

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

NOTIFICATION

NEW DELHI, the 28<sup>th</sup> January, 2008.

**Preliminary Findings**

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

NO. 14/4/2007-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 (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, 1995, (hereinafter referred to as the Rules) thereof:

**A. PROCEDURE**

2. The procedure described below has been followed:

a. The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written petition from M/s. Kairav Chemicals Limited, M/s. Amoli Organics Limited & M/s. Aarti Drugs Limited on behalf of the Domestic Industry, alleging dumping of Diclofenac Sodium (herein after referred to as subject goods), originating in or exported from China (hereinafter referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods.

b. The Authority notified the Embassy of China about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub rule (5) of Rule 5 supra;

c. The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 4<sup>th</sup> June 2007 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the Diclofenac Sodium, originating in or exported from China in accordance with the sub-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.

d. The Designated Authority sent copies of initiation notification dated 4<sup>th</sup> June 2007 to the Embassy of China in India, known exporters from the subject countries, importers, consumers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

e. The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy of China in accordance with Rule 6 (3) supra.

f. The Embassy of China in India was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from China to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to them, along with the names and addresses of the exporters.

g. The Authority sent questionnaires, to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4).

1. Shandong Yibao Biologics Co., Ltd  
Xinglong Industrial Garden,  
Xinglongzhuang Town  
Yanzhou City, Shandong Province. China
2. Comfortcomms Group Co. Limited  
26d, DushiHuayuan, Xinzhou Road,  
Futian Dist., Shenzhen, Guangdong, China
3. Gbb Group Co., Ltd.  
Development Zone, Binzhou  
Shandong, China
4. Hebei Jiheng(Group) Pharmaceutical Co., Ltd.  
368 Jianshe Street Hengshui City Hebei , China,
5. Hebei Veyong Animal Pharmaceutical Co., Ltd.  
383 East Heping Road. Shijiazhuang City,  
Hebei Province. China
6. Medico (Shijiazhuang) Industries & Trade Co., Ltd.  
Room 7G, Block A, City Garden, 159 Xinhua Road,  
Shijiazhuang City,  
Hebei Province. China
7. Shandong Reyoung Pharmaceutical Co., Ltd.  
6 Erlangshan Road, Yiyuan County,  
Shandong Province. China
8. Shandong Yibao Biologics Co., Ltd.  
Xinglong Industrial Garden,  
Xinglongzhuang Town, Yanzhou City, Shandong Province. China

9. Shanxi Haizheng Scientific Tech. and Trade Co., Ltd  
6/F, Building 1, 17 Liu Lane, Yingze  
District, Taiyuan City, Shanxi Province.  
China
10. Skyrun International Group Sunshine Corporation  
50 Zhonghua Road, Nanjing, Jiangsu,  
China
11. The TNN Development Limited  
Room 2901, Rainbow Building, 23 Renmin Road,  
Zhongshan District, Dalian City, Liaoning Province.  
China
12. Wuhan Lihua International Trade Corporation  
1205B Jiuyun Garden, 34 Jiangnan North Road,  
Wuhan City, Hubei Province.  
China
13. Shenzhen Zhijun Pharmaceutical Co.,Ltd  
Add:Block 5, Bagualing Industrial District  
Shenzhen,  
P.R.China

h. However, questionnaire response has been received from only one exporter, M/s. Tangyin Yongqi Chemical Industry Co. Ltd. Questionnaire response was also received from M/S Henan Dongtai Pharma Co. Ltd. which is stated to be under common control with Tangyin Yongqi by the same shareholder. To that extent both these responses have been received from the two related Companies.

i. Questionnaire was sent to the following known importers or consumers of subject goods in India calling for necessary information in accordance with Rule 6(4). However, no questionnaire response has been received from any importer of the subject goods from the subject countries.

1. NATCO PHARMA LIMITED  
NATCO HOUSE  
Road No : 2,Banjara Hills  
Hyderabad-500 033  
Phone: +91-40-2354 7532  
Fax: +91-40-2354 8243, +91-40- 2354 5298  
E-mail: natinfo@natcopharma.co.in
2. UNIBIOS LABS LTD  
5, C-6, Poonam Darshan Poonam Nagar,  
Andheri (E)  
Mumbai-400093,  
Maharastra, India

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

j. 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;

k. Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

l. Investigation was carried out for the period starting from 1<sup>st</sup> January 2006 to 31<sup>st</sup> December 2006 (POI). The examination of trends in the context of injury analysis covered the periods from April 2003-March 2004, April 2004-March 2005, April 2005-March 2006 and the Period of Investigation

m. \*\*\* in this Notification represents information furnished by the applicant on confidential basis, and so considered by the Authority under the Rules.

## **B. Product under Consideration**

3. The product under consideration is 'Diclofenac Sodium'.

4. Diclofenac Sodium is an organic chemical. Diclofenac sodium is a non-steroidal anti-inflammatory drug (NSAID) taken to reduce inflammation and an analgesic reducing pain in conditions such as in arthritis or acute injury. Diclofenac Sodium is classified under Chapter 29 of Custom Tariff Act under the sub-heading 29420090 as others.

5. DFS is white or slightly yellowish crystalline powder, slightly hygroscopic in nature and sparingly soluble in water.

### **B.1 like Article**

6. Diclofenac Sodium manufactured by the domestic industry is identical to the product under consideration, and this aspect has not been contested by the responding Chinese Exporter / Manufacturer and therefore is being treated as like article for the purpose of this Investigation.

### **C. Standing of the Domestic Industry and initiation of the investigation**

7. The petition has been jointly filed by M/s. Kairav Chemicals Limited, M/s. Amoli Organics Limited & M/s. Aarti Drugs Limited. The petitioners are the major producers of the subject goods in the country. There is one more producer of the subject goods in the country, M/s Meditech Chemicals Ltd., who has supported the petition. Petition satisfies the requirement of standing and the petitioners constitute “domestic industry” for the purpose of the present investigation.

### **D Other submissions and issues raised**

8. The Authority notes that only one of the producers of the subject goods in China, M/s. Tangyin Yongqi Chemical Industry Co. Ltd. has responded to the Designated Authority. That apart, M/S Henan Dongtai Pharma Co. Ltd. which is stated to be under common control with M/s. Tangyin Yongqi Chemical Industry Co. Ltd by the same shareholder has also submitted a response. To that extent both these responses have been received from the two related Companies. Further in the questionnaire response it has been stated that Henan Dongtai does not have any export dealings with India although it is stated to be receiving the intermediate raw materials from M/s. Tangyin Yongqi Chemical Industry Co. Ltd and after manufacturing the product under consideration, is stated to sell in the domestic market as also export to other countries. The Authority further notes that the response from Henan Dongtai was received only after the Authority perused the questionnaire response of M/s. Tangyin Yongqi Chemical Industry Co. Ltd and found that Henan Dongtai was a separate legal entity and was related to the Tngyin Yongqi and the same was pointed out in a deficiency letter, sent to them. To that extent Authority concludes that the questionnaire response from M/S Henan Dongtai Pharma Co. Ltd. was not voluntary. Further, none of the consumers or importers in India has responded to the Designated Authority, nor has any party in the domestic circuit, other than the Domestic Industry, provided any information relevant to the present investigations.

#### **D.1 Confidentiality**

9. The Authority in this case has considered the data relating to customers’ price and costing as confidential as the disclosure of the same may give the competitive advantage to the other interested parties. The data relating to volumes of domestic industry (all producers taken together) has not been treated as confidential.

#### **E1. Normal Value for China PR**

10. Response has been received from only one exporter, M/s. Tangyin Yongqi Chemical Industry Co. Ltd. and its related Company M/S Henan Dongtai Pharma Co. Ltd, and this related Company, though a separate legal entity, is stated not be exporting to India but only to other parts of the world. The exporter has claimed normal value on the basis of sales made by them in the domestic market during the investigation period.

#### **E.2. MARKET ECONOMY TREATMENT CLAIM, ANALYSIS AND FINDINGS**

11. None of the Chinese exporters, except M/s. Tangyin Yongqi Chemical Industry Co. Ltd. have responded to the initiation notification. While perusing the response of the said exporter, it came to notice that M/s Henan Dongtai Pharma Co. Ltd, a related Company of M/S Tangyin Yongqi Chemical Industry Co. Ltd., but a separate legal entity and the said separate legal entity had not furnished a separate response. On being pointed out, M/s Henan Dongtai Pharma Co. Ltd. responded to the MET questionnaire. In their response they stated that

although they were manufacturers of the subject goods, they have not been exporting the same to India. In spite of various deficiencies pointed out to both the abovesaid producers, there are certain missing links in the response received from M/s. Tangyin Yongqi Chemical Industry Co. Ltd., and its related Company M/S Henan Dongtai Pharma Co. Ltd. which include investments, source of finance and other related details, which can be co-related with the market economy treatment claim made by the above said Chinese exporter only on physical verification. Therefore for the present, Normal value has been determined by considering the actual consumption of raw materials of the co-operating Chinese exporter as per data provided by the said co-operating exporter, which is however subject to subsequent verification, and on the basis of cost of production of the most efficient petitioner company, treating both these responding companies operating under Non- Market Economy conditions. Further In absence of any other response, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value For Chinese exporters in general and Normal value for them has been determined on the basis of cost of production of the most efficient petitioner company. Considering the above parameters the normal value so determined works out to **US\$ \*\*\* per K.G.**

### **E.3 Export price**

12. Export price has been determined by taking into account the claims made by the co-operating Chinese exporter M/s. Tangyin Yongqi Chemical Industry Co. Ltd Company, information received from DGCI&S and information received from Domestic Industry based upon IBIS data to the extent feasible. . Price adjustments have been disclosed on account of ocean freight, inland freight, commission, and marine insurance, packing and bank charges for the purpose of preliminary determination. The net export price at ex-factory level after adjustments as above on a weighted average basis thus determined and accepted by the Authority for preliminary determination for cooperating Chinese exporter M/s. Tangyin Yongqi Chemical Industry Co. Ltd Company and for all other exporters from China is **US\$ \*\*\* per K.G** and **US\$ \*\*\* per K.G respectively.**

### **E.4. Dumping Margin**

13. On the basis of normal values and net export prices at ex-factory level as determined above, the dumping margin during POI for all exporters are as per table below: -

Exporter/Producer from China	Normal Value- (US\$)	Export Price (US\$)	Dumping Margin (US\$)	Dumping Margin (INR)	Dumping Margin (%)
M/s. Tangyin Yongqi Chemical Industry Co. Ltd Company	***	***	***	***	25-30%
All other Exporters from China	***	***	***	***	35%-40%

14. The dumping margins so determined provisionally are significant and above de minimis.

**F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS**

**F.1 Views of the domestic industry**

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

a. The product was earlier attracting anti dumping duties and therefore the improvement in performance of the domestic industry between the period 2003-04 to 2005-06 is on account of this imposition of anti dumping duties. The performance has however materially deteriorated in the investigation period.

b. Export price from the subject country has remained at dumped level during POI. Further, these prices have not increased proportionate to increase in input prices from base year period. The export price has, on the contrary, declined significantly in POI.

c. Production, sales volumes and capacity utilization of the domestic industry have shown improvements in response to increase in demand. However, growth in the investigation period was lower due to increase in the imports.

d. Profit/Loss (PBT, PBIT and PBDIT) of the domestic industry have all shown improvement till 2005-06 as a result of anti-dumping duty in force. However, the profit declined in the POI with significant increase in dumped volumes.

e. Market share of the domestic industry declined. This is due to the fact that dumped imports have captured significant market share in demand in India.

f. Imports from the subject country have been undercutting the prices of the domestic industry in the market to a significant degree.

g. Imports from the subject country have forced the domestic industry to reduce the price steeply between 2005-06 and the investigation period. Thus, the imports were suppressing the prices in this period.

h. Employment levels with the domestic industry have declined in the POI after showing an improvement in 2004-05.

i. Salary & wages: - There is normal increase in salary and wages.

j. Demand and market share:- Whereas the market shares of the imports have increased, that of the domestic industry has declined.

k. Growth: - Growth of the domestic industry in a number of parameters shows negative trend.

16. It is thus evident that the domestic industry has suffered material injury in spite of the fact that anti-dumping duty on this product was in force during the investigation period.

17. Threat of Material Injury - In addition to the material injury already being suffered by the domestic industry, imports from China are posing threat of material injury to the

domestic industry. There is significant increase in the import volumes in absolute term the moment anti dumping duty paid prices became comparable to the domestic industry prices. This increase in imports is in spite of best efforts of the domestic industry to sell their material even at sub-optimal prices. The increase in imports would have been more, had the domestic industry not made efforts to curtail the same by offering lower prices. The price undercutting is significant. A situation where the dumped imports are 31% cheaper and the product is such where consumers are competing with each other for the same market, with practically no difference either in the product under consideration or in the end product, the only possibility is the imports completely taking away the Indian demand to the extent the Chinese have unutilised capacities. The product is primarily produced in India and China. The Chinese producers have created huge capacities for the product.

**F.2. Examination by the Authority**

18. The Authority has taken note of various arguments raised by interested parties in their submissions.

19. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been positive price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

20. For the purpose of injury analysis the Authority has examined the effect of dumped imports of the subject goods on the domestic industry and its effect on production, capacity utilization, sales, prices and profitability, etc. to examine the existence of injury and causal links between the dumping and injury, if any.

21. Since positive dumping margins have been established for the exports from the subject country, therefore, entire exports from the subject country have been treated as dumped imports for the purpose of injury analysis and causal links examination.

**F.2.1. VOLUME EFFECT OF DUMPED IMPORTS AND IMPACT ON DOMESTICINDUSTRY:**

**A. Growth in Demand**

	Unit	2003-04	2004-05	2005-06	POI
Domestic Industry	Mt	352.54	446.98	502.82	511.64
Other Producers	Mt	177.00	127.00	226.00	233.00
Total Import	Mt	29.35	51.00	51.83	110.79
Total Demand	Mt	558.89	624.98	780.65	855.43
Trend	Indexed	100	112	140	153

22. Demand of subject goods has been determined by addition of domestic sales of Indian producers and all imports from all countries. From the data, trend indicates that

demand for the subject goods had been growing from base year to POI. It grew by 53% over injury period. Incidentally the IBIS data shows imports of subject goods under four different Tariff classifications viz. 29224990, 29420031, 29419090, 29420011.

**B. Import Volumes and share of subject country**

23. The transaction wise details of imports of subject goods have been procured from IBIS by the petitioners this data has been found to be most appropriate for carrying out volume analysis and the same is detailed below.

	Unit	2003-04	2004-05	2005-06	POI(Jan-Dec'06)
China PR	MT	29.35	51.00	51.80	110.79
Trend	Indexed	100	174	176	377
Other Countries	MT	0	0	0.31	0
Total	MT	29.35	51.00	52.11	110.79
Trend	Indexed	100	174	178	377
Market Share in Imports					
China PR	%	100	100	99.41	100
Other Countries	%	0	0	0.59	0
Total	%	100	100	99	100
Total Demand	MT	558.89	624.98	780.65	855.43
Total Sale of DI	MT	352.54	446.98	502.82	511.64
Market share in demand					
➤ Imports from China	%	5.25	8.16	6.64	12.95
➤ Domestic industry	%	63.08	71.52	64.41	59.81

24. The Authority notes that

a. the imports from China have increased in absolute terms. These imports have increased more than three times during POI compared to the base year. It is also found that the imports increased significantly in the investigation period.

b. increase in imports in absolute terms has lead to increase in imports in relation to market share of the domestic industry.

**C. Capacity, production and capacity utilization of the domestic industry**

	Unit	2003-04	2004-05	2005-06	POI
Plant Capacity	Mt	1032	1300	1368	1428
➤ Trend	Indexed	100	126	133	138
Plant Production	Mt	749	835	1134	1185
➤ Trend	Indexed	100	112	151	158
Plant Capacity Utilization (%)	%	72.54	64.22	82.88	83.02
➤ Trend	Indexed	100	89	114	114
Production of		483	645	847	886

subject goods	Mt				
➤ Trend	Indexed	100	133	175	183

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

#### **D. Sales volume of Domestic Industry**

	Unit	2003-04	2004-05	2005-06	POI
Domestic Industry	Mt	353	447	503	512
Trend	Indexed	100	127	143	145

26. The data on sales indicates that the domestic industry sold 353 MT of subject goods during 2003-04 and it increased to 512 MT during POI. The sale of domestic industry has increased by 45% during POI as compared to base year. It is further noted that the increase in sales of Domestic Industry is less than increase in demand of the product in the Country, particularly in investigation period. Thus, whereas demand grew by about 10% between 2005-06 and POI, sales of the domestic industry grew only by about 1.8% over this period.

#### **E. Demand and Market Share**

	Unit	2003-04	2004-05	2005-06	POI
Domestic Industry	Mt	352.54	446.98	502.82	511.64
Other Producers	Mt	177.00	127.00	226.00	233.00
Total Import	Mt	29.35	51.00	51.83	110.79
Total Demand	Mt	558.89	624.98	780.65	855.43
Trend	Indexed	100	112	140	153
<b>Market share in demand</b>					
Domestic Industry	%	63.08	71.52	64.41	59.81
Trend	Indexed	100	113	102	95
Other Producers	%	31.67	20.32	28.95	27.24
Trend	Indexed	100	64	91	86
Subject Countries	%	5.25	8.16	6.64	12.95
Trend	Indexed	100	155	126	247
Import from Other countries	%	-	-	0.04	-

27. The demand of subject goods shows positive trend. It grew by 53% during POI as compared to the base year. The trend indicates that the share of domestic industry which was at 63% in 2003-04 increased in 2004-05 and then declined steadily in 2005-06 and finally to 60% during POI. During the same period, the share of subject country that was 5% in 2003-04, rose to 13% during POI.

**F. Factors affecting domestic prices**

28. Impact on the prices of the domestic industry on account of the dumped imports from the subject country have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject countries. In determining the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated. Further NSR has been worked out taking into account the NSR of each of the three petitioner manufacturers on a weighted average basis

	Unit	2003-04	2004-05	2005-06	POI
Export Price	Rs./Kg	***	***	***	***
Trend	Indexed	100	114	172	133
Landed price of imports	Rs./Kg	236.19	259.26	372.56	281.98
Trend	Indexed	100	110	158	119
Cost of Sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	105	115	110
Selling Price	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	121	119

29. The trend of selling price indicates that it has declined by 2% in 2004-05, and then increased by 21% in 2005-06 as compared to base year, however, it again declined by 2% during POI as compared to previous year. During the same period, the cost of production had declined by 5% in 2004-05, and then increased by 15% in 2005-06 and 10% during POI as compared to base year 2003-04.

**G. Evaluation of price over period under consideration**

30. The data on prices reveals that prices from China increased by 57% in 2005-06. However, the same declined steeply thereafter by around 24% in POI as compared to peak price during previous year 2005-06.

**G.1. Price undercutting and underselling effects**

31. It is found that the imports were significantly undercutting the prices of the domestic industry in the market. As a direct consequence, the domestic industry was probably forced to sell the product at prices significantly below non injurious price as claimed by them and as is corroborated by the analysis of the data.

**G.1.1. Price Undercutting Table During POI.**

Unit	Rs./Kg
Selling Price	***
Landed price of imports	***
Price undercutting	***
%	***

32. Price undercutting has been determined by comparing the landed value of dumped imports from the subject countries over the entire period of investigation with the net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% handling / landing charges and applicable basic customs duty to the value reported in the **DGCI&S** data, IBIS data and data provided by the co-operating exporter of import prices from the subject countries separately. The price undercutting from China PR was in the range of 31-39% during POI.

33. For the purpose of price underselling determination the landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. It shows that underselling was in the range of 32-40% as per table detailed below.

Unit	Rs./Kg	Rs./Kg
	For cooperating exporter	For all other exporters
Non Injurious Price	***	***
Landed price of imports	***	***
Price underselling	***	***
Injury margin %	***	***

## **G.2 Price suppression and depression effects of the dumped imports:**

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

35. Analysis of the trend of import prices over the injury period shows that selling price moved in tandem with cost of production between 2003-04 and 2005-06. However, the trend got reversed in the investigation period, when the cost of production increased and selling price declined. Landed price of imports also declined in POI as compared to previous year. It is thus noted that imports are having adverse effect on the prices in the market.

## **H. Examination of other Injury Parameters**

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

### **H.1 Profits and actual and potential effects on the cash flow**

	Unit	2003-04	2004-05	2005-06	POI
Cost of Sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	105	115	110
Selling Price	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	121	119

Profit/Loss	Rs./Kg	***	***	***	***
Trend	Indexed	-100	-231	22	75
Profit/Loss before Tax	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-293	32	109
PBIT	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-664	441	642
Cash Profit	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-74	270	342

37. The data indicates that cost of production of the domestic industry rose by 10% during POI as compared to base year whereas the selling price increased by 19% during the same period. The profit per unit which was negative in the base year and 2004-05 resulted in profits by 22 % ( indexed) during 2005-06 and 75% (indexed) during POI. The profit of domestic industry on the domestic sales (PBIT) followed the same trend. It is thus found that whereas the situation of the domestic industry was improving during 2005-06 and POI which may be attributed to increase in per unit selling price.

## **H.2. Return on investment and ability to raise capital**

	Unit	2003-04	2004-05	2005-06	POI
PBIT	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-664	441	642
Capital Employed - NFA	Rs./Lacs	***	***	***	***
Trend	Indexed	100	146	157	128
Return on Capital Employed (NFA Basis)	%	***	***	***	***
Trend	Indexed	-100	-454	282	413

38. The data on capital employed shows that it increased by 46% in 2004-05, 57% in 2005-06 and 28% during POI as compared to base year 2003-04. The return on capital employed, which was negative in the base year and 2004-05; became positive at 282% in 2005-06 and 413% during POI. It is thus found that the domestic industry showed considerable improvement in 2005-06, and in POI.

## **H.3 Productivity**

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

### **H.3.1. Employment, productivity and wages**

	Unit	2003-04	2004-05	2005-06	POI
Employment (Manpower strength)	Nos.	***	***	***	***
Trend	Indexed	100	107	107	105
Productivity per employee	Kgs.	***	***	***	***
Trend	Indexed	100	124	164	175
Wages	Rs./Lacs	***	***	***	***
Trend	Indexed	100	109	123	150

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

#### **H.4 Inventories**

	Unit	2003-04	2004-05	2005-06	POI
Average Stock	KG	***	***	9084	3210
Trend	Indexed	100	149	107	38

41. The data indicates the average inventory declined during POI from the 100 of the base year to 38. The stock was equivalent to 5 days of sales in 2003-04 and declined to equivalent of 1day during Period of Investigation.

#### **H.5 Growth**

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

#### **H.6 Investment**

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

#### **H.7 Magnitude of Dumping**

44. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject countries named, for the POI, are significant.

#### **H.8 Other factors affecting prices**

45. Change in cost structure if any, competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors that might be affecting the prices in the domestic market. The cost of production has increased by 10% during POI. The net selling prices increased by 19% during the same period. The Authority notes that landed values of imported material from subject countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. The undercutting during POI was in the range of 31-35% and underselling was in the range of 32-37% during POI.

#### **H.9 Conclusion on injury parameters**

46. The examination of above injury parameters indicates that growth in demand was 53% during POI as compared to base year. The production of the domestic industry increased by 58% during POI, as compared to the base year. However, the sales of the domestic industry increased only by 45% during POI as compared to the base year. During

the same period, the imports of subject goods from subject countries increased significantly from 29.35 MT in 2003-04 to 110.79 MT during POI i.e. it increased by 277%. The share of the imports from subject countries in relation to demand increased from 5.25% in 2003-04 to 12.95% during POI whereas the share in demand of the domestic industry declined from 63.08% to 59.81% during the same period. The profitability became positive in 2005-06 and POI due to higher increase in per unit selling price in comparison to cost of sales. Similar trend is observed in case of profits (PBIT) and return on net capital employed.

47. The Authority notes that definitive antidumping duty at US \$ 3.06 per KG was imposed on the product under consideration and the same remained valid up to 6.2.2007. The Domestic Industry did not seek to extend the duty beyond this date as no application for a sun set review was filed. Therefore the antidumping duty expired on 6.2.2007. In the present case the period of investigation is Jan.2006 to December 2006 and therefore impact of the said antidumping duty is noticed in all parameters of pricing, profits, sales realization etc. and the progress made by domestic industry cannot be treated as a weak causal link for determination of injury.

48. The Authority provisionally concludes that the imports were significantly undercutting the prices of the domestic industry in the market. Performance of the domestic industry deteriorated in 2004-05 in comparison to the previous year but increased during 2005-06 and POI due to increase in per unit selling price. Further, even though performance with regard to sales volumes improved, the rate of growth of sales volumes was negative in investigation period as compared to preceding year with significant increase in imports in this period. Market share of the domestic industry improved till 2004-05 and declined significantly thereafter. While decline in market share in 2005-06 was due to other Indian Producers, the decline, which was more pronounced in POI, was due to dumped Chinese imports in POI. It is also found that the landed price of imports is below the direct cost of production of the domestic industry, thus indicating significant adverse impact in case Chinese imports are allowed at dumping prices. It is thus provisionally concluded that the domestic industry has suffered material injury.

### **I. Other Known factors and Causal Link**

49. The foregoing analysis indicates that the volume of dumped imports from the subject countries have increased substantially both in absolute terms as well as in relation to the share in demand. Despite strong growth in demand, the growth of imports from subject countries has significantly displaced the market share of the domestic industry. The landed value of dumped imports from China also show a significant price undercutting and underselling on the prices of the domestic industry compelling the domestic industry to benchmark its prices to imports. This establishes causal link between dumping of the subject goods and injury to the domestic industry.

50. The Authority has also examined the issue of causal link and other non-attribution factors as laid down in the Rules to segregate injury if any caused by other factors. In this regard the following indicative factors as laid down in the Rules have been examined.

#### **I.1. Volume and prices of imports from other sources**

51. The authority notes that there are no imports from any other country. Therefore, injury cannot be attributed to imports from other countries.

## **I.2. Contraction in demand and / or change in pattern of consumption**

52. The subject goods have shown positive growth during the injury period. Decline in demand cannot be a reason for causing injury. There is also no significant change in consumption pattern of the product in the domestic market, which could be attributed to the injury to the domestic industry.

## **I.3. Trade restrictive practices of and competition between the foreign and domestic producers**

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

## **I.4. Development of technology**

54. The Authority notes that technology for production of the product has not undergone any change. Development of any other technology, therefore, cannot be attributed to the injury to the domestic industry.

## **I.5. Export performance**

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

## **I.6. Productivity of the Domestic Industry**

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

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

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

## **J. Magnitude of Injury Margin**

59. The non-injurious price determined by the Authority has, therefore, been compared with the average landed value determined based upon the data provided by the co-operating exporter, data collected by the Authority directly from DGCI&S and data provided by the

Domestic Industry from IBIS source for determination of injury margin for all exporters from the subject country. Injury margin thus worked out are given in the table below.

**J.1. Injury margin Calculations**

<b>Name of company</b>	<b>Injury Margin (US\$/KG)</b>	<b>Injury Margin (INR/KG)</b>
M/s. Tangyin Yongqi Chemical Industry Co. Ltd Company	***	***
All other exporters from China PR	***	***

**K. Conclusions**

60. The Authority has, after considering the foregoing, come to the conclusion that:

- (a) The subject goods have been exported to India from the subject countries below its normal value;
- (b) The domestic industry has suffered material injury;
- (c) The injury has been caused by the dumped imports from subject countries.

**L. Indian industry's interest & other issues**

61. 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 products to the consumers.

**M. Recommendations**

62. 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 aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject countries, 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.

63. Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

64. 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 margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount indicated in Col 8 of the

table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.

### **Duty Table**

S . N o	Tarriff Headi ng	Descripti on of Goods	Country Of Origin	Country Of Export	Producer	Exporter	Duty Amount	Unit	Currency
1.	2942 .or 2922, , or 2941	Diclofen ac Sodium	China PR	China PR	Tangyin Yongqi Chemical Industry Co. Ltd	Tangyin Yongqi Chemical Industry Co. Ltd	100	Per Kilogram	Indian Rupees
2.	2942 .or 2922, , or 2941	Diclofen ac Sodium	China PR	China PR	Any	Tangyin Yongqi Chemical Industry Co. Ltd	100	Per Kilogram	Indian Rupees
3.	2942 .or 2922, , or 2941	Diclofen ac Sodium	China PR	China PR	Any	Any other than Tangyin Yongqi Chemical Industry Co. Ltd	135	Per Kilogram	Indian Rupees
4.	2942 .or 2922, , or 2941	Diclofen ac Sodium	China PR	Any	Any	Any	135	Per Kilogram	Indian Rupees

### **N. Further Procedures**

65. 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 finding;
- (b) Exporters, importers, applicants 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 letter. 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 conduct further verification to the extent deemed necessary;
- (d) The Authority would disclose essential facts before announcing final findings.

R. Gopalan  
Designated Authority