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F. No.14/31/2013-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Date: 5th November, 2015

(Final Findings)

Subject: Anti-dumping investigation concerning imports of “Albendazole” originating in or exported from China PR.

1. F. No.14/31/2013-DGAD: Whereas 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 thereof, as amended from time to time (hereinafter also referred to as the Rules); M/s Sequent Scientific Limited., (hereinafter referred to as the applicant or petitioner or domestic industry) filed an application before the Designated Authority, alleging dumping of Albendazole (herein after referred to as subject good) originating in or exported from China PR (herein after referred to as subject country) for initiation of anti-dumping duty investigations into dumped imports of the subject good and resultant injury to Domestic Industry and for levy of anti-dumping duties on the subject good originating in or exported from the subject country. M/s K.A. Malle Pharmaceuticals Ltd also produces the like product in India and has supported the application.
2. The Authority on the basis of sufficient prima facie evidence submitted by the applicant issued a notification F.No.14/31/2013-DGAD, dated 11th September, 2014, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods, originating in or exported from the subject country, in accordance with the Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

3. The procedure described below has been followed by the Authority in the present investigation:
 - a. The Authority notified the Embassy of China PR in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5 (5) of the AD Rules.
 - b. The Authority issued a notification dated 11th September 2014 initiating anti-dumping investigation concerning imports of the subject good from the subject countries.

- c. The Authority forwarded a copy of the notification to all known exporters (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- d. The Authority also forwarded a copy of the notification to all the known importers of the subject good in India and advised them to make known their views in writing within forty days from the date of the letter.
- e. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassy of the People's Republic of China in accordance with Rule 6(3) of the AD Rules. A copy of the application was also provided to other interested parties, wherever requested.
- f. The Authority sent questionnaires to elicit relevant information to the following known exporters and manufacturers from China PR, including Market Economy Treatment (MET) Questionnaire in accordance with Rule6(4) of the AD Rules.
 - 1. Changzhou Yabang oPharmachem Co. Ltd., TianrunTech.Building, Science & Education, Changzhou, Jiangsu, P. R.China 213164.
 - 2. Sinochem Jiangsu Co., Ltd, Jin Cheng Tower, Nanjing 210002, P.R.China
 - 3. Hubei Zhongjia Pharmaceutical Co, Huaqiao Street, Tianmen,China
 - 4. Wuhan Hezhong Pharmaceutical Co., ZhongshanRoad,Wuchang, District, Wuhan city, Hubei Province, China
- g. In response to the initiation notification, only one producer/exporter from China, Changzhou YabangPharmachem Co., Ltd. (Yabang-QH), China PR has filed the questionnaire response. The said response was also filed on behalf of their subsidiaries namely M/s. Lianyungang YAHUI Pharmachem Co. Ltd. (YAHUI) and M/s. Changzhou QH Pharmaceutical & Technology Co., Ltd. (QHPT). The subsidiaries submitted separate detailed response after the 2nd public hearing on the direction of DA. None of the producers/exporters from China PR have filed Market economy questionnaire.
- h. Questionnaires were sent to the following known importers/users of subject good in India calling for necessary information in accordance with Rule6(4) of the AD Rules:
 - 1. C.J.Shah& Co., Mumbai
 - 2. Medipharma Drug House, Mumbai
 - 3. BimalPhama, Mumbai
 - 4. Genereal Import, Mumbai
 - 5. VidyaPharma, Mumbai
 - 6. Ashish Life Science, Mumbai
 - 7. Concept Pharma, Mumbai
 - 8. Pharmanza, Mumbai
 - 9. KwalityPharma , Mumbai
 - 10. MaxhealPharma, Mumbai
 - 11. Cipla Limited , Mumbai
- i. None of the importer / user of the subject good has responded to the questionnaire.
- j. Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept for inspection by the interested parties. Submissions made by all interested parties have been taken into account in disclosure statement.

- k. The confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, along with non-confidential summary thereof, has been treated confidential.
- l. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the domestic industry and cooperating producers/exporters was conducted to the extent considered necessary for the purpose of the investigation.
- m. The Non-injurious Price (hereinafter referred to as "NIP") based on the cost of production and cost to make and sell the subject good in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure- III of AD rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- n. Investigation was carried out for the period starting from 1st April 2013 to 31st March 2014 (hereinafter referred to as the "period of investigation" or the "POI"). The examination of trends, in the context of injury analysis covered the period from 2010-11, 2011-12 and 2012-13 and the POI.
- o. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject good for the past three years, including the POI. The authority has relied upon import data procured from DGCI&S in the present investigation.
- p. The Authority held oral hearing on 14th July 2015 to provide an opportunity to the interested parties to present information orally in accordance with Rule 6(6). Another oral hearing was held on 11th August 2015 in view of the change of Designated Authority to give an opportunity to the interested parties to present information orally before the new DA. The interested parties were allowed to present rebuttal arguments/rejoinders on the views/information presented by other interested parties. The Authority has considered submissions received from interested parties appropriately.
- q. A disclosure statement was issued on 23.10.2015 containing essential facts under consideration of the Designated Authority, which have formed the basis for this Final Finding Notification. A time up to 30.10.2015 was given to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- r. *** in this statement represent information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- s. Arguments raised and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in this disclosure statement.
- t. Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs. 61.1 as per exchange rates published by customs.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. The product under consideration as notified in the initiation notification dated 11th September 2014 is ~~Albendazole~~ Albendazole is a broad spectrum drug containing anthelmintic (de-wormer), used inhuman as well as animal (Veterinary) applications. The chemical name of Albendazole is methyl (5-propylsulfanyl-3H-benzimidazol-2-yl) amino-formate but in trade parlance it is also known by different trade names such as Albenza, Valbazen®, Eskazole, Zentel and Andazol. Its molecular formula is C₁₂H₁₅N₃O₂S.
5. Albendazole has wider use in veterinary application as compared to human consumption due to its high dosage and regularity of use. It is a white to off-white powder used for treating certain infections caused by worms such as pork tapeworm and dog tapeworm. For humans, the dosage given is in the form of tablets, whereas for animals, it is in liquid form. Albendazole is an API (active pharmaceutical ingredient) used mainly in formulation drugs such as Zentel (by GSK) and Bendex (by Cipla).
6. The subject goods are classified under Chapter 29 of the Custom Tariff Act, 1975 under Tariff heading 29 33 2950. It has been claimed by the petitioner that subject goods are also being imported under other headings such as 23 09 9090, 29 33 1100, 2933 2990, 29 33 5990, 29 33 9090, 29 41 9090 etc. It is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.

Examination by the authority

7. No specific issues have been raised in respect to product under consideration by any of the interested parties in the present investigation.
8. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian industry. Product under consideration produced by the domestic industry are comparable to the imported subject product in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
9. Thus, the Authority proposes to hold that product under consideration produced by the applicant domestic industry is like article to the subject product under consideration in accordance with the AD Rules.

C. DOMESTIC INDUSTRY AND STANDING:

Views of Exporter

10. Views of the Exporter are as follows:
 - a. No details have been provided by Domestic industry for two other producers i.e. M/s. Cadchem Laboratories Limited and M/s. Vardhman Chemtech Limited.
 - b. No production and sales information of the producers have been provided nor considered in the application for any of the year of the injury investigation period therefore; standing of the DI cannot be justified.

Views of Domestic Industry

11. Views of Domestic Industry are as follows:
 - a. Domestic Industry is the largest producers of the subject good in India having a share of 88% in the domestic production of subject goods.
 - b. M/s. K A Malle Pharmaceuticals Ltd also produces the like product in India and has supported the present petition.
 - c. As per market information available with the Petitioner, M/s. Cadchem Laboratories and Vardhaman Chemtech have very limited capacity. These companies are not manufacturing the subject goods from basic production stage and only doing some processing of semi-finished goods in India such as converting crude Albendazole to Pure Albendazole. Both the companies regularly import the product concerned from the subject country. Therefore, both these companies should not be considered as part of domestic industry.
 - d. No additional evidence has been provided by any other interested party to deny the claim made by the Petitioner.

Examination of the Authority

12. The submissions made by the interested parties during the course of the present investigation with regard to the scope of domestic industry & standing and considered relevant by the Authority are examined and addressed as follows:
 - a. The Authority notes that Rule 2(b) of the Anti-dumping Rules defines domestic industry as under:-

“domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”
13. As per above stated Rule the authority notes that the applicant is the largest producer of the like article and constitutes major proportion of the total domestic production.
14. In respect to M/s. Cadchem Laboratories and Vardhaman Chemtech, the authority notes that no submission has been made by these companies. None of the parties refuted the claims of domestic industry that these companies do not produce the subject goods presently. Further, these companies import the subject goods from China PR. Therefore, Authority concludes that these companies do not constitute the part of domestic industry for the purpose of this investigation.
15. Apart from the petitioner, M/s. K A Malle Pharmaceuticals Ltd also produces the like product in India. M/s K.A. Malle Pharmaceuticals Ltd. has supported the present petition filed by the Petitioner and support letter in this regard has been placed on record. The applicant has 88% share of the domestic production of subject goods.

16. In view of the above and after due examination, the Authority holds that the applicant satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules and constitutes domestic industry within the meaning of Rule 2(b).

D. DE MINIMIS LIMITS

17. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources (IBIS), as well as the data furnished by the cooperating exporters from the subject country, the imports of the subject goods from the subject country are found to be above the *de minimis* level.

E. CONFIDENTIALITY

View of Opposing Interested Parties

18. Following are the views of the Exporter:
- a) The domestic industry has claimed excessive confidentiality and claimed lots of information as confidential without providing any legitimate reasons and in violation of the Rules and detailed procedure laid down by the Hon'ble Authority. The non-confidential application provided is completely deficient and the exporters have been denied of a reasonable opportunity to make submissions in defense.
 - b) The non-confidential version of the application submitted by the domestic industry is not a replica of the Confidential Version. In the absence of the non-confidential replica of the confidential version of the application by the domestic industry, the exporters are denied an opportunity to comment upon all the evidence submitted by the domestic industry on confidential basis to the Authority.
 - c) The domestic industry has not provided a hard copy and a soft copy in excel file of the raw/original import data received by it from IBIS along with the application nor it has indicated that the same has been provided to the Authority.
 - d) The domestic industry has also not provided a soft copy in excel file of the sorted IBIS import data for the years April 10-March 11, April 11-March 12, April 12-March 13 and April 13-March 14.
 - e) A list of excluded transactions from the raw/original import data received from IBIS has also not been provided.
 - f) The domestic industry has disclosed the names of two other domestic producers. However, no details have been provided as to when they stopped producing the subject goods. Further, no production and sales information of those two producers have been provided nor considered in the application for any of the year of the injury investigation period.
 - g) Profit / loss and ROCE in percentage terms and inventory have been kept as confidential.

Views of Domestic Industry

19. The following are the submissions of domestic industry.
- a. The non-confidential version of the application is an exact replica of the confidential version.
 - b. The Petitioner has provided indexed figure in the application wherever the information was confidential. Further wherever summarization is not possible, the Petitioner has provided the reasons for the same to the satisfaction of the Designated Authority.
 - c. Complete raw data of imports as obtained from IBIS is provided and contains all the items pertaining to subject good. Therefore, no sorting of data is required from the raw data.
 - d. The profit/loss and ROCE in indexed units are provided in non-confidential version.
 - e. The inventory in the form of indexed units is provided in the non- confidential version.
 - f. Yabang-QH has not explained the basis of pricing of the material that it purchased from its related company YAHUI. Yabang-QH has also not explained as to how it determined that such pricing reflected fair market price.
 - g. Yabang-QH cannot claim confidentiality on the total quantity of the sales transactions.
 - h. Yabang-QH has not disclosed the VAT refund rate in the questionnaire response.

Examination of the Authority

20. The various submissions made by the interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are examined and addressed in terms of Rule 7 of Anti-dumping Rules.
21. Information provided by the interested party 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.
22. With regard to issue of import data, the authority has relied upon DGCIS data and the same has been placed in public file.

ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

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

a. Normal Value

23. Under Section 9A(1)(c), normal value in relation to an article means:

(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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 trans-shipped through the country of export or such article is not produced in the country of export or 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.

b. Provisions relating to Non- Market Economy country

24. Annexure-I to AD rules states as under:

7. In case of imports from non-market economy country, 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 country, 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.

8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the

competent authority of any WTO member country during the three year period preceding the investigation is a nonmarket economy country

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3)

(3) The designated authority shall consider in each case the following criteria as to whether:

- (a) the decisions of the concerned firms in such country 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.*

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”.

Views of the Domestic Industry

25. The following are the submissions made by the applicants in respect of normal value:

- a. China PR should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
- b. The Petitioner has determined normal value of subject goods based on constructed cost of production of the subject goods.
- c. The normal value is constructed as per the provision enshrined under Paragraph 7 of Annexure-I of AD Rules. The applicant was not able to find any credible information. Therefore, the applicant constructed the normal value based upon its own cost of production as per consistent practice followed by the Designated Authority.
- d. Interested parties failed to exercise their right and failed to make any submissions within time frame as provided in the initiation notification.

- e. The interested parties have not suggested any appropriate market economy third country where subject goods are manufactured for determining the normal value.
- f. None of the exporters from China PR have claimed Market Economy Treatment. Therefore, it can be implied that exporters are agreeing to the submissions made by petitioner to treat China PR as NME and the normal value should be calculated as per paragraph 7 of Antidumping Rules.

Views of Exporter

26. Submissions of the exporter are as follows:

- a. China PR is a non-market economy country and the normal value for China is required to be determined in accordance with the provisions of para 7 of Annexure I to the Anti-dumping Rules.
- b. The Designated Authority is required to first identify the market economy third country for determination of normal value and only where it is not possible to obtain necessary data from such third country, the normal value is to be determined 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.
- c. The interested parties have not been put to notice about selection of the third country nor have the interested parties been requested to suggest and make necessary information available about the third country. This is in contravention of the ratio decided in the case of Shenyang Matsushita 2005 (181) ELT 320 (SC).
- d. The domestic industry determined the normal value for Chinese exporters on the basis of domestic cost and it did not follow the mandatory procedure prescribed in para 7 as laid down by the Honøble Supreme Court in Shenyang Matsushita 2005 (181) ELT 320 (SC). There is a hierarchy of methods to be followed as prescribed in Para 7 and the determination of normal value by relying upon the Indian costs and prices is the last method and that is to be followed only in the event it is not possible to construct the normal value on the basis of other alternatives prescribed in the opening sentence of Para 7. Thus, in the absence of following the mandatory procedure, the present proceedings cannot continue and have become incurable in view of the decision of the Honøble Supreme Court in the case of Shenyang Matsushita.

Examination by the Authority

Market Economy Treatment and Normal Value

- 27. The authority notes that none of the producers/exporters from China PR has filed Market economy questionnaire and therefore the authority is unable to examine the market economy claims of producers/exporters from China PR. Accordingly, the authority proposes to determine the normal value in China PR for all producers/exporters on the basis of facts available, in terms of para 7 of Annexure I to the Anti-dumping Rules.
- 28. With regard to submission of interested parties that Authority is required to first identify the market economy third country for determination of normal value and only where it is not possible to obtain necessary data from such third country the normal value is to be determined on any other reasonable basis, including the price actually

paid or payable in India. The authority notes that none of the interested parties has suggested which market economy third country for determination of normal value should be considered and no information has been provided.

29. The Authority proceeds to determine the Normal value for China PR on available facts basis in terms of second proviso of Para 7 of Annexure 1 to the AD Rules. Accordingly, in terms of Para 7 of Annexure 1 to the Rules, the Authority has constructed the Normal value for the Chinese producers on the following basis ó

- a) International prices of major raw materials have been considered.
- b) Consumption of raw materials and conversion costs have been adopted on the basis of information/ data available of the domestic industry.
- c) Selling, general & administrative costs have been taken on the basis of information/data of the domestic industry.
- d) Profit has been taken @ 5% of ex-factory cost excluding interest.

The normal value so proposed is as mentioned in the dumping margin table below.

c. Export price

Views of Domestic Industry

30. The following are the submissions made by the applicants in respect of export price:

- a. As per the information available with the domestic industry, VAT rate is 17% and refund rate is 9% on subject product. Therefore, the authority should reduce the export price by 8% in determining the ex-factory export price.
- b. Due to non-cooperation by the entire value chain of Yabang-QH group, it should be treated as non-cooperative.
- c. Both YAHUI and QHPT have not filed separate individual questionnaire responses in the subject investigation. Yabang-QH has in fact tried to create confusion in its questionnaire response by including data concerning YAHUI and QHPT in its response
- d. Response submitted by Yabang-QH does not contain complete information with respect to YAHUI and QHPT as required under the Antidumping Rules. Absence of complete information automatically leads to rejection of response.
- e. All the related companies are under legal obligation to file separate questionnaire response. The combined responses by Yabang-QH, YAHUI and QHPT have been filed with malafide intention to hide crucial facts from the Designated Authority.
- f. During POI, YAHUI is only engaged in supply of intermediate raw materials to Yabang- QH, who produces the subject goods. Therefore, when a company is not engaged in production of subject goods during POI, that company cannot be treated as producer. The production of subject goods post-POI does not make any

difference as it is essential to manufacture the subject goods during POI. Therefore, YAHUI cannot be granted to any duty rate.

- g. The authority must reject questionnaire response by YAHUI and QHPT filed at such belated stage of investigation. Similar practice has been followed by the Designated Authority in all the previous antidumping investigations.
- h. The Designated Authority in the sunset review anti-dumping investigations concerning imports of (1) Saccharin originating in or exported from China PR, (2) sheet glass from China PR and (3) R- 134A from China PR have rejected the belated response filed by the exporters. Therefore the response by YAHUI and QHPT cannot be accepted at such belated stage of investigation.

Views of Exporter:

31. Submissions of the exporter are as follows:

- a. The company has stated that they have provided all the details relating to the complete value chain. M/s Changzhou YabangPharmachem Co., Ltd. (Yabang QH) is a holding company and the other two companies i.e. M/s. Lianyungang YAHUI Pharmachem Co. Ltd. (YAHUI) and M/s. Changzhou QH Pharmaceutical & Technology Co., Ltd. (QHPT) are the 100% wholly owned subsidiary companies. Therefore, the holding company can legally provide details for both of its 100% wholly owned subsidiary companies in a joint response. Further, with the filing of separate information for QHPT and YAHUI, no new information would be submitted and the information already submitted would only be separately provided. It has been mentioned that under the similar circumstances, in the investigations concerning *Polypropylene from Oman, Saudi Arabia and Singapore and PVC Suspension Resins* the joint responses from several companies were accepted without asking them to file separate response for each company. However, exporter does not have any objection in filing the separate response for QHPT and YAHUI.
- b. They further stated that the subject goods exported to India, in the period of Investigation by M/s Changzhou QH Pharmaceutical & Technology Co., Ltd. (QHPT) have been manufactured by M/s Changzhou YabangPharmachem Co., Ltd. (Yabang QH). The second subsidiary, M/s. Lianyungang YAHUI Pharmachem Co. Ltd. (YAHUI) did not manufacture the subject goods during the period of investigation as they were into manufacture and supply of the intermediate product (Amino-4-propylthio-aniline and Cyanide carbamate) of Albendazole to Yabang QH for manufacturing Albendazole. The cost of the intermediate manufactured by YAHUI accounts for 87.4% of total cost of Albendazole. Currently, YAHUI is also producing the subject goods. Since all the three companies are group companies and under the common control and management, a single dumping margin is to be determined for them in accordance with Article 6.10 of the WTO ADA and single duty, if any is to be imposed on them.
- c. In a Panel Report in Korea-Anti-dumping duties on "Certain Paper" from Indonesia, the Panel held that the context of Article 9.5 strongly suggests that the term "exporter" in Article 6.10 should not be read in a way to require an individual margin of dumping for each independent legal entity under all

circumstances. Thus, Article 6.10 does not necessarily preclude treating distinct legal entities as a single exporter or producer for purposes of dumping determinations in anti-dumping investigations. While treating multiple companies as a single exporter or producer for the determination of dumping margin in an investigation, it is to be seen whether these companies are in a relationship close enough to support that treatment. Thus, in view of the Panel Report, it is to be seen that since all the three companies are fully under the same management and control, they can be treated as single economic entity and a single dumping margin may be determined for all the three group companies under 6.10 of WTO ADA in the interest of justice as there would not be any new shipper right available to YAHUI.

- d. Exporter has drawn attention to the Final Findings of European Commission in the case of imports of Certain Saddles originating in China PR (Council Regulation (EC) No. 691/2007 dated 18th June 2007) wherein the EC under the identical situation made applicable the dumping margin determined for a group of companies to other group company that has not exported the subject goods to European Union in the investigation period. The relevant excerpts from the said EC findings are reproduced below for the ready reference of the Authority:

“(19). One cooperating exporting producer claimed that an individual dumping margin should also be attributed to one company in the group who had not exported to the EC during the IP. Given that the group has fully cooperated in the investigation, their claim was accepted and the group's average dumping margin should also be attributed to this company, Cionlli Bicycle Components (Tianjin) Co., Ltd....”

- e. Accordingly, they have requested the Authority for determination of a single dumping margin for the aforesaid three group/related companies.

Examination by the Authority

Export price in case of producers and exporters from China PR

32. The exporter supplemented their response subsequent to the hearing. The same has been taken on record and examined. During the POI, YAHUI was only engaged in supply of intermediate raw materials to Yabang- QH, who produced the subject goods. With regard to the request of YAHUI for single rate of duty for all the companies in group relying upon the Panel report of Korea- Anti dumping Duties on Certain Papers from Indonesia, the authority notes the following:

- a. Article 6.10 of WTO Antidumping Agreement and Rule 17(3) of Indian AD rules states that individual margin of dumping should be determined for each known exporter or producer of subject goods.
- b. The facts in WTO Panel report relied upon are completely different and the same are not applicable to the present investigation. The issue in Panel report was whether several related companies who have produced and exported the article under investigation can be treated as single economic entity and whether a single margin of dumping can be assigned to them. The Panel report is applicable to a situation wherein there are several related companies who are engaged in production and export of subject goods and a single rate of dumping margin is determined for all of

them taken together. It is not applicable to a situation wherein a company has not produced and exported the subject goods during POI. The case of Final Findings of European Commission relating to imports of Certain Saddles originating in China PR, quoted by the exporter, pertains to the scenario where subject goods were produced by the individual company during POI though not exported.

- c. In the instant case, during the POI, YAHUI is only engaged in supply of intermediate raw materials to Yabang- QH, who produces the subject goods. Therefore, when a company is not engaged in production of subject goods during POI, it cannot be treated as a producer of subject goods. YAHUI has neither produced nor exported the subject goods during POI. Further, the production of subject goods in post-POI is not a deciding relevant fact as it is essential to manufacture and export the subject goods during POI. The dumping margin is determined for POI based on facts prevailing during POI.
 - d. In view of the above, it is not possible to determine dumping margin for YAHUI.
33. In the EQR, Changzhou YabangPharmachem Co., Ltd (Yabang ó QH) China PR has given details of the exports made to India. The Authority made adjustments as claimed by the exporter in their EQ response in order to arrive at the net export price at ex-factory level. As the exports were made on FOB basis, price adjustments have been made on account of inland freight, clearing charges, credit costs, bank charges & VAT etc. on the basis of the questionnaire response filed by the exporter and the related producers. After making the acceptable adjustments, the Authority proposes to determine weighted average net export price as mentioned in the dumping margin table below.
34. The export price for other producers/exporters in case of China PR is proposed to be determined on the basis of best available information on record. The Authority considered the lowest export price of the co-operative exporter and made adjustments on account of inland freight, clearing charges, credit costs, bank charges & VAT, etc. adjustment in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level proposed to be determined is mentioned in the dumping margin table below:

Dumping Margin

| Producer | Exporter | Normal Value US\$/Kg | Export price US\$/Kg | Dumping Margin US\$/Kg | Dumping Margin % | Range |
|---|---|-------------------------|-------------------------|---------------------------|------------------|-------|
| Changzhou Yabang ó Pharmachem Co. Ltd, China PR (Yabang-QH) | Changzhou QH Pharmaceutical & Technology Co. Ltd. China PR (QHPT) | *** | *** | *** | *** | 75-85 |
| All other Producers/ Exporters | All other Producers/ Exporters | *** | *** | *** | *** | 75-85 |

G. DETERMINATION OF INJURY AND CAUSAL LINK

Injury Determination

Submissions made by Domestic Industry

35. Following are the views of domestic Industry:

- a) The volume of dumped imports have increased at an alarming rate into India from China PR. Imports of subject product from China PR in relation to domestic production have reached a level of 30% during POI as compared to 13% during 2010-11.
- b) The petitioner is not able to increase its domestic prices as the Chinese exporters are offering goods at much lower price resulting in substantial price undercutting and underselling.
- c) There has been substantial price undercutting of domestic industry prices by China PR throughout the injury period and POI. Due to substantial price undercutting, Domestic Industry has not been able to increase its price to recover the increasing cost of sales.
- d) The petitioner is not able to utilize the full capacity due to intensive dumping by Chinese Exporters. Almost 32 % of the petitioners' capacity remains unutilized. With such high unutilized capacities, the petitioner is getting into severe financial crunch.
- e) The landed value of Chinese imports is almost 50% of the cost of production of the domestic industry causing severe injury to domestic industry
- f) Domestic Industry has only been able to increase its domestic sales volume by 25% whereas demand in domestic market has increased by 40%.The demand has increased from 427,297 Kgs in 2010-11 to 573,164 Kgs during POI, an increase of 145,867 Kgs. Out of the said increase; the Petitioner was able to get only 69,137 Kgs.
- g) The increase in demand in market is captured by the imports from China PR and the market share of domestic industry has declined.
- h) Market share of the petitioner has declined from 65% during 2010-11 to 60% during POI and share of domestic producers in India has declined from 86% to 71% during same period.
- i) Domestic Industry's profitability has gone down drastically during POI due to intensified dumping by Chinese exporters. The losses suffered by the domestic industry have increased during injury analysis period and POI.
- j) Due to cost reduction efforts made by the domestic industry, losses were reduced to certain extent but remain far away from earning profits leave aside the 22% ROCE.
- k) The exporters are making comparison of market share during POI with immediately preceding year. This type of comparison is flawed and illogical.

- l) Even though the import prices have increased over the injury period but they are still lower by 30-40% of the domestic sales prices of the Petitioner.
- m) With significant difference between the landed value of the imported goods and cost of the Petitioner, the Petitioner has been suffering losses over injury period and POI.
- n) The exporters are showing the absolute increase in depreciation, interest and wages not per unit increase in depreciation, interest and wages cost. If the Designated Authority converts the absolute numbers into per unit costs, these expenses will show only a marginal increase. Similarly, if per unit of capital employed is calculated, it will show that there is only marginal increase in capital employed.
- o) The exporters have failed to explain why the export prices of subject goods from China PR are significantly low.

Submissions by Exporter

36. Submissions made by the interested parties are summarized below:

- a. There is no volume injury to the domestic industry as Production Volume, Capacity utilization, Domestic Sales Volume, Market Share, Inventory, Number of employees and Wages all have significantly improved over the injury investigation period.
- b. There is also no Price Injury as the import prices from the subject country over the injury investigation have increased by 55% whereas the domestic prices increased by 21% over the same period. Further, there is no price depression and suppression of the domestic prices in the current case. It may be seen that the domestic industry is suffering from other factors but not from the alleged dumped imports from China as the domestic industry is historically in losses as per the information available for the last 5-6 years.
- c. The domestic industry stated that they incurred losses in the period of investigation due to their increase in cost as a result of increase in raw material cost. However, they have not provided any details of increase in raw material cost and made mere statements. On close examination of the details provided by the domestic industry in proforma IVA, it may be seen that there is a significant increase in depreciation cost by 118%, interest cost by 91% and wages by 139% over the injury investigation period.
- d. It may also be seen that the capital employed of the domestic industry has increased by 34% over the injury investigation period. However, there is no increase in the capacity of the subject goods of the domestic industry. The consequent effect of such a significant increase in net fixed assets /capital employed has resulted into a significant increase in depreciation cost by 118% and interest cost by 91% over the injury investigation period. The number of employees engaged by the domestic industry also increased over the injury investigation period and that such an increase also resulted into increase in the wages and that the same have increased by 139% over the injury investigation period.

- e. The domestic industry during the public hearing also admitted that its total cost increased by 10-15% over the injury investigation period and out of which 7-8% is due to increase in the interest cost. Thus, the balance increase in the cost of the domestic industry is due to increase in depreciation cost and wages. Hence, there is no merit in the submissions of the domestic industry that its cost increased due to increase in raw material cost. The domestic industry may also submit that the increase in the said cost factors i.e. depreciation, interest and wages is due to increase in its sales. It may be seen that we also examined the increase in domestic sales and find that the same increased by 25% only over the injury investigation. However, the increase in the said cost factors is much higher and ranging in between 91% to 139%.
- f. Thus, the increase in the cost of the domestic industry is as a result of its own business decisions but not due to alleged dumping from China. Therefore, the claim of the domestic industry that it has suffered injury due to imports from China PR is not justified under the facts and circumstance of the case. Rather, it is a case of self-inflicted injury to the domestic industry and the imports from the subject country have no impact on the performance of the domestic industry.

Examination of the issues by the Authority

- 37. The Authority has taken note of submissions made by the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.
- 38. Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.
- 39. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure-II of Anti-dumping Rules states as under:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”
- 40. The Authority has examined the injury parameters objectively taking into account the facts and submissions made by various interested parties.

- a. **Assessment of Demand**

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|-----------------------------------|-------------|----------------|----------------|----------------|----------------|
| Imports from subject country | Kgs | 88,253 | 145,654 | 237,850 | 176,725 |
| Trend | | 100 | 165 | 270 | 200 |
| Non Dumped Imports (Other | Kgs | - | 2 | 5 | 69 |
| Trend | | - | 100 | - | 3,450 |
| Total Imports | Kgs | 88,253 | 145,656 | 237,855 | 176,794 |
| Trend | | 100 | 165 | 270 | 200 |
| Total Domestic sales Petitioner | Kgs | 277,371 | 290,080 | 282,087 | 346,508 |
| Trend | | 100 | 105 | 102 | 125 |
| Sales-Supporter | Kgs | 89,251 | 20,414 | 122,192 | 65,403 |
| Domestic Production of Petitioner | Kgs | 385,734 | 373,821 | 405,218 | 465,092 |
| Production-Supporter | Kgs | 99,003 | 23,796 | 133,192 | 64,256 |
| Total Domestic Production | | 484,737 | 397,617 | 538,410 | 529,348 |
| Imports from China relative to | % | 18 | 37 | 44 | 33 |
| Demand | | 454,875 | 456,150 | 642,134 | 588,705 |
| Imports from China relative to | % | 19 | 32 | 37 | 30 |

41. The demand has increased from 454,875Kgs in 2010-11 to 588,705 Kgs during POI, an increase of 133,830Kgs. However the sale of domestic producer has only increased from 277,371 Kgs in 2010-11 to 346,508 Kgs in POI only. The import from China PR has doubled from 88,253 Kgs in 2010-11 to 176,725 in POI. The import of China PR in relation to domestic consumption has increased from 18% in 2010-11 to 33 % in POI. It is, thus, concluded that imports from China have increased both in absolute terms and in relation to production and consumption in India.

b. Price Effect

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

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

43. It has been examined whether there has been a significant price undercutting by the dumped imports 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. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

c. Price Undercutting

44. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made

between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. This comparison showed that during the period of investigation, the subject good originating in the subject country were imported into the Indian market at prices which were lower than the selling prices of the domestic industry. It is thus noted that imports of subject good were undercutting the domestic prices.

| Particulars | Units | 2010-11 | 2011-12 | 2012-13 | 2013-14 (POI) |
|----------------------------|-------|---------|---------|---------|---------------|
| Domestic Sales Realization | Rs/Kg | *** | *** | *** | *** |
| Indexed | Index | 100 | 102 | 121 | 121 |
| Landed Value | Rs/Kg | *** | *** | *** | *** |
| Indexed | Index | 100 | 120 | 161 | 167 |
| Price Undercutting | Rs/Kg | *** | *** | *** | *** |
| Indexed | Index | 100 | 81 | 73 | 65 |
| Price Undercutting | % | 81 | 55 | 37 | 32 |
| Price Undercutting Range | % | 75-85 | 50-60 | 30-40 | 30-40 |

45. It is thus noted from the above table that:

- a) There has been substantial price undercutting of domestic industry prices by China PR throughout the injury period and POI.
- b) Due to substantial price undercutting Domestic Industry has not been able to increase its price to recover the increasing cost of sales.

a. Price Underselling

46. The Authority has also examined price underselling caused by the dumped imports from China PR. For this purpose, the NIP determined for the domestic industry has been compared with the landed value of imports. Comparison of NIP of the domestic industry with weighted average landed value of imports shows as follows:

| Particulars | UOM | POI |
|---------------------|---------|-------|
| Non-injurious price | Rs/Kg | *** |
| Landed Value | Rs/Kg | *** |
| Price Underselling | Rs/Kg | *** |
| Price Underselling | % | *** |
| Price Underselling | % Range | 55-65 |

47. It is seen that the landed value of the subject goods from China PR were significantly lower than the NIP determined for the domestic industry resulting into a significant price underselling.

d. Price Suppression/Depression

48. In order to determine whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority examined the changes in the costs and prices over the injury period. The position is shown as per the Table below:

| Particulars | Units | 2010-11 | 2011-12 | 2012-13 | 2013-14 (POI) |
|------------------------|-------|---------|---------|---------|---------------|
| Landed Value | Rs/Kg | *** | *** | *** | *** |
| Cost to make and sell | Rs/Kg | *** | *** | *** | *** |
| Indexed | | 100 | 92 | 119 | 123 |
| Domestic Selling Price | Rs/Kg | *** | *** | *** | *** |
| Indexed | | 100 | 102 | 121 | 121 |

49. The following has been noted:

- a. The cost of production of subject product has increased by 23 points whereas selling price during the same period has gone up only by 21 points.
- b. The landed value of Chinese exporters is almost 50% of cost of production of the domestic industry causing severe injury of domestic industry.
- c. Domestic industry is facing serious price depression due to low prices offered by Chinese exporters. Domestic industry is not able to increase its domestic sales realization and consequently unable to recover its costs. There is continuously price suppression from China PR.

OTHER ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY

50. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below.

(i) Capacity, Production, Capacity Utilisation, and Sales:

51. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization was examined and shown in the table below:

| Particulars | Units | 2010-11 | 2011-12 | 2012-13 | 2013-14 (POI) |
|-------------|-------|---------|---------|---------|---------------|
| Capacity | Kg | 684,000 | 684,000 | 684,000 | 684,000 |
| Indexed | | 100 | 100 | 100 | 100 |
| Production | Kg | 385,734 | 373,821 | 405,218 | 465,092 |

| | | | | | |
|----------------------|----|---------|---------|---------|---------|
| Indexed | | 100 | 97 | 105 | 121 |
| Capacity utilization | % | 56 | 55 | 59 | 68 |
| Indexed | | 100 | 97 | 105 | 121 |
| Domestic Sales | Kg | 277,371 | 290,080 | 282,087 | 346,508 |
| Indexed | | 100 | 105 | 102 | 125 |
| Export Sales | Kg | 91,707 | 88,893 | 106,787 | 111,176 |
| Indexed | | 100 | 97 | 116 | 121 |
| Demand | Kg | 454,875 | 457,484 | 642,129 | 588,664 |
| Demand Indexed | | 100 | 101 | 141 | 129 |

52. From the above table, it can be seen that the capacity utilization of the domestic industry has improved during the POI. Due to constant pressure from dumped imports, domestic industry is unable to increase its prices to recover the cost of sales and somehow managed to achieve 68% capacity utilization. The balance 32% of the capacity remains unutilized. If domestic industry has not matched the prices offered by exporters from China PR then situation would have been more critical.
53. The authority also notes that the domestic industry has sufficient capacity to satisfy the whole demand in Indian market. However, the petitioner is not able to utilize the full capacity due to intensive dumping from Chinese Exporters. Almost 32 % of the petitioners' capacity remains unutilized.

(ii) Market Share

| Market Share | Units | 2010-11 | 2011-12 | 2012-13 | 2013-14(POI) |
|------------------------------|-------|---------|---------|---------|--------------|
| Domestic sales of Petitioner | Kg | 277,371 | 290,080 | 282,087 | 346,508 |
| Indexed | | 100 | 105 | 102 | 125 |
| Sales-Other Producers | Kg | 89,251 | 20,414 | 122,192 | 65,403 |
| Indexed | | 100 | 23 | 137 | 73 |
| Share of Petitioner | % | 61 | 64 | 44 | 59 |
| Trend | | 100 | 104 | 72 | 97 |
| Share of Other Producers | % | 20 | 4 | 19 | 11 |
| Trend | | 100 | 23 | 97 | 57 |
| Share of China PR | % | 19 | 32 | 37 | 30 |
| Trend | | 100 | 165 | 191 | 155 |
| Share of Other countries | % | 0.000 | 0.000 | 0.001 | 0.012 |

54. Following is noted from the above table:
- Market share of the petitioner has declined from 61% during 2010-11 to 59% during POI and share of domestic producers in India has declined from 20% to 11% during same period.
 - At the same time, share of imports from China PR increased from 19% to 30%. In order to retain declining market share, the domestic industry has to consistently match the lower prices offered by exporters.

(iii) Profitability

55. Profits earned by the domestic industry from sale of the subject goods in the domestic market has been as follows:-

| Particulars | 2010-11 | 2011-12 | 2012-13 | 2013-14 (POI) |
|--------------------------|---------|---------|---------|---------------|
| Profit/Loss (Rs. Lakhs) | *** | *** | *** | *** |
| Indexed | (100) | (56) | (114) | (162) |
| Profit/Loss (Rs. Per Kg) | *** | *** | *** | *** |
| Indexed | (100) | (54) | (112) | (130) |

56. It is noted by the authority that domestic industry's profitability has gone down drastically during POI due to intensified dumping by Chinese exporters. The losses suffered by the domestic industry have increased during injury analysis period and POI. From total losses of 100 indexed units in 2010-11, losses have increased to 162 indexed units during the POI.
57. The major reason for losses suffered by domestic industry is landed value of Chinese exporters is almost 50% of cost of production of the domestic industry.

(iv) Cash Flow

| Particulars | 2010-11 | 2011-12 | 2012-13 | 2013-14 (POI) |
|--------------------------|---------|---------|---------|---------------|
| Cash Profit (Rs in Lacs) | *** | *** | *** | *** |
| Indexed | (100) | (46) | (107) | (155) |
| Cash Profit (Rs. Per Kg) | *** | *** | *** | *** |
| Indexed | (100) | (44) | (105) | (124) |

58. It is noted that the cash losses have been increasing throughout the injury period and POI. There has been a sharp increase in cash losses of the domestic industry during POI as compared to 2011-12 due to intensified dumping from China PR. Moreover, if the dumping intensifies further, the negative cash flows will increase further and the domestic industry will not be in a position to service its debts.

(v) Return on Capital Employed and Ability to Raise Investments

59. The return on capital employed followed the same trend as that of profits and cash profits. ROCE during POI has fallen significantly as compared to previous years.

| Particulars | 2010-11 | 2011-12 | 2012-13 | 2013-14 (POI) |
|---|---------|---------|---------|---------------|
| Capital employed (Rs. Lacs) (Domestic) | *** | *** | *** | *** |
| Indexed | 100 | 126 | 115 | 135 |
| Return On Capital Employed (%) (Domestic) | *** | *** | *** | *** |

| | | | | |
|--|-------|-------|-------|-------|
| Indexed | (100) | (120) | (162) | (159) |
| Capital employed (Rs. Per Kg) (Domestic) | *** | *** | *** | *** |
| Indexed | 100 | 121 | 113 | 108 |

60. It is noted that domestic industry is unable to match the prices offered by Chinese exporters; it has to continuously suffer losses. Due to cost reduction efforts made by the domestic industry, the DI have tried to contain losses but they remain far from earning profits.

(vi) **Inventories**

| Inventory | 2010-11 | 2011-12 | 2012-13 | 2013-14 (POI) |
|-------------------|---------|---------|---------|---------------|
| Inventory (in Kg) | *** | *** | *** | *** |
| Indexed | 100 | 111 | 188 | 227 |

61. It is noted that domestic industry is unable to dispose off its production at remunerative prices and consequently inventory of the domestic industry has increased substantially during the POI.

(vii) **Growth**

62. The domestic industry has recorded a negative growth in volume terms as compared to increase in demand and a significantly negative growth in monetary terms during the past three years.

(viii) **Ability to raise capital investments**

63. The Authority notes that given the demand of the product in the country, the domestic industry had made investments in plant and machinery. However, the performance of the domestic industry has deteriorated considerably and further investment may get adversely affected.

(ix) **Factors Affecting Domestic Prices**

64. As stated elsewhere in this finding, quality of the goods produced by the domestic industry is at par with the imported goods. Domestic industry has sufficient capacity to cater to Indian demand and therefore, availability of material is not a constraint. Delivery problems are also almost non-existent. Thus, even though market conditions are favorably aligned for subject product produced by the domestic industry, yet the domestic industry is not operating at optimum capacity. Such a situation has arisen only because of dumped imports coming into the country at significantly low prices. Many of the Indian customers quote the prices at which the imported goods are coming into the country and ask the domestic industry to match the imported prices. The factors that adversely affect the domestic industry are both the volume of imports as well as the prices at which the imported goods enter the country.

(x) **Magnitude And Margin Of Dumping**

65. The imports coming into India from the China PR are far above the de minimis level of dumping margin. The dumping margin for China PR is quite significant. With such high magnitude of dumping margin, dumped imports have caused material injury to the domestic industry. The domestic industry apprehends that the present situation is highly precarious and if imports continue to enter the country at the current dumping margin level, there is a likelihood of more intensified injury to the domestic industry.

(xi) Conclusion on injury

66. Based on the above, the Authority concludes that the dumped imports of the subject goods from China PR has increased in absolute terms as well as in relation to production and consumption of the subject goods in India. Imports of the product were undercutting the prices of the domestic industry in the market. Further, while the cost of production kept increasing over the injury period and increase in selling price was not enough to recover cost of sales. The imports were thus suppressing the prices of the domestic industry and preventing the price increases that would have otherwise occurred in the absence of dumped imports. With regard to consequent impact of the dumped imports on the domestic industry, it is observed that the domestic industry lost market share which, in turn, affected other performance parameters.
67. The Authority notes that the domestic industry has suffered injury on account of volume (market share) as well as price effect of dumped imports, as a result of which the profitability of the domestic industry has declined. Return on capital employed and cash profits followed the same trend as that of profits. Both return on capital employed and cash profits remained negative in POI. Thus, growth in respect of most of the parameters such as profits, cash profits, return on capital employed, market share & inventory, etc. shows an adverse impact on the domestic industry. Thus, Authority concludes that the domestic industry has suffered material injury.

H. EXAMINATION OF INJURY AND CAUSAL LINK:

Views of domestic industry:

68. Following are the views of domestic industry:
- a. The imports from the subject country have increased tremendously from 60675Kgs in 2010-11 to 161225 Kgs in 2013-14. The demand of subject good has increased from 427,297 Kgs in 2010-11 to 573,164 Kgs during POI, an increase of 145,867 Kgs. Out of the said increase, the petitioner in India were able to get only 69,137 Kgs. The imports from other country are less than 1% of total imports. The imports from China PR are significantly undercutting the prices of the Petitioner.
 - b. The imports have increased more than 3 times over the injury period (based upon IBIS data). There is further increase in imports of the subject good during post-POI.
 - c. The demand of the subject good has increased by 40% during POI as compared to 2011-12. The increase in demand in market is captured by the imports from China PR and the domestic industry market share has declined.
 - d. The authority should analyze the injury period as a whole rather than comparison with immediately preceding year.

Views of Interested Parties:

69. Following are the views of Exporter:

- a. In the present investigation, there is no causal link between the alleged dumped imports and injury to the domestic industry as there is no relation between the domestic prices and the import prices and that both are moving in different directions indicating that the import prices have no bearing on the domestic prices.
- b. It may be seen that the sales of the domestic industry in the period of investigation have significantly increased as compared to previous year whereas the imports over the same period have significantly come down by over 34% clearly proves the fact that the injury to the domestic industry in the period of investigation is not due to alleged dumped imports from China PR.
- c. There is significant increase in depreciation, interest and labour cost due to increase in the net fixed assets/capital employed of the domestic industry whereas there is no increase in the capacity of the company. Thus, the losses to the domestic industry are due to its own injurious decisions but not due to alleged dumped imports.
- d. It may be seen that there is a decline in the productivity of the domestic industry over the injury investigation period and it is one more reason for the increase in the cost of the domestic industry. Thus, the decline in the productivity of the domestic industry also proves the fact that injury to the domestic industry is not due to alleged imports from China.
- e. It may be seen that the demand of the subject goods has also come down significantly in the period of investigation by 12% as compared to immediately previous year. It is submitted that the decline in demand but not the alleged imports from china caused injury to the domestic industry.

Examination by the Authority:

70. The Authority has examined whether other factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link between dumping and material injury to the domestic industry has been done as follows:

a) Imports from third country

71. The imports from country other than the subject country are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry

b) Contraction in demand

72. The exporter has stated that there is decline in demand and increase in production/sales of domestic industry during POI as compared to immediate preceding year. The authority notes that the analysis of the various factors has to be made for the injury period as a whole and it is noted that the demand for the subject goods has shown significant improvement during the injury period. It has increased significantly in the POI as compared to the base year. Therefore, possible contraction in demand could not have caused injury to the domestic industry.

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

73. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

d) **Changes in pattern of consumption**

74. The domestic industry is producing the type of goods that have been imported into India. Possible changes in pattern of consumption are not a factor that could have caused claimed injury to the domestic industry.

e) **Export performance**

75. Claimed injury to the domestic industry is not on account of possible significant deterioration in export performance of the domestic industry. In fact, exports by the domestic industry have not materially declined. In any case, the authority has considered domestic performance wherever possible.

f) **Performance of the domestic industry with respect to other products**

76. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

g) **Productivity of the domestic industry**

77. The Authority notes that the productivity of the domestic industry has followed the same trend as production and therefore deterioration in productivity is not the major cause of the injury to the domestic industry.

I. FACTORS ESTABLISHING CAUSAL LINK

78. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from China PR. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- a) Imports are undercutting the prices of the domestic industry
- b) The volume of imports from China PR has increased significantly.
- c) The consumers have increasingly switched their requirements to exporters from China PR as a result of significant price difference. Thus, the price undercutting has led to significant increase in market share of imports and decline in market share of the domestic industry.
- d) The presence of dumped imports in the country is preventing the domestic industry from increasing its prices in proportion to the rise in costs.

- e) The subject imports are underselling the product sold by the domestic industry.
 - f) Deterioration in profits, return on capital employed and cash profits is a direct consequence of dumped imports.
 - g) The market share of dumped imports increased over the injury period.
 - h) As a result of significant price undercutting and underselling, capacity utilization of the domestic industry has not increased.
 - i) The growth of the domestic industry became negative in terms of a number of price related economic parameters.
79. The above grounds clearly establish existence of causal link between the dumped imports and injury to the domestic industry. Thus, the Authority proposes to conclude that the domestic industry suffered material injury due to dumped imports of the subject goods originating in or exported from China PR.

J. MAGNITUDE OF INJURY AND INJURY MARGIN

80. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules, as amended. The non-injurious price so determined has been compared with the landed prices of imports from China PR. The proposed injury margin for non-cooperative producers and exporters from China PR has been determined by the Authority on the basis of best available facts.

Injury Margin

| Sl. No. | Producer | Exporter | Non Injurious Price (US\$/Kg) | Landed Value (US\$/Kg) | Injury Margin (US\$/Kg) | Injury Margin (%) | Injury Margin Range (%) |
|---------|--|---|-------------------------------|------------------------|-------------------------|-------------------|-------------------------|
| 1 | Changzhou Yabang ó Pharmachem Co. Ltd, China PR(Yabang-QH) | Changzhou QH Pharmaceutical & Technology Co. Ltd. China PR (QHPT) | *** | *** | *** | *** | 45-55 |
| 2 | Any other from China PR | Any other from China PR | *** | *** | *** | *** | 50-60 |

Post disclosure Statements/Submissions

81. The submissions made and points raised are the same as raised earlier and dealt with above in this finding. However, they are being summed up again hereunder:

Post Disclosure Statement submissions by the Domestic Industry

- a. The response filed by Yabang-QH and QHPT should be rejected and no individual rate should be determined for Yabang-QH and QHPT. YAHUI and QHPT have not filed their individual questionnaire response in the subject investigation with in time limit prescribed by the authority. QHPT has filed at the very fag end of the investigation and due to such delay the right of the domestic industry to provide meaningful comments on exportersø

response has been curtailed. Therefore, the response by QHPT cannot be accepted at this stage of investigation. Therefore in the light of above and past precedents, the exporter questionnaire response submitted by QHPT after such unreasonable delay should be rejected. Both YAHUI and QHPT should be treated as non-cooperative in the present investigation.

- b. The performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from China PR. The domestic industry is injured on various counts:
 - i. Imports are undercutting the prices of the domestic industry
 - ii. The volume of imports from China PR has increased significantly.
 - iii. The consumers have increasingly switched their requirements to exporters from China PR as a result of significant price difference. Thus, the price undercutting has led to significant increase in market share of imports and decline in market share of the domestic industry.
 - iv. The presence of dumped imports in the country is preventing the domestic industry from increasing its prices in proportion to the rise in costs.
 - v. The subject imports are underselling the product sold by the domestic industry.
 - vi. Deterioration in profits, return on capital employed and cash profits is a direct consequence of dumped imports.
 - vii. The market share of dumped imports increased over the injury period.
 - viii. As a result of significant price undercutting and underselling, capacity utilization of the domestic industry has not increased.
 - ix. The growth of the domestic industry became negative in terms of a number of price related economic parameters.
- c. The Applicant requests the Authority to levy the antidumping duty on imports of subject goods from China PR.

Submissions by the Exporter/Producer

- d. A single dumping margin be determined for all the group companies represented in the investigation. The request is not for the determination of dumping margin for YAHUI separately but only for making applicable the dumping margin determined for Yabang-QH and QHPT on to YAHUI.
- e. DA should determine a suitable third-country for determination of normal value for NME countries. However, the procedure prescribed by law in the present case has not been followed as the interested parties have not been put to notice about selection of the market economy third country nor the exporters from such market economy third country have been requested to make necessary information available to the Authority for normal value determination for China PR.
- f. The complete details of computation of constructed normal value have not been provided. In the absence of these details, the exporter is not in a position to submit their comments and that it has affected their rights to defend their case fully and resulted into denial of rights under principles of natural justice.

Examination by the Authority

82. The issues put forward by the producers/exporters and DI have already been addressed in relevant paragraphs. However, for the sake of clarity, some of the issues are being addressed here in below in brief:
- a. The responding exporter has provided all the details relating to the complete value chain. The producer namely M/s Changzhou YabangPharmachem Co., Ltd. (Yabang QH) is a holding company and the other two companies i.e. M/s. Lianyungang YAHUI Pharmachem Co. Ltd. (YAHUI) and M/s. Changzhou QH Pharmaceutical & Technology Co., Ltd. (QHPT) are the 100% wholly owned subsidiary companies. The exports are undertaken by the subsidiary named QHPT. The other subsidiary YAHUI is only engaged in supply of intermediate raw materials to Yabang- QH, who produces the subject goods. Since YAHUI has not produced or exported the subject goods during POI, they cannot be considered for granting the dumping margin. However, sufficient detailed data was furnished by the responding company and therefore, DA has decided to accept the responding exporter as the co-operative exporter
 - b. The authority notes that none of the producers/exporters from China PR have filed Market economy questionnaire and therefore the authority is unable to examine the market economy claims of producers/exporters from China PR. With regard to submission of interested parties that Authority is required to first identify the market economy third country for determination of normal value and only where it is not possible to obtain necessary data from such third country the normal value is to be determined on any other reasonable basis, including the price actually paid or payable in India. The authority notes that none of the interested parties have suggested which market economy third country for determination of normal value should be considered and no information has been provided. Accordingly, the authority decided to determine the normal value in China PR for all producers/exporters on the basis of facts available, in terms of para 7 of Annexure I to the Anti-dumping Rules.

Conclusion

83. The Authority has, after considering the foregoing, come to the conclusion that:
- a. The subject goods have been exported to India from the subject country below its associated normal value;
 - b. The domestic industry has suffered material injury;
 - c. The material injury has been caused by the dumped imports of the subject goods from subject country.

Indian Industry's Interest And Other Issues

84. The Authority recognizes that imposition of antidumping duties might affect the price level of product in India. However, fair competition in Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or more sources of supply.
85. The Authority notes that the purpose of antidumping duties, in general, is to eliminate injury caused to the Domestic Industry by unfair trade practices of dumping so as to re-establish a situation of open and fair competition in Indian market, which is in the

general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the products to the consumers.

RECOMMENDATIONS

86. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of antidumping duty is required to offset dumping and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.
87. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount indicated in Col No.9 of the table below is recommended to be imposed on all imports of the subject goods originating in or exported from the subject country.

| Duty Table | | | | | | | | | |
|-------------------|---------------|----------------------|-------------------|---------------------------------|---------------------------------|---|---|-----------------|------|
| Sl. No | Tariff Item | Description of Goods | Specification | Country of Origin | Country of Export | Producer | Exporter | Amount (in USD) | UOM |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| 1. | 29 33 2950 | Albendazole | Any specification | China PR | China PR | Changzhou Yabang ó Pharmachem Co. Ltd, China PR (Yabang-QH) | Changzhou QH Pharmaceutical & Technology Co. Ltd. China PR (QHPT) | 9.31 | KG |
| 2 | 29 33 2950 | Albendazole | Any specification | China PR | Any country other than China PR | Any | Any | 10.02 | KG |
| 3. | 29 33 2950 | Albendazole | Any specification | Any country other than China PR | China PR | Any | Any | 10.02 | KG |

88. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

89. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(A.K.Bhalla)
Designated Authority