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

NOTIFICATION

New Delhi, 29th January, 2010

Preliminary findings

**Subject: Anti-dumping Investigation concerning import of Coumarin
originating in or exported from China PR. - Preliminary findings.**

No. 14/17/2009-DGAD – Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

A. PROCEDURE

2. The procedure described below has been followed.

(i) The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from M/s. Atlas Fine Chemicals Pvt. Limited, Nasik, Maharashtra on behalf of the domestic industry, alleging dumping of Coumarin of all types (hereinafter also referred to as the subject goods); originating in or exported from China PR (hereinafter referred to as subject country).

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

(iii) The Authority on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject country. The Authority notified the Embassy of the subject country in India about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.

(iv) The Authority issued a public notice dated 10th July 2009 published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.

(v) The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.

(vi) The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.

(vii) A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods made in India during the past three years and the period of investigation. The information received from DGCI&S was analyzed and the same was compared with the information received from the IBIS (secondary sources). After the detailed examination, it was decided to take into account the information from IBIS as it had reported higher volumes.

(viii) The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassy of the subject country in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.

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

1. Tianjin City No. 3 Chemical Reagent factory, Xuzhuangzixiang, Dongli District , Tianjin – 300 240.
2. Nanjing Huafa Chemical Co. Ltd. Meishan, Zhonghuamenwai, Jiangning County , Nanjing City
Jiangsu – 210 039.
3. Changzhou No. 2 Chemical Plant, 16, Changqi Rd., Qishuyan, Changzhou City, Jiangsu – 213 003.
4. Doumen County Baishifa, Chemical Factory Co., Ltd
Doumen Town, Doumen County, Zhuhai City, Guangdong – 519.

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

- (a) Yinghai (Cangzhou) Aroma Chemical Co., Ltd.
- (b) M/s Jiangyin Baihui Fragrance Co. Ltd.

xi. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

1. Padmini Products.
2. Eastern Enterprises.
3. Indira Agencies
4. Vinarom Pvt. Ltd.
5. Bharat Industrial Corporation.
6. Floral Frag. Pvt. Tld.
7. Eastern Agencies.
8. PBS Fragrances.
9. Primal Mandir.
10. Tushar enterprises
11. Karnataka Soaps & Chem.
12. Kvar Fragrances Pvt. Ltd.
13. Gopal Enterprises.
14. Vasu Agarbatti.
15. Gupta & Co.
16. Shalimar Agarbatti
17. Overseas Impex.
18. Associate Elite Chemicals Industries
19. Sache Aromatics
20. Mahale Impex

xii. None of the importers or consumers have filed questionnaire response.

xiii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xiv. Information was sought from the applicant and other domestic producers also. The Non-injurious Price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry;

xv. Investigation was carried out for the period starting from 1st January 2008 to 31st Dec 2008 (POI). The examination of trends, in the context of injury analysis, covered the period from 2005-06, 2006-07, 2007-08, and POI.

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

B. PRODUCT UNDER CONSIDERATION AND DOMESTIC LIKE ARTICLE

B.1

Product under consideration

3. The product under consideration in the present investigation is Coumarin of all types (hereinafter referred as "subject goods"). Coumarin (Chemical Formulae C₉H₆O₂) belongs to the lactone family of chemicals. It is an aroma chemical, which can be in the form of white crystals, flake or powder. It has characteristic odour of newly mown hay and bittersweet somewhat similar to vanilla. Coumarin is used in the preparation of fragrance compounds and those fragrance compounds are used in the production of soaps, detergents, cosmetics, incense sticks, and fine fragrances. It imparts pleasant fragrance and masks unpleasant odors in many other household and industrial products. Coumarin, which was originally a natural product obtained from Tonka beans is now produced synthetically. It can be obtained by two synthetic processes i.e. (i) Starting from phenol to obtain Salicylaldehyde followed by Perkin reaction and (ii) Starting from Ortho-cresol which is also called Raschig method in which Salicylaldehyde is made from Ortho-cresol and then converted into Coumarin. In both the processes Salicylaldehyde and Acetic Anhydride react in the presence of Sodium Acetate in Acetic Acid as catalyst and crude Coumarin is separated from Acetic Acid by distillation. The crude Coumarin is further purified by several distillations and then crystallized in Methanol. The crystallized product is separated by centrifugation and dried. The main physical specification of Coumarin is its purity, for which the melting point is the indicator.

4. The product is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act under Customs Sub-heading No. 2932.21.00. However, customs classification is indicative in nature and not binding on the scope of the investigations.

B.2

Like Article

5. With regard to like article, Rule 2(d) of the AD rules provides as under:

"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.

6. The applicant claimed that there is no known difference in applicant's product and subject goods exported from the subject country and are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods and there is no significant difference in the subject goods produced by the applicant and those exported from the subject country and the both are technically and commercially substitutable. For the purpose of the present investigations, the goods produced by the domestic industry are being treated as like articles to the subject goods imported from the subject country in accordance with the AD Rules.

7. The available information at this stage does not show that there is any material difference in the domestic like article and imported subject goods. None of the responding parties have disputed the claim that the goods produced by the domestic industry are like article to the goods imported from China. Thus, subject goods produced by the domestic industry is being treated as like article to the subject goods imported from subject country in accordance with the AD rules for the purpose of the present investigation.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

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

"Domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry:

9. The application has been filed by M/s. Atlas Fine Chemicals Pvt. Limited as domestic industry. The applicant claimed that there were two other producers of the subject goods in India. However, both of them have closed their commercial production and accordingly the applicant accounts for 100% of the Indian production during the proposed Period of Investigation. None of the responding parties have disputed this claim.

10. The Authority holds that Atlas Fine Chemicals Pvt. Limited is the sole producer of the like article in India. The applicant has provided injury and costing information. The Authority has determined that the application satisfies the

requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Further, M/s Atlas Fine Chemicals Pvt Ltd. is being treated as 'domestic industry' within the meaning of Rule 2(b) of the AD Rules.

D. DUMPING MARGIN

D.1 NORMAL VALUE

11. The Authority notes that in the past three years China PR has been treated as non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules for the purposes of preliminary determination.

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

a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and 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.

13. The Authority notes that responding producers/exporters of the subject goods from China PR have submitted their questionnaire responses and market economy

questionnaire responses, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporters have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows.

Only the following two producers/exporters from China PR have responded and filed their responses.

1. Jiangyin Baihui Fragrance Co. Ltd.
2. Yinghai (Cangzhou) Aroma chemical Co., Ltd.

Jiangyin Baihui Fragrance Co. Ltd.

14. M/s Jiangyin Baihui Fragrance Co. Ltd. China PR has filed a questionnaire response and MET response in this matter as a producer and exporter of the subject goods. From the questionnaire response it is noted that the subject producer and exporter has a substantial domestic sales and they have provided details of their sales to India as well as export sales to other countries. The response of the company was examined and a letter was issued to the company requesting for certain additional information/clarification from the company. In the said letter the responding company was asked inter alia to provide information on discrepancy in their reply regarding the date of the establishment of the company and business license. It had also been asked to substantiate and give details of the firms from where the producer and exporter is buying its raw materials as it was noted that lot of raw materials are being bought from the firms which are state owned enterprises. On the response to the exporter's questionnaire, it was also asked to explain the difference of profit as arrived at in various appendices. It was also informed to the exporter that raw material consumption as shown in the various appendices does not reconcile. The Authority notes that there are also significant issues relating to the exporters questionnaire, which needs detailed examination and verification.

15. Pending examination of the above issues including ownership and control, its impact on the cost and prices and business decisions of the company, and verification of the same, the Authority is of the view that this producer- exporter from China PR cannot be granted market economy status for the preliminary determination of its Normal Value.

Yinghai (Cangzhou) Aroma Chemical Co., Ltd.(Yinghai)

16. M/s Yonghai has filed a questionnaire response and MET response in this matter as a producer and exporter of the subject goods. From the questionnaire response it is noted that the subject producer and exporter has a substantial domestic sales and they have also provided details of their sales to India as well as to other countries. The response of the company was examined and a letter was issued to the company requesting for certain additional information/clarification from the company. In the

said letter the responding company was asked inter alia to provide information on the fact that appendix 8 has not been given for POI as a whole in the prescribed form. Various other queries like difference in the raw material consumption in various appendices have been indicated to the exporter. Further, the exporter has also been asked to submit the basis of allocation of expenses between product under consideration and other products in their response.

With regard to the ownership, it was noted that the company was established in May 2005 as a joint venture with a Canada based company and in January 2008, it became a Canada based company. Further, it was mentioned that the company was taken over by Canada based company and during POI; Canada based company was holding all shares of the company. However, this contradicts with the MET questionnaire which says that as on 2008, the Chinese company still held 80% of the share.

17. Thus, as stated above, there are significant issues relating to market economy determination as well as in the response to the exporters questionnaire in respect of this exporter which requires further examination and verification. Therefore, pending further examination and verification of the claims made by the responding exporter and producer in respect of their market economy claims and individual treatment claims, for the purpose of the preliminary finding, the authority has provisionally estimated the normal value in China PR on the basis of Para-7 to Annexure-I to the Rules.

18. *In this connection Para 7 of Annexure I of the Rule provides that*

“In case of imports from non-market economy countries, normal value shall be determined on the basis if 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.”

19. The Authority had not indicated in the initiation notification any appropriate country for the purpose of establishing normal value. However, none of the interested parties have placed any material before the Authority to consider any country an appropriate market economy third country for the above purpose. However, the Authority invites comments from all the interested parties for the choice of appropriate market economy third country along with the reasons and the

list of the producers in such country for establishing normal value for the purpose of final determination.

20. Pending further examination of the issues, for the purpose of preliminary determination, the Authority proceeds to provisionally determine the normal value in China PR on a reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules. Accordingly, the ex-works Normal Value of the product under consideration for all these exporters from China has been provisionally constructed based on facts available. The Normal Value has been constructed taking into account available international price of all the major inputs as are listed and conversion cost, and SGA expenses of the domestic industry have been adopted for determination of the normal value. After adding a reasonable profit margin of 5 %, constructed normal value for the subject goods for all exporters from China PR have been worked out.

D.2. DETERMINATION OF EXPORT PRICE FOR CHINA PR.

21. The Authority has determined the export price for other than responding exporters as per the facts available on record. The Authority has therefore provisionally determined the export price for all the non responding exporters/producers from China PR based on facts available on record. For the responding exporters, the export price has been provisionally determined after taking into account their prices to India given in their appendix wise information and all adjustments claimed by them. For other exporters, the Net export price has been adjusted for ocean freight, marine insurance, commission, inland freight, port expenses and bank commission, as per information provided by these exporters on provisional basis subject to verification after the provisional findings.

D.3. DETERMINATION OF DUMPING MARGIN

22. Considering the Normal value and the Export price as determined above, the dumping margin works out as follows:

	Unit	Baihui	Yinghai	Others
Normal value	US\$/KG	****	****	****
Net Export Price	US\$/KG	****	****	****
Dumping Margin	US\$/KG	****	****	****
Dumping Margin	%	3.46	9.23	28.14

23. The Authority notes that the dumping margin from China PR is significant and is more than the de-minimis limits prescribed.

E. INJURY

E.1. Submissions by the domestic industry

24. The domestic industry has argued that:

(i) With the advent of increasing imports the performance deteriorated in terms of domestic sales, production, capacity utilization, productivity, inventories, market share, profits, return on investments, cash flow, etc.

(ii) The demand of the product in the country shows a positive trend whereas sales of the domestic industry at the same time show a negative trend. As a result, market share of the domestic industry declined.

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

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

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

(vi) Further, the export quantities of domestic industry shows continuous decrease indicating significant market share of dumped Chinese goods in the world markets.

(vii) Weighted average import prices (after including basic customs duties) have been significantly below the net sales realization of the domestic industry, thus resulting in significant price undercutting.

(viii) The customs duty and dumped CIF export price both triggered a substantial reduction in the landed price of imports. This had direct adverse impact on the domestic industry. Reduction in the landed price of imports prevented the Indian Producers from effecting legitimate price increases.

(ix) The landed price of imports is significantly below the cost of production of the domestic industry. It would also be seen that imports have had significantly depressing effect on the prices of the domestic industry in the market.

(x) The production, capacity utilization and sales of the domestic industry have declined both in absolute and relative term.

(xi) The performance of the domestic industry for product as consideration has deteriorated over the injury period and since 2006-07, the domestic industry is in significant losses.

(xii) Market share of the domestic industry has severely declined whereas that of imports has materially increased.

(xiii) It would be seen that productivity of the domestic industry declined with decline in production.

(xiv) ROI (NFA Basis) of the domestic industry has significantly deteriorated over the injury period. Similar is the situation of cash profit as well. This clearly shows the price depression and suppression effect of dumped imports from China PR that has resulted in significant losses to the domestic industry.

(xv) There has been a considerable increase in the level of inventories indicating that even at the capacity utilization of 43% during the investigation period.

(xvi) It would be seen that growth in terms of sales, production, capacity utilization, has been negative. The cash profits, profits, return on investment has also followed the same trend in the injury period.

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

E.2. Response from other interested parties

25. It is noted that there are no responses from any other interested parties in this investigations.

E.3. Examination by the Authority

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

27. As regards the impact of dumped imports on the domestic industry, para (iv) of Annexure-II of AD Rules states as under:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

28. A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods made in India during the past three years and the period of investigation. The information received from DGCI&S was analyzed and the same was compared with the information received from the IBIS (secondary sources). It was claimed by the domestic industry along with evidence that the subject goods had been imported from more than one tariff heads and hence information from IBIS should be taken into account as it has reported higher volumes. After the detailed examination, it was decided to take into account the information from IBIS as it had reported higher volumes.

The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties.

Import, Demand, Volumes and Market share:-

29. Demand of the product in the Country has been assessed as the sum of domestic sales of the domestic producers and imports from all sources.

Import particulars

30. It is noted that imports of the subject goods from subject country has increased significantly in absolute terms during the injury period. Further, the market share of subject country has increased significantly during the same period as shown in the table.

Particulars	Units	2005-06	2006-07	2007-08	POI
Imports	MT	188.25	194.10	219.50	251.36
China PR	MT	149.85	158.65	204.05	219.45
Other Countries	MT	38.40	35.45	15.45	31.91
Market share in Imports	%	100.00	100.00	100.00	100.00
China	%	79.60	81.74	92.96	87.31
Other Countries	%	20.40	18.26	7.04	12.69

Demand particulars

31. Demand for the product under consideration increased throughout the injury period and has grown by 17% during the injury period. Further, imports of the subject goods from subject country has increased in absolute terms during the same period. It is also noted that increase in dumped imports was more than the increase in demand.

Particulars	Units	2005-06	2006-07	2007-08	POI
Imports total	MT	188.25	194.10	219.50	251.36
Sales of Domestic Industry	MT	62.97	63.37	58.93	42.19
Demand	MT	251.22	257.47	278.43	293.55
Index demand		100	102.49	110.83	116.85

Imports in relation to various parameters

32. It is also noted that dumped imports of the product under consideration increased in relation to production of the like product in India during the injury period . Further this has also increased in relation to share in demand as well as sales of the petitioner.

Particulars	Units	2005-06	2006-07	2007-08	POI
Dumped imports in relation to					
Share in total imports	%	79.60	81.74	92.96	87.31
Share in Demand	%	59.65	61.62	73.29	74.76
Production in India	%	57.85	90.54	112.40	128.91
Sales of Petitioner	%	237.97	250.34	346.25	520.16

Market share of domestic industry

33. As a result of this increase of subject goods from subject country, the market share of the domestic industry declined during the injury period.

Particulars	Units	2005-06	2006-07	2007-08	POI
Market share in Demand	%				
Import from- China	%	59.65	61.62	73.29	74.76
Import from Other Countries	%	15.29	13.77	5.55	10.87
Sales of Domestic Industry	%	25.07	24.61	21.17	14.37

34. It is thus provisionally noted that demand for the product under consideration increased throughout the injury period and has grown by about by 17% during the injury period. Further, imports of the subject goods from subject country have increased in absolute terms during the same period. It is also noted that increase in

dumped imports was more than the increase in demand. It is also noted that imports increased in relation to imports of the product under consideration in India from various sources in general and from the subject country in particular. It is also noted that imports of the product under consideration increased in relation to production of the like product in India. Further, as a result of this increase of subject goods from subject country, the market share of the domestic industry declined during the injury period. Thus, it is provisionally determined that the domestic industry has suffered significantly on account of volume effect of dumped imports from subject country.

Price effect of imports

35. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. A comparison for product concerned was made between the landed value of exported product and the average selling price of the domestic industry for domestic market net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. The CIF prices of the subject country concerned were adjusted for post importation applicable duties. This comparison showed that during the period of investigation, the subject goods originating in China were sold in the Indian market at prices which were lower than the domestic industry's prices. It is thus seen that imports were undercutting the domestic prices though the extent of undercutting is not considered significant during the POI.

Particulars	Units	2005-06	2006-07	2007-08	POI
Landed Value	Rs./KG	***	***	***	***
Net sales realization	Rs./KG	***	***	***	***
Indexed	Trend	100	94	102	117
Price Undercutting	Rs./KG	***	***	***	***
Indexed	Trend	100	23	88	38
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	10 to 15	1 to 5	10 to 15	1 to 5

36. The Authority has also examined price depression, price suppression and price underselling if any, suffered by the domestic industry on account of dumped imports from subject country. After examination, it is determined that that the landed value of imports from subject country is significantly below the cost of production and non-injurious price of the domestic industry. The imports are thus resulting in price underselling being faced by the domestic industry. It is further noted that selling

prices of the domestic industry have increased during the injury period but this increase is much less than increase in the cost of production of domestic like product sold by the domestic industry resulting in price suppression.

	Unit	2005-06	2006-07	2007-08	Jan.- Dec. 08
Cost of Sales	Rs./kg	***	***	***	***
Trend	Index	100	101	110	128
Domestic selling price	Rs./kg	***	***	***	***
Trend	Index	100	94	102	117

37 It is thus provisionally determined that whereas the costs increased by 28%, the domestic industry could increase its selling prices only by 17%. It is thus noted that the dumped imports from subject country are preventing the domestic industry from effecting legitimate price increases. It is thus preliminarily concluded that the effect of dumped imports on the domestic industry has been adverse and significant.

Economic parameters of the domestic industry

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

(i) **Production**

39. It is seen that production by the domestic industry declined over the injury period. It is noted that whereas demand for the product increased by 17%, production declined by 35% during the injury period.

	Unit	2005-06	2006-07	2007-08	Jan.- Dec 08
Capacity	MT	400	400	400	400
Production	MT	259	175	182	170
Trend	Indexed	100	68	70	66
Demand	MT	251	257	278	294
Trend	Indexed	100	102	111	117
Production in % of	%	103.11	68.06	65.20	57.99

demand					
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(ii) Capacity & capacity utilization

40. It is further noted that capacity & capacity utilization of the domestic industry moved as shown in the table below. It is seen that capacity installed by the company remained the same. It is also noted that petitioner is using the production capacities dedicatedly for the product under consideration. It was noted that whereas demand for the product increased during the injury period, decline in production led to decline in capacity utilization. It is also noted that decline in capacity utilization has moved in tandem with the decline in production. Thus, whereas demand for the product increased by 17%, capacity utilization declined by 34%.

	Unit	2005-06	2006-07	2007-08	Jan.- Dec 08
Capacity	MT	400	400	400	400
Production	MT	259	175	182	170
Capacity Utilization	%	64.76	43.81	45.38	42.56
Trend	Indexed	100	68	70	66
Demand	MT	251	257	278	294
Trend	Indexed	100	102	111	117

(iii) Domestic sales

41. It is noted that domestic sales of the domestic industry declined significantly over the injury period. It is also noted that petitioner does not have any captive consumption. However, petitioner does have significant exports. The impact of dumping was therefore examined only with reference to domestic sales.

	Unit	2005-06	2006-07	2007-08	Jan.- Dec 08
Domestic Sales	MT	63	63	59	42
Trend	Indexed	100	100	94	67
Demand	MT	251	257	278	294
Sales in % of demand	%	25.07	24.61	21.17	14.37
Change in					
➤ Domestic sales	MT		0	-4	-17
➤ Demand	MT		6	21	16

(iv) Profitability

42. The profitability of the domestic industry in respect of domestic like product has been examined only in respect of domestic sales. It is seen that profitability of the domestic industry for the subject goods has significantly deteriorated over the

injury period. The domestic industry is in significant losses since 2006-07. Further, the losses increased over the injury period.

	Unit	2005-06	2006-07	2007-08	Jan - Dec 08
Cost of Sales	Rs./Kg	***	***	***	***
Indexed	Trend	100	101	110	128
Net Sales Realization	Rs./Kg	***	***	***	***
Indexed	Trend	100	94	102	117
Profit/Loss	Rs./Kg	***	***	***	***
Indexed	Trend	100	(76)	(93)	(152)
Profit before tax	Rs. Lacs	***	***	***	***
Indexed	Trend	100	(77)	(87)	(102)
Profit before interest	Rs. Lacs	***	***	***	***
Indexed	Trend	100	(77)	(87)	(102)

(v) **Employment and Wages**

43. Employment with the domestic industry and wages paid were as follows

Productivity	Unit	2005-06	2006-07	2007-08	Jan 08- Dec 08
Employment	Nos.	***	***	***	***
Indexed	Trend	100	84	72	67
Wages	Rs.Lacs	***	***	***	***
Indexed	Trend	100	104	109	155

It is provisionally noted that employment has been adversely affected due to decline in domestic sales and production and continuing low capacity utilization.

(vi) **Productivity**

44. Productivity of the domestic industry was as follows

Productivity	Unit	2005-06	2006-07	2007-08	Jan 08- Dec 08
Productivity per	MT	4.54	3.65	4.43	4.48

employee					
Indexed	Trend	100	80	97	99

It is seen that productivity of the domestic industry was almost at similar levels during the injury period. Thus, this parameter is not considered relevant for assessing the injury of the domestic industry.

(vii) Return on investments and cash flow

45. The return on investment has been determined considering profit before interest and capital employed in the product. Impact on cash flow has been determined considering profit before depreciation but after interest cost. It is noted that return on capital employed and cash profits have significantly deteriorated over the injury period. It is also noted that the performance of the domestic industry with regard to profits and return on capital employed & cash profits moved in same direction and deteriorated adversely during the injury period.

	Unit	2005-06	2006-07	2007-08	Jan-Dec 08
ROCE	%	***	***	***	***
Indexed	Trend	100	(28)	(36)	(58)
Cash Profit	Rs.Lacs	***	***	***	***
Indexed	Trend	100	(47)	(50)	(71)

(viii) Inventories

46. It is noted that there is significant increase in the level of inventories since 2006-07 to the POI though it has declined at an absolute level during the injury period. However, inventories equal to number of days sales have increased during the injury period. Further, the domestic industry has argued that in spite of 40% capacity utilization during the investigation period, the domestic industry was not able to sell the subject goods completely. The domestic industry further argued that despite existing level of demand where the domestic industry would have easily reached 100% plant utilization, imports at dumped prices have adversely impacted the production and inventories level with the domestic industry.

	Unit	2005-06	2006-07	2007-08	Jan 08- Dec 08
Inventories	MT	15	12	5	12
Inventories equal to no. of days sales	Days	21	22	10	27

(ix) Growth

47. Information with respect to growth in various parameters is given in the table below. It is seen that growth in terms of both volume & price parameters is negative.

Particulars	Unit	2005-06	2006-07	2007-08	POI
Growth					
Production	%		(32.35)	3.60	(6.22)
Domestic sales	%		0.64	(7.01)	(28.41)
Inventory	%		(23.12)	(57.54)	139.24
Selling Price/KG	%		(5.64)	8.14	14.34
Cost/KG	%		1.39	8.58	16.05
ROI	%		(13.51)	(0.80)	(2.32)

(ix) Ability to raise capital investments

48. The Petitioner has argued that given the current state of affairs where running the product is consistently not performing well because of persistent dumping over last more than five years, substantial fresh investments cannot even be imagined. It is noted that the product under consideration forms a very significant part of the company's overall operations. It is provisionally held that continued dumping of the product and financial losses in the product are bound to adversely impact the ability of the domestic industry to raise capital investments.

(x) Level of dumping & dumping margin

49. The dumping margin established hereinabove in respect of responding exporters and non cooperative exporters are quite significant and above the de minimus level.

(xi) Lost sales

50. The domestic industry has submitted various instances of the orders lost by it from various customers who have cited availability of Chinese subject goods at lesser prices.

F. CAUSAL LINK

51. The Authority has examined whether other factors listed under the AD Rules could have contributed to injury to the domestic industry. It was found as follows.

(i) Imports from third countries.

52. The Authority has collected the transaction-wise imports data of the subject goods from IBIS. From the information available on record, the Authority notes that there are no significant imports of subject goods from other countries.

(ii) Contraction in demand

53. The Authority notes that the demand for the subject goods has shown significant improvement during the injury period. Possible contraction in demand could not have caused injury to the domestic industry.

(iii) Changes in the pattern of consumption

54. The pattern of consumption with regard to the product under consideration has not undergone any change, nor there is any quantified allegation in this regard. The investigation so far has not shown existence of alternate competing products and possible injury being caused by such alternate products.

(iv) Trade Restrictive practices of and competition between foreign and domestic producers

55. The Authority notes that there is a single market for the subject goods where dumped imports from China compete directly with the subject goods supplied by the domestic industry. It is noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(v) Developments in Technology

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

(vi) Export performance

57. The petitioner has significant exports. However, the Authority has considered only domestic operations and domestic profitability. Further, it has been provisionally determined that per unit exports price during the POI was 17% higher than the domestic selling price.

(vii) Productivity of the Domestic Industry

58. There is no material change in productivity of the domestic industry. Possible decline in productivity cannot be the reason for the established injury to the domestic industry.

Effect of dumped imports

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

(a) The dumped imports from subject country have significantly increased over the injury period. Resultantly, market share of the domestic industry increased and the market share of the domestic industry declined. It is thus provisionally held that decline in market share of the domestic industry is directly due to increase in volume of dumped imports and its market share.

(b) Dumped imports from subject country is suppressing the prices of the domestic industry. As, the domestic industry has tried to align its selling prices close to the landed prices, it has been unable to increase its prices in proportion to the increase in the cost of production. It is thus provisionally noted that price suppression being felt by the domestic industry is due to lower prices of dumped imports from China PR.

(c) Thus, it is noted that inability of the domestic industry to increase prices in proportion to the cost increases due to presence of dumped imports in the market resulted in decline in profits, return on investment and cash profits. Thus, deterioration in profits, return on investment and cash profits is provisionally attributed to presence of dumped imports from subject country.

Level of dumping margin and injury margin

60. The level of dumping margins and injury margins as provisionally determined are mentioned below. It is thus provisionally noted that these levels are considered significant.

	Unit	Baihui	Yinghai	Others
Dumping Margin	US\$/KG	****	****	****
Dumping Margin	%	3.46	9.23	28.14

NIP	Rs./KG	****	****	****
Exchange Rate	Rs./US\$	43.46	43.46	43.46
NIP	US\$/KG	****	****	****
Injury Margin	US\$/KG	****	****	****
Injury Margin	%	2- 5%	4-8%	20-25%

G Conclusion on Injury and causation

61. There has been a significant increase in the volume of dumped imports from China PR at the absolute level and also in relation to demand of subject goods in India. It is noted that the market share of the dumped imports has increased and that of domestic industry has declined. The dumping margin from subject country has been provisionally determined and is considered significant. Further, production, sales volumes and capacity utilization of the domestic industry have declined and inventories with the domestic industry have increased. Thus, the dumped imports from subject country show adverse volume effect. It is also noted that the dumped imports were undercutting the prices of the domestic industry in the market though the undercutting margin is not significant. It could provisionally be assumed that the domestic industry was trying to match its selling prices close to the landed price of imports of subject goods from China PR. Further, it has been noted that, the domestic industry has not been able to increase its prices in proportion to the increase in the cost of production and the domestic industry has been forced to sell the product at prices much below non injurious price. Thus, as a result of price underselling and price suppression, the domestic industry has suffered significant decline in profits, return on investments and cash profits. Thus, it is provisionally determined that the dumped imports have had significant adverse price effect in terms of price underselling and price suppression which in turn lead to significant deterioration in profits, return on investments and cash profits.

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

H. Conclusions:

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

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

(b) The domestic industry has suffered material injury on account of subject imports from subject country.

(c) The material injury has been caused by the dumped imports of subject goods from the subject country.

I. Indian industry's interest & other issues

64. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way; and therefore, would not affect the availability of the product to the consumers.

65. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

J. Recommendations

66. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally 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 provisional duty is required to offset dumping and injury, pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.

Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of the margin of dumping and the margin of 'injury', so as to remove the 'injury' to the domestic industry. Accordingly, the provisional antidumping duty equal to the difference between the amount indicated in Col 8 of the table below and the landed value is recommended to be imposed on all imports of subject goods originating in or exported from China PR from the date of the notification to be issued by the Central Government.

K. Duty Table

SI. No	Sub-heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit of measurement	Currency
-1	-2	-3	-4	-5	-6	-7	-8	-9	-10
1	2932.21	Coumarin of all types	China PR	China PR	Yinghai (Cangzhou) Aroma chemical Co., Ltd.	Yinghai (Cangzhou) Aroma chemical Co., Ltd.	14.02	Kg.	US \$
2	- do -	- do -	China PR	China PR	Jiangyin Baihui Fragrance Co. Ltd.	Jiangyin Baihui Fragrance Co. Ltd.	14.02	Kg.	US \$
3	- do -	- do -	China PR	China PR	Any combination of producer and exporter other than at S. No. 1 & 2 above		14.02	Kg.	US \$
4	- do -	- do -	China PR	Any country other than China PR	Any	Any	14.02	Kg.	US \$
5	- do -	- do -	Any country other than China PR	China PR	Any	Any	14.02	Kg.	US \$

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

L. Further Procedure

67. The following procedure would be followed subsequent to notifying the preliminary findings: -

(a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;

(b) Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the these Preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;

(c) The Authority would hold a hearing to hear the views of various interested parties orally;

(d) The Authority would conduct further verification to the extent deemed necessary;

(e) The Authority would disclose essential facts as per the AD Rules before announcing final findings.

P.K Chaudhery
Designated Authority