the domestic industry, Para (iv) of Annexure-II of Anti-dumping Rules states 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.”

52. The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties. For analyzing the injury parameters, all relevant documents including the balance sheet of the Domestic Industry have been examined and verified by the Authority. The issues relating to the raw material prices of the domestic industry and other issues have also been dealt by the Authority under appropriate headings.

A. Volume Effect of the Dumped imports on the Domestic Industry

a) Demand and market share

53. Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the domestic industry and imports from all sources. The demand so assessed is given in the table below:

i) Demand

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13	April- Sept-13- Annualised
Demand	MT	***	***	***	***	***	***
Indexed	Trend	100	108	117	116	127	127
Imports from Subject Countries	MT	3,964	3,834	3,591	3,461	1,844	3,688
Imports from Other Countries	MT	48	-	40	-	-	-
Sales of Domestic Industry	MT	***	***	***	***	***	***
Sales of other Indian Producers	MT	Nil	Nil	Nil	Nil	Nil	Nil

ii) Market Share in Demand

54. Considering imports from various sources and sales of the Indian Producers, market share of subject imports in demand in India was examined. Factual position is as follows:

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13	April- Sept-13-Annualised
Imports from Subject Countries	%	***	***	***	***	***	***
Trend	Indexed	100.00	89.80	77.70	75.36	73.16	73.16
Imports from Other Countries	%	***	***	***	***	***	***
Trend	Indexed	0.98	-	0.70	-	-	-
Sales of Domestic Industry	%	***	***	***	***	***	***
Trend	Indexed	100.00	150.22	199.64	213.78	223.44	223.44
Sales of other Indian Producers	%	Nil	Nil	Nil	Nil	Nil	Nil

55. It is noted that demand for the product has shown consistent increase over the injury period. It is also noted that the share of domestic industry has increased whilst the share of dumped imports showed declining trends. It is also noted that, even though the share of dumped imports showed declining trend, the share of dumped imports in actual terms remained at significant levels during the POI and also the post POI period.

b) Import volume and market share

56. The Authority has relied upon the import information obtained from DGCI&S for the purpose of this final finding. Imports volume from subject countries and other countries and the dumped imports from subject countries in relation to production and sale of the domestic industry, has been as under:-

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13	April-Sept-13-Annualised
Volume							
Subject Countries	MT	3,964	3,834	3,591	3,461	1,844	3,688
Other countries	MT	48	-	40	-	-	-
Total imports	MT	4,012	3,834	3,631	3,461	1,844	3,688
Market Share in Imports							
Subject Countries	%	98.80	100	98.90	100	100	100
Other countries	%	1.20	-	1.10	-	-	-
Imports in relation to Production	%	***	***	***	***	***	***
Imports in relation to Domestic Sales	%	***	***	***	***	***	***

57. It is observed from the above table that imports from subject countries has declined over the base year by the POI even though significant volumes of imports were present in the POI.

B. Price Effect of the Dumped imports on the Domestic Industry

58. 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. For the purpose of this analysis, the weighted average cost of production (COP), weighted average 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 countries.

i. Price Undercutting

59. The net sales realization was arrived after deducting outward freight and taxes. The Landed value of imports has been calculated by adding 1% handling charge

and applicable basic customs duty including applicable cess to the CIF value of subject imports. The landed value of imports from subject countries was compared with net sales realization of the domestic industry and it was found that the dumped imports are undercutting the prices of the domestic industry as per the table below:

Particulars	Unit	2009-10	2010-11	2011-12	2012- 13 (POI)	April-Sep 13
Landed Value Without ADD	Rs./KG	101.97	141.19	169.09	168.87	171.92
Net sales Realization	Rs./KG	***	***	***	***	***
Trends		100	143	162	168	176
Price Undercutting	Rs./KG	***	***	***	***	***
Trends		100	246	42	187	293
Price Undercutting	%	***	***	***	***	***
Range	%	0-10	5-15	0-10	0-10	5-15

60. It is observed from the above table that imports are undercutting prices of domestic industry. Even though the landed price increases over the years, they were still well below the prices offered by domestic industry.

Undercutting with ADD

61. The Authority further notes that presently ADD duty ranging from US\$ 0.63 to US\$ 0.81 per kg are in force against the subject countries. The authority has also undertaken an analysis of the undercutting with ADD in force. It is noted that the undercutting with the present ADD is significantly negative for the year 12-13, as well as in the post POI period in respect of all the subject countries, as is reflected by the following table:-

	POI			Post POI		
	China	USA	EU	China	USA	EU
Landed value with ADD (Rs per Kg)	196.49	220.37	209.90	213.89	239.75	205.31
NSR(Rs per Kg)	***	***	***	***	***	***
Undercutting (Rs per Kg)	(***)	(***)	(***)	(***)	(***)	(***)

Undercutting %	(***)	(***)	(***)	(***)	(***)	(***)
Range of %	(-5-15)	(-20-30)	(-10-20)	(-10-20)	(-20-30)	(-5-15)

ii. **Price Underselling**

62. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The analysis shows that the landed value of subject imports was below the non-injurious price as can be seen from the table below.

Particulars	Unit	China PR	USA	EU	Subject Countries
POI					
Non-injurious price	Rs/KG	***	***	***	***
Landed price (POI)	Rs/KG	161.98	184.99	172.65	168.87
Price underselling	Rs/KG	***	***	***	***
Underselling	%	***	***	***	***
Underselling	% Range	5-15	(0-10)	(0-10)	(1-10)
Post POI					
Non-injurious price	Rs/KG	***	***	***	***
Landed price (POI)	Rs/KG	175.21	191.85	165.31	171.92
Price underselling	Rs/KG	***	(***)	***	***
Underselling	%	***	(***)	***	***
Underselling	% Range	10-15	(0-10)	15-25	10-15

Price suppression/depression

63. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred.

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13
Cost of production	Rs./KG	***	***	***	***	***
Indexed	Trend	100	149	154	157	173
Selling Price	Rs./KG	***	***	***	***	***
Indexed	Trend	100	141	159	165	172
Landed Value	Rs./KG	101.97	141.19	169.09	168.87	171.92

64. It can be seen from the above table that the cost of production and also selling price has increased by the POI and similar trends are visible during the post POI period also. It is noted that the cost of production of Domestic Industry, NSR and the landed value has generally followed similar trends in the POI and Post POI period.

N. Economic parameters of the domestic industry

a) Capacity & capacity utilization

65. Capacity and capacity utilization of the domestic industry over the injury period is given in the following table:-

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13	April- Sept-13-Annualised
Capacity MT	MT	***	***	***	***	***	***
Trend	Indexed	100	150	150	150	150	150
Capacity utilization	%	***	***	***	***	***	***
Trend	Indexed	100	91	106	112	114	114

66. It is observed that capacity and capacity utilization of the domestic industry increased over the injury period. Domestic industry has shown improvements in the injury period and the POI.

b) Production

67. Production data of the domestic industry is given in the following table:-

	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13	April- Sept-13-Annualised

Production	MT	***	***	***	***	***	***
Trend	Indexed	100	137	159	169	172	172
Demand	MT	***	***	***	***	***	***
Trend	Indexed	100	108	117	116	127	127

68. It is observed that production of the domestic industry has increased over the injury period.

Sales volume

69. Sales volume of the domestic industry is given in the following table:

	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13	April-Sept-13-Annualised
Domestic sales	MT	***	***	***	***	***	***
Trend	Indexed	100	162	233	248	284	284
Demand	MT	***	***	***	***	***	***
Trend	Indexed	100	108	117	116	127	127
Market Share of domestic industry in Demand	%	***	***	***	***	***	***
Trend	Indexed	100	150	200	214	223	223

70. It is observed from the above table that sales of the domestic industry have showed increasing trend and similar trends continued during the post POI period as well.

c) Profit/Loss

71. The profitability of the domestic industry is given in the following table;

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13
Profits	Rs./Kg	***	(***)	***	***	***
Trend	Indexed	100	-313	490	625	134
Cash Profit	Rs./Kg	***	(***)	***	***	***

Trend	Indexed	100	(40)	242	282	110
ROCE	%	***	***	***	***	***
Trend	Indexed	100	8	372	528	324

72. It is seen from the above table that profitability of the domestic industry showed some improvements over the injury period and during the POI. Similar trends were visible in the return on capital employed situation. However, notably, the profitability and ROCE situation of the domestic industry showed deteriorating trends during the post POI period.

d) Cash Flow

73. Authority has examined the trends in cash profits in order to examine the impact of dumping on cash flow situation of the domestic industry. Information regarding cash profit of the domestic industry is given in the following table.

	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13
Cash profits	Rs./KG	***	(***)	***	***	***
Trend	Indexed	100	-40	242	281	110

74. It can be seen from the above table that the cash profits of the domestic industry increased over the injury period till the POI. The profitability of the domestic industry, however, declined during the post POI period.

e) Inventories

75. Inventories with the domestic industry moved as follows;

	Units	2009-10	2010-11	2011-12	2012-13	April-Sep 13
Average Stock	MT	100	190	160	206	288
Stock as no. of days sale	Days	***	***	***	***	***

76. It is noted that inventories with the domestic industry increased in the POI as compared to the base year and inventory level further increased in the post POI period as well. Inventory levels shows significant adverse effects and volume pressure on the domestic industry. There is significant increase in stock as number of days sale also.

f) Productivity

77. Authority notes that productivity of the domestic industry shows same trend as that of production. It can be further seen that productivity per employee and productivity per day has showed consistent improvements. Thus, any adverse impacts of continued imports from subject countries are not visible on these parameters.

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13
Productivity per employee	MT/Nos.	***	***	***	***	***
Trend	Indexed	100	127	148	157	159
Productivity per day	MT/day	***	***	***	***	***
Trend	Indexed	100	137	159	169	172

g) Employment and Wages

78. It is seen from the table below that the employment level remained stagnant throughout the injury period. Overall wages per kg, also showed increases in line with the increases in wages.

	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13
Employment	Nos.	***	***	***	***	***
	Indexed	100	108	108	108	108
Wages	Rs/Kg	***	***	***	***	***
	Indexed	100	116	144	157	157

h) Magnitude of Dumping

79. It is observed from the section pertaining to Dumping Margin above that dumping margins in respect of the imports of the subject goods from the subject countries are significantly positive in both in POI and Post POI period.

i) Growth

80. The Authority notes that the growth of domestic industry during the injury period including the POI and post POI period has been as follows:

Particulars	Unit	2009-10	2010-11	2011-12	2012-13	April-Sep 13
Profit/Loss Per Unit	%	-	(413.44)	256.18	25.43	(79.84)
Inventory (Average Stock)	%	-	89.77	(15.58)	28.35	39.96
Cash Profit Per Unit	%	-	(140.03)	696.30	16.26	(61.45)
Imports from Subject Countries	%	-	(3.27)	(6.34)	(3.63)	6.57
ROI	%	-	(1.96)	7.97	3.97	(4.69)

81. It is noted that the domestic industry showed growths in terms of various volume and price parameters till the POI, however, the situation has changed in terms of core parameters during the post POI period. Especially, the profitability of the domestic industry showed negative growth during the post POI period which has been improving till the POI. Also, imports from subject countries have increased in the post POI period.

Ability to raise capital investment

82. It is noted that the domestic industry has enhanced its Capacity of the subject goods during 2010-11. However, there were no further additions in the capacity thereafter.

O. Magnitude of Injury and Injury Margin

83. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject countries for determination of injury margin during POI and Post POI. The injury margin thus determined is as under:

Country	Producer/exporter	NIP of DI (Rs/Kg)	Landed price (Rs/Kg)	Injury margin	Injury margin %	Injury margin Range
POI						
China PR	Anhui Haoyuan Chemical Group Co. Ltd (Producer & Exporter)	***	***	***	***	0-10
China PR	All other producers/exporters	***	***	***	***	5-15

EU	All producers/exporters	***	***	(***)	(***)	(-0-10)
USA	All producers/exporters	***	***	(***)	(***)	(-0-10)
Post POI						
China PR	Anhui Haoyuan Chemical Group Co. Ltd (Producer & Exporter)	***	***	***	***	5-15
China PR	All other producers/exporters	***	***	***	***	10-20
EU	All producers/exporters	***	***	***	***	10-20
USA	All producers/exporters	***	***	(***)	(***)	(-0-10)

P. Conclusion on material Injury

84. It is noted that during POI the performance of the domestic industry has improved in terms of production, sales volumes, market share, capacity, profit, cash profit and return on capital employed. However, in the post-POI, the performance of the domestic industry in terms of profitability, return on capital employed, cash profit, inventory position etc deteriorated, even though the economic health of the domestic industry in terms of production, sales volumes, capacity, capacity utilization and market share continued to show signs of improvement. However, during the POI as well as post-POI, the price undercutting effect from China PR and EU remained positive.

Q. Causal Link And Other Factors

85. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:-

(a) Volume and prices of imports from third countries

86. The Authority notes that during POI, imports of the subject goods from countries other than the subject countries have been insignificant in volume. Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry.

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

87. The Authority notes that the subject goods are freely importable. The domestic industry is the sole producer of the subject goods and account for 100% domestic production and sales. Domestically produced subject goods are competing with that imported from subject countries at dumped prices.

(b) Contraction of demand or Changes in the pattern of consumption

88. The Authority notes that there is no contraction in the demand during injury period. On the contrary, overall demand for subject goods has shown significant positive growth during the injury period. The Authority further notes that the domestic industry has expanded its capacity during the POI.

(c) Development in Technology

89. The Authority notes that none of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

(d) Export performance of Domestic Industry:

90. The table below summarizes the performance of the domestic industry in respect of exports made by them;

Particulars	2009-10	2010-11	2011-12	2012-13	April- Sept-13	April-Sept-13-Annualised
Volume in MT	***	***	***	***	***	***
Indexed	100	136	98	58	35	35

91. The Authority notes that the export volumes of the domestic industry have declined during the POI vis-à-vis the base year as well as the immediate preceding year. However, the price and profitability in the domestic and export market has been segregated by the Authority for the purpose of present injury assessment.

(e) Productivity of the Domestic Industry

92. Productivity of the domestic industry increased consistently.

93. The Authority notes that while listed known other factors do not show injury to the domestic industry, following parameters show that injury to the domestic industry has been caused by dumped imports. It is noted that during POI the performance of the domestic industry has improved in terms of production, sales volumes, market share, capacity, profit, cash profit and return on capital employed, but deteriorated in terms of capacity utilization and inventory. However during post POI, period the overall economic health of the domestic industry in terms of production, sales volumes, capacity, capacity utilization, inventory, market share, profit, cash profit and return on capital employed deteriorated. Thus, the deterioration during post POI period in profits, return on capital employed, cash flow, etc. is directly due to dumped imports.

R. Likelihood of continuation or recurrence of injury

94. The Authority has to determine as to whether the subject goods are continuing to enter the Indian market at dumped prices or are likely to be exported at dumped prices from the subject countries in the event of withdrawal of anti dumping duties. It is pertinent to examine whether injury to the domestic industry is likely to recur due to these dumped imports if the duty is removed or varied. It has already been established that the landed value of imports from the subject countries to India was below the selling price of the domestic industry during POI and post POI and the non injurious price in post POI determined for the domestic industry. The Authority has also examined the likelihood of recurrence of injury to the domestic industry on the basis of information and evidence presented by the various interested parties during the course of the investigations. The Authority examined the likelihood of continuation or recurrence dumping and injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules, which states as under:

“A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances, which would create a situation in which the dumping would cause injury, must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the Designated Authority shall consider, inter alia, such factors and;

a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.

b. Sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports.

c. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely to increase demand for further imports and,

d. Inventories of the article being investigated”.

95. Following submission are made by petitioner and other interested parties

- i. The present mid-term review is initiated at the instance of the petitioner who is the major importer of the product under consideration. The principal ground for review is negative injury margin in the present period. Thus, there is neither a legal obligation for the exporters to respond in the present investigation, nor the same is necessary to establish that the injury margin is negative.
- ii. The domestic industry seems to give contrary statement. On one hand the domestic industry says that its performance has improved due to anti-dumping duty, and on the other hand it contends that it is suffering injury.
- iii. Since the domestic industry has not provided any information on likelihood of injury, it follows that the Designated Authority cannot determine likelihood of recurrence of injury in the event of withdrawal of anti dumping duty.

96. The following are the submission in this regard made by the domestic industry:

- i. Without prejudice, absence of continued dumping and injury in review period does not imply no likelihood of recurrence of dumping and injury in the event of withdrawal of anti- dumping duties.
- ii. The fact that price under cutting and injury margin remained significantly positive during the POI of the present MTR suggest the obviousness of likelihood of injury in the event of revocation or modification of existing duties.
- iii. It is very logical to ascertain that when there is current injury, likely injury is imminent and the question of likely injury is irrelevant.
- iv. Major exporters who have participated in the original investigation abstained in the present investigation restricting the Authority from accessing crucial information with regard to exports including to third countries and capacities by such producers concerning subject goods.

- v. It is not demonstrated either by the petitioner or by the exporters that there would not be routing of increased volume of subject goods into India at dumped prices in the event of revocation of duties by the Authority.
- vi. Subject countries hold a significant market share in the Indian Market as the level import even after the imposition of duties remained at very significant levels.
- vii. Performance of the domestic industry has only improved but the reasonable level is not achieved.
- viii. Exporters/producers have significant export oriented capacities which will be directed to India at even lower prices in the event of revocation of existing duties.
- ix. Parameters such as profitability and ROI are far below than desired levels and the present profitability and ROI do not portray any significant change in circumstances with regard to injury to be of a lasting and reasonable nature.
- x. In light of the failure of the petitioner to provide any positive evidence to suggest no likelihood, the balance of convenience is to ascertain based on facts submitted by the domestic industry that there is likelihood of injury and dumping in the in event of revocation or modification of present duties. Duty needs to be continued.

Examination by the Authority

97. Rule 23 of Anti-dumping Rules of India requires the Authority to examine the need for continued imposition of the duty from time to time. The domestic industry submitted that the petitioner in the present investigation has not provided any relevant information to examine the likelihood aspects. However, the Authority is of the view that such an examination would also involve an examination of the lasting nature of the changed circumstances and the likelihood scenario in the event of withdrawal of the duty. In order to determine whether the changed circumstances of dumping is of lasting nature and whether injury to the domestic industry would continue or recur in the future if the duties are removed, the Authority has examined the submissions made by the interested parties. The Authority had called for information from DGCIS with regard to imports into India for the period of investigation, as well as subsequent period immediately following the period of investigation. In this regard, the Authority notes as under:

i. Volume of Exports Post- POI:

98. In order to examine, the likelihood of injury to the domestic industry due to dumping of the subject goods from the subject countries, the Authority has undertaken analysis of the volume of exports of the subject goods to India and other countries from the subject countries during the post-POI period as well. The Authority notes that the volume of the exports from subject countries to India during the POI and post POI on the basis of DGCI&S data was 3461 MT and 3688 MT (Annualized) respectively, showing marginal growth.

99. The Authority notes that in the case of China PR, both dumping margin as well as injury margin during POI and post-POI are positive. As regards EU, whereas the dumping margin and injury margin are negative during the POI, but during post-POI, the same are positive, signifying likelihood of dumping and injury to the domestic industry in the event of revocation of the anti-dumping duty. In the case of USA, the Authority notes that both during POI as well as post-POI, the dumping margin as well as injury margin have been found to be negative, signifying absence of likelihood of dumping and injury to the domestic industry on account of imports of the subject goods from USA.

ii. Market share of Subject Countries in the Indian market

100. The Authority notes that the market share of the subject countries declined during POI as compared to the base year, but in post POI the same continued to be more or less at the same level. On the contrary, the market share of the domestic industry has increased during the corresponding period.

iii. Export orientation of foreign producers

101. From the available information it is evident that the producers/exporters from subject countries have substantial production capacity and are very much export oriented. Considering the increase in demand for the subject goods in Indian Market and its lucrative price, if the anti-dumping duties are revoked, the entire demand in India can be catered by the producers/exporter from subject countries

iv. Level of current and past dumping margin

102. Considering the dumping margin determined by the Authority in the previous investigation and the dumping margin now assessed, it is quite evident that the exports from the subject countries, except USA, were continued to be made at dumped prices and is likely to continue with revocation of anti dumping duties. The volume of imports from the subject countries, except USA, has increased even after imposition of anti-dumping duties. Further, the volume of imports is

likely to increase further in the event of revocation of anti dumping duties, given the significant price undercutting and underselling during the injury period.

103. As far as continuation or recurrence of injury to the domestic industry is concerned the price levels at which the goods are entering Indian market from the subject country, in spite of the duty in force, is an important indicator. The Authority also notes that in spite of improvement in the condition of the domestic industry in several injury parameters during POI, during post POI, especially during Q2 period the overall economic health of the domestic industry in terms of production, sales volumes, capacity, capacity utilization, inventory, market share, profit, cash profit and return on capital employed deteriorated. Thus, the deterioration during post POI, especially during Q2 period in profits, return on capital employed, cash flow etc. is due to dumped imports.

104. The essential facts of the investigation, as analysed by the Authority in this final finding, sufficiently establish that the changed circumstances, on the basis of which applicant has sought for the mid-term review, are not of lasting nature and there is a likelihood of continuation/recurrence of dumping of the subject goods, originating in or exported from the subject countries, and consequent injury to the domestic industry, in the event of reduction/revocation of the anti-dumping duty.

S. Post-Disclosure Comments

105. The following post-disclosure comments/submissions have been made by the petitioner:

- i. The disclosure statement establishes that the injury margin is negative. Therefore, anti-dumping duty is required to be withdrawn.
- ii. Since petitioner's data is based on customs data, there is a possibility of inclusion of some import transactions with abnormally low prices. These are required to be excluded.
- iii. NIP determined is too high as compared to petitioner's assessment.
- iv. Designated Authority should reduce the element of customs duty, freight in India, international freight, port charges, etc while determining normal value.

106. The following post-disclosure comments/submissions have been made by the domestic industry:

- i. The dumping margin in case of China PR has been positive during the POI as well as post POI period. The domestic industry continued to suffer injury, as emerged from the post POI performance, thus, the anti dumping duties imposed on China PR are liable to be continued.

- ii. The dumping margin from EU has been negative in the POI however, the same has been positive in the post POI period. The domestic industry continued to suffer injury, as emerged from the post POI performance, thus, thus, the anti dumping duties imposed on EU are liable to be continued.
- iii. Although the dumping margin from USA has been negative in the POI as well as during the post POI period, the import price from USA are orchestrated and kept at higher levels to show a fake changed circumstance to justify an MTR. The domestic industry continued to suffer injury, thus, the anti dumping duties imposed on USA are liable to be continued.
- iv. The exporters from USA abstained from cooperating with the Authority in the present MTR. In the absence of relevant information to determine likelihood as a result of non cooperation by the exporters, the Authority instead of determining no likelihood of dumping and injury from USA, the balance of convenience should be to hold that there is likelihood of dumping and injury from USA in the event of withdrawal of duties and the existing duties should be allowed to continue.
- v. Price undercutting and price underselling from subject countries during the POI and post POI period are positive without ADD. Thus, the existing anti dumping duties should not be withdrawn.
- vi. Since the performance of the domestic industry deteriorated during the post POI period, injury to the domestic industry is likely to continue or recur if the duties are revoked. Therefore, the question of revocation of anti dumping duties does not arise.

Examination by the Authority

107. The Authority notes that no post disclosure comment has been made by the Chinese producer/exporter. The Authority further notes that the post disclosure comments made by the petitioner and the domestic industry are mostly reiteration of their earlier submissions. Nevertheless, the post disclosure comments considered relevant are examined and addressed below:

- i. As regards the contention of the petitioner that NIP determined is too high, the Authority notes that the NIP has been determined as per Annexure III of the Anti-dumping Rules.
- ii. As regards the contention of the petitioner that import transactions with abnormally low prices are required to be excluded, the Authority notes that

all valid export transactions made by the exporter during the POI are taken in to account while determining export price.

- iii. As regards the contention of the petitioner that the elements of customs duty, freight in India, international freight, port charges, etc should be excluded while determining normal value, the Authority notes that the constructed normal value (CNV) has been determined for China PR in terms of the laid down rules and practice.
- iv. As regards the contention of the domestic industry that due to absence of response from the producers/exporters of USA, the balance of convenience should be to hold that there is likelihood of dumping and injury from USA in the event of withdrawal of duties and the existing duties should be allowed to continue, the Authority notes that despite absence of response from USA the relied upon data shows that the dumping margin and injury margin from USA during POI and post POI is negative.

T. CONCLUSIONS

108. Having initiated and conducted the review as requested by M/s NOCIL Ltd and having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submissions made by the interested parties or otherwise as recorded in this finding and on the basis of the 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. In spite of the anti-dumping duty in force, the dumping of subject goods continued from China PR, injuring the domestic industry.
- ii. Although during the POI, dumping effect from European Union (EU) was negative; during post-POI, dumping from EU recurred, causing injury to the domestic industry.
- iii. Both during POI as well as post-POI, imports of subject goods from USA have no dumping or injury effect on the domestic industry.
- iv. While, dumping of subject goods having injurious effect on the domestic industry continued from China PR, the dumping from EU is likely to recur in the event of revocation of the duties.
- v. The dumping margin and injury margin determined by the Authority in respect of Anhui Haoyuan Chemical Group Co. Ltd, China PR (Producer & Exporter) in particular and the exporters from China PR

and EU in general have increased significantly during the post-POI as compared to the POI.

- vi. The changed circumstances, on the basis of which the petitioner has sought for the mid-term review, are not of lasting nature and there is a likelihood of continuation/recurrence of dumping of the subject goods, originating in or exported from the subject countries except USA, and consequent injury to the domestic industry, in the event of revocation of the anti-dumping duties.

U. Recommendations

109. Having concluded that changed circumstances, on the basis of which the petitioner has sought for the mid-term review, are not of lasting nature and there is a likelihood of continuation/recurrence of dumping of the subject goods, originating in or exported from the subject countries except USA, and consequent injury to the domestic industry, in the event of revocation of the anti-dumping duties, the Authority holds that the measure is required to be extended in respect of imports of the subject goods from the subject countries except USA. Further, in view of continued dumping from China PR during POI and post POI and likelihood of recurrence of dumping from European Union during post POI and consequent intensified injury to the domestic industry, the Authority recommends continuation of the existing anti-dumping duties in respect of all the exporters from China PR and European Union.

110. The Authority had earlier recommended imposition of definitive antidumping duties on the imports of the subject goods, originating in or exported from the subject countries vide Final Findings Notification No. 14/41/2010-DGAD dated 5th December, 2011 and duties were imposed by the Central Government vide Notification No. 10/2012-Customs dated 24th January, 2012. In view of the above position, the Authority considers it necessary to recommend revocation of the anti-dumping duty in respect of imports of the subject goods, originating in or exported from USA and continuation of the anti-dumping duties at the level at which imposed earlier on the imports of the subject goods, originating in or exported from China PR and European Union.

111. Accordingly, the anti-dumping duty equal to the amount indicated in Col. 8 of the table below is recommended to be imposed by the Central Government on the imports of the subject goods, originating in or exported from China PR and European Union.

Duty Table

Sl. No	Tariff item	Description of goods	Country of origin	Country of exports	Producer	Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	29333917	Morpholine	China PR	China PR	M/s Anhui Haoyuan Chemical Group Co. Ltd	M/s Anhui Haoyuan Chemical Group Co. Ltd	0.29	KG	US Dollar
2	29333917	Morpholine	China PR	China PR	Any other than combination at Sr. No.1		0.63	KG	US Dollar
3	29333917	Morpholine	Any country other than the subject countries	China PR	Any	Any	0.63	KG	US Dollar
4	29333917	Morpholine	China PR	Any country other than the subject countries	Any	Any	0.63	KG	US dollar
5	29333917	Morpholine	European Union	European Union	Any	Any	0.68	KG	US Dollar
6.	29333917	Morpholine	Any country other than the subject countries	European Union	Any	Any	0.68	KG	US Dollar
7.	29333917	Morpholine	European Union	Any country other than the subject countries	Any	Any	0.68	KG	US Dollar

V. Further Procedures

112. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

J.K. Dadoo
Designated Authority