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GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES  
UDYOG BHAVAN

**NOTIFICATION**

**Final Findings**

(Sunset Review)

New Delhi, 21<sup>st</sup> May 2009

**Subject: Antidumping investigation (Sunset Review) involving import of Vitamin -C originating in or exported from China PR**

**No.15/16/2008-DGAD:-** Having regard to the Customs Tariff Act, 1975 (hereinafter referred to as Act), as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules):

**A Background of the Case**

Whereas The Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995, recommended imposition of provisional Anti Dumping duty on imports of Vitamin-C (hereinafter referred to as subject goods) originating in or exported from China PR (referred to as subject country) falling under Sub-heading 293627. The Designated Authority came out with final findings in the matter of first Sunset Review on 31.07.2003 vide notification no 14/14/2002-DGAD and definitive anti dumping duty was imposed by Ministry of Finance as per Customs notification No159/2003 dated 24th October 2003.

2. The Designated Authority, in pursuance of the judgment of the Hon'ble Delhi High Court in WC No.16893 of 2006 initiated on 23rd May 2008 the sunset review of anti-dumping duty imposed on imports of Vitamin-C originating in or exported from China PR in accordance with section 9A(5) of the Customs Tariff Act and Rule 23 of the Rules to review the need for continued imposition of duties in force and whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The domestic industry submitted information seeking

continuation of anti dumping duty on the ground that domestic industry is suffering current injury from the continuous dumped imported from the China PR and revocation of the duty would lead to intensified injury to the domestic industry. The information was provided by M/s Amoli Organics Pvt Ltd. and M/s. Bajaj Health Care Ltd on behalf of the domestic industry.

## **B. PROCEDURE**

3. The procedure described below has been followed with regard to this investigation:

I. After initiation of the review investigation, the Authority notified the domestic industry and called for the information within 40 days of the issue of the notification. On receipt of the information from the domestic industry, other interested parties were provided opportunity to submit information in the prescribed formats within 40 days of the letters issued to them.

II. All known exporters/producers in the subject country were informed to submit information within 40 days of issue of the letters on prescribed proforma (questionnaire responses) and necessary information in accordance with Rule 6(4);

III. None of the exporters responded to the questionnaire in response to the above notification in the permitted time. Therefore, they have been treated as non-cooperating exporters.

IV. The Embassy of the subject country in New Delhi was also informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their country to respond to the questionnaire within the prescribed time.

V. A copy of initiation notification along with the importers questionnaire was also sent to the known importers and users of the subject goods in India calling for necessary information within 40 days of issue of the letters in accordance with Rule 6(4).

VI. In response to the above notification, none of the importers or users has filed response to the questionnaire in the permitted time. Therefore, they have been treated as non-cooperating importers/users.

VII. The following domestic producers of the subject goods have provided their cost and injury information for investigation:-

M/s Amoli Organics Pvt Ltd

M/s Bajaj Health Care Ltd

VIII. The Authority kept available the non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties in accordance with Rule 6 (7).

IX. The Authority verified the information furnished by the domestic industry to the extent possible to examine the injury suffered and to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

X. In accordance with Rule 6(6), the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 3rd February 2009. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally.

XI. The Authority has considered all views expressed and submissions made by various interested parties to the extent they are relevant for the present investigation.

XII. In accordance with Rule 16 of the anti-dumping Rules, the essential facts/basis considered for these findings were disclosed to the known interested parties and comments received on the same have been dealt with in the final findings.

XIII. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available in accordance with Rule 6(8).

XIV. The period of investigation for the purpose of the present review is 1st April 2007 to 31st March 2008 (12 months). However, injury analysis covered the years 2004-2005, 2005-2006, 2006-07 and POI.

XV. \*\*\*\* In the statement represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

### **C. Product under consideration AND LIKE ARTICLE:**

#### **C.1 VIEWS OF THE DOMESTIC INDUSTRY**

4. Domestic industry has submitted with regard to product under consideration and like article:

(i) Present investigation is a review investigation, product under consideration remains the same as has been defined in the original investigation. There has been no significant development in the product over the period.

(ii) The goods produced by the domestic industry are like article to the imported product.

#### **C.2 Views of the importers, consumers, exporters and other interested parties**

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

#### **C.3 EXAMINATION BY THE AUTHORITY**

6. The product under consideration in the present investigation is Vitamin-C. The most commonly used synonyms of vitamin C are ascorbic Acid, L-Xyloascorbic Acid, 3-Oxo-L-gulofuranolactone (enol form), L-3-Ketothreohexuronic Acid Lactone, etc., as described under entry number “867 of MERCK INDEX”. The product is classified under Customs Tariff heading 2936.27 and at subheading 29362700 as per Indian Trade Classification. The Customs and ITC HS classification is, however, indicative only and in no way binding on the scope of the present investigation. The Product has uses in pharmaceutical and non- pharmaceutical industry. This being a Sunset Review, therefore, there is no change in scope of the product under consideration.

7. There is no significant difference in Vitamin-C produced by the Indian industry and Vitamin-C exported from China PR, which can have an impact on price. Vitamin-C produced by the Indian industry and imported from subject country 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. The two are technically and commercially substitutable. Therefore, Vitamin-C produced by the domestic industry and imported from China PR are being treated as like article in accordance with the anti dumping Rules.

#### **D. Domestic Industry**

8. The present application has been filed by M/s Amoli Organics Pvt Ltd., Mumbai and M/s. Bajaj Health Care Limited, Mumbai. It has been noted that earlier M/s Ambalal Sarabhai was applicant in the original investigation. However, this company has not responded to the present Sunset Review. As per the information provided by the applicants, M/s Amoli Organics Pvt Ltd., Mumbai and M/s. Bajaj Health Care Limited, Mumbai are the only producers of this product. As the applicants account for 100% of the Indian production, therefore, they constitute the domestic industry within Rule 2(b).

#### **E. Confidentiality**

9. The information provided by the domestic industry concerning mainly relating to customers, cost and finance have been kept confidential. However, the information concerning volume of sale, production, capacity etc. of domestic industry as a whole has not been treated confidential.

#### **F. Other Issues**

##### **F.1 Issues raised by interested parties during the public hearing and after Disclosure Statement**

10. After initiation of the Sunset Review, none of the exporter, importer or other interested parties responded to the initiation and provided any information. However, during the public hearing, number of the interested parties including importers came to attend the hearing. Subsequently, M/s Piramal Healthcare Limited (PHL) claiming to be importer and industrial user submitted its response on February 10, 2009 on importers questionnaire response. From the information provided, it has been noted that no information about imports made have been provide in their submissions.

11. A submission was made on behalf of M/s North East General Pharmaceutical Company Limited, China by Shri M.N. Jha, Advocate on 10.2.2009. A photocopy of the authorization dated 3.2.2009 in favour of Shri M.N. Jha was also enclosed. In the submission, some comments have been made concerning injury to the domestic industry. As original letter of authorization was not filed, therefore, the submission

have not been taken on record. After disclosure statement, it has been stated by the company that non-submission of original authorization letter is a flimsy ground for rejecting their valid submission through a dignified Advocate. The Advocate was available to the Authority for clarification and was never asked for original copy of the authorization letter. In this regard, the Authority notes that Advocate can make submission only on behalf of their client, any submission without valid authorization cannot be considered valid. The Authority has, however, made correction in the data as pointed out in the comments by the company.

12. The Authority notes that PHL has not provided information within the stipulated time, the same could not be considered as cooperating importer. However, the legal or other factual issue raised have been dealt with in the appropriate section of this findings.

13. M/s Piramal Healthcare Limited have made the following submissions:-

(i) The product is governed under National Pharmaceutical Pricing Authority (NPPA). During the period of investigation, the NPAA vide its Notification No. 1280(E) dated 27.7.2007 the pricing for the product was fixed as Rs.366/kg..

(ii) Imports of the product for the purpose of usage in pharmaceutical industry is governed under Central Drugs Standard Control Organization (Registration Certificate Form 41). Without specific permission to foreign manufacturer product cannot be imported and used by pharmaceutical industry. This exclusive permission was only granted to an exporter, i.e. M/s North East General Pharmaceutical Co. Ltd. in China for the first time, producing the said product with effect from 1st October 2008. Prior to this, the pharmaceutical industry was sourcing the subject product for the purposes of usage in the final product either locally or from Japan and Europe.

(iii) PHL received the permission (Form 9 & Form 10 under the Drug Act) in the month of November 2008. The imports were made by PHL only in December 2008 which was clearly outside the period of investigation.

(iv) Uses of Vitamin C by pharmaceutical industry is strictly governed by an import licence to be issued under Drugs Act. The imports shown by the domestic industry from China is specifically imported for use of non-pharmaceutical industry. It has been stated that there cannot be injury to the domestic industry from pharmaceutical industry as no

imports were made during the period of investigation. This being a Sunset Review, there is clearly no threat to the domestic industry for the reasons that the imports made post period of investigation, the price of subject goods are well above the DPCO price. In other words, the imports have been made at double the price of the DPCO fixed price by NPPA, thus showing that there is no material injury or any threat to the domestic industry.

(v) In any case, if the Designated Authority recommends continuing the anti dumping duty on subject goods, the same should be fixed at the level of DPCO pricing fixed by NPPA taking into consideration the cost as well as the adequate profit of 22% to 26%. In this regard, attention has been drawn to the investigation on Vitamin A palmitate from China and Switzerland wherein the duty was recommended to be fixed at the level of DPCO. After the disclosure statement, it has been stated that the period of investigation in the instant is 1.04.2007 to 31.3.2008. The relevant DPCO notification are existed during this period dated July 27, 2007 until November 25, 2008 was fixed to be at Rs.366/per kg. Thereafter, the DPCO notification was issued on November 25, 2008 to fixed the prices at Rs.544/per kg. Within the factual matrix of the case, since the products falls under the DPCO, the domestic producer cannot sell the product beyond the fixed price but can sell below the same. Thus, during the period of investigation until November 25, 2008, the NPPA had rightly considered the price at which the domestic industry is selling the product taking into consideration as well as adequate profit into account. Therefore, the Designated Authority should consider the same prices as it existed during that period to be the Fair Selling Prices of the domestic industry in case it recommends continuing duties. Further, the Designated Authority cannot overrule the power of NPPA to independently fix the prices at which the domestic industry should at maximum sell the product. Without prejudice to the same, in case the Designated Authority in its wisdom even relies upon the DPCO prices as fixed by the NPPA in its notification dated November 25, 2008, the Designated Authority cannot recommend the duties beyond the level of Rs.544/kg, which roughly translates into USD 11.05/per kg.

(vi) The Authority should grant special exemption to the pharmaceutical industry on the basis that there have been no imports from China which have been used by the pharmaceutical industry, thus there is no question of any alleged injury to the domestic industry.

(vii) The product form part of final product formulation produced by the industrial user. The imposition of anti dumping duty would only result in increasing the cost of final product, thus making it difficult for the common men in keeping the good health.

(viii) Submissions have been made concerning injury based on the fact submitted by the domestic industry in the application. As the injury analysis has been carried out on the basis of verified data of the domestic industry, therefore, point-wise analysis has not been done on the objections raised by PHL.

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

14. It has been contended by PHL and Anglo French Drugs & Industries Limited, Bangalore that imports by the pharmaceutical industry could not be possible because of the registration requirement. In this regard, it has been noted that the subject goods has both pharmaceutical and non- pharmaceutical uses, therefore, if the imports were not made by the pharmaceutical industry during the POI or preceding years, it would not affect the dumping proceeding as imports can be made at any time after completion of the registration proceeding. It has been noted that in the DGCI&S imports data, no differentiation has been made about the uses in the pharmaceutical and non- pharmaceutical industry.

15. It has also been contended that in case anti-dumping duty is to be recommended, it should be fixed at the level of DPCO prices fixed by NPPA. In this regard, the Authority notes that the NIP is determined by taking into cost of production of the domestic industry during POI whereas the period taken into consideration by NPPA authority may be different which may not reflect the actual injury to the domestic industry during the current POI. Therefore, DPCO price cannot be treated as basis for imposing the anti-dumping duty (in case it is a reference price). The Authority also notes that the anti-dumping duty is imposed to neutralize the effect of dumped imports, in case injury is contributed by any other factor such as DPCO price, it becomes factor to be analyzed for injury to understand whether injury has been caused by lower DPCO price, however, the anti-dumping duty in no case shall exceed the margin of dumping.

16. It has been contended that the company is not an importer but an industrial user of the product. However, the company choose to provide information under the format of Importers' questionnaire in spite of the fact that they were not mandated to do so. The applicant is an industrial user and defined as an interested party as defined under the Rules. Rule 6(5) and also Article 11.2 of the WTO Agreement mandate that Authority shall also provide opportunity to industrial user of the article under investigation to

furnish information which is relevant to the investigation regarding dumping and injury wherever applicable. Further, there is no time line specified for industrial user to provide mandated information within the specified period. Therefore, the company has right under the law and practice to be given an opportunity to make its submissions which it clearly did so by attending the public hearing and thereafter filing written submissions as required to do so. In this regard, Authority has noted that all interested parties and user of the product was asked to respond within stipulated period of 40 days. However PHL had not availed the opportunity and responded by providing information within the stipulated time. The Authority holds that the interested parties and users if submit the information after the stipulated time, it becomes time barred.

## **G. Methodology for Calculation of Dumping Margin**

### **G.1 Views of the domestic industry**

17. The domestic industry has claimed China to be treated as a non- market economy. They have provided a detailed note on 15 mandatory conditions prescribed under the Rules, each one of which an intending exporter has to satisfy in order to claim market economy treatment and the information and evidence relevant and necessary to establish such a claim. Applicants have claimed that unless the responding Chinese exporters conform to these standards, the Designated Authority is required to determine normal value in accordance with Para 7 of Annexure-I to the Rules.

### **G.2 View of exporters/importers and other interested parties**

18. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to normal value.

### **G.3 Examination by the Authority**

19. The Authority sent copies of exporter's questionnaire and questionnaire on market economy treatment to exporters in china PR, however, no exporter responded to the initiation notification and provided any information. In absence of any information, the presumption of non market economy as per para 8(2) of Annexure 1 of the AD Rules remain unrebutted. The authority, therefore, has determined the normal value in accordance with para 7 of the above said annexure. In absence of any information, the Authority has determined the normal value by adopting the method "or any other reasonable basis".

### **.G.4 Normal Value**

20. Under the circumstances, the Authority has constructed the normal value by considering the major raw materials for manufacture of Vitamin -C at the import prices to India, the consumption norms and conversion cost of the domestic industry and reasonable profit. Based on above information available, the normal value has been calculated as Rs \*\*\*/kg Or USD \*\*\*/kg by considering the average exchange rate during POI of 1USD=Rs.40.75 /-

### **G.5 Export price**

21. For determination of the Export Price, all transaction-wise data on imports relating to product under consideration provided by DGCI&S have been taken into consideration. By taking into consideration all such transactions, weighted average export price (CIF) has been calculated. To calculate the net export price, expenses on account of inland freight, ocean freight and port expenses have been adjusted.

22. Based on above methodology, the Export Price has been calculated Rs \*\*\*/kg or USD\*\*\*/kg by considering the average exchange rate during POI of 1USD=Rs.40.75 /-

### **G.6 Dumping margin**

23. Considering the normal value and export price determined as detailed above, dumping margin has been determined in respect of imports reported in India during the investigation period. The dumping margin has been determined as US\$ \*\*\*/kg and 78.3%.

## **H. Methodology For Injury Determination and Examination of Causal Link**

### **H.1 Views of the domestic industry**

24. The domestic industry has raised a number of arguments with regard to injury and causal link, which are summarized below. The main arguments are that

(a) The domestic industry was not able to utilize its capacity fully due to dumped imports.

(b) Volume of dumped import increased. As a direct consequence, the domestic industry has been prevented from utilizing its capacities.

(c) The imports were undercutting the prices of the domestic industry. Consequently, in the event of revocation of anti dumping duties, the domestic industry would not be able to charge its present prices. This

would be a situation where the domestic industry is looking for upward increase in the selling prices (due to increase in input costs). Thus, the import would force the domestic industry to reduce its prices in a situation where the domestic industry is looking for upward increase in the prices.

(d) The potential volume of imports in the event of revocation of ADD is higher. Increase in volume of imports would imply proportionate potential decline in the sales of the domestic industry. Revocation of ADD would therefore result in decline in sales (and consequently production, capacity utilization and productivity) of the domestic industry. Inventory levels with the domestic industry would consequently increase.

(e) Potential decline in production in the event of revocation of ADD would lead to increase in losses suffered by the domestic industry. Revocation of ADD would therefore result in deterioration in profits and consequently return on investment and cash flow.

(f) Potential decline in selling price in the event of revocation of ADD would lead to increase in losses suffered by the domestic industry. Revocation of ADD would therefore result in deterioration in profits and consequently return on investment and cash flow.

(g) Potential decline in sales, production, capacity utilization, profits, return on investment, cash flow, etc. would lead to negative growth of the domestic industry.

## **H.2 Views of exporters, importers, users etc**

25. No response was provided by any exporters/importers after initiation of the Sunset Review. However, after the public hearing, comments on the injury to the domestic industry was submitted by M/s Piramal Healthcare Limited. For the purpose of analysis of injury parameters, the Authority has not relied upon the statements of the domestic industry but has relied upon the verified data of the domestic industry.

## **H.3 Examination by the Authority**

26. The Authority has taken note that for the sunset review, the relevant provisions of Section 9(A)(5) of the Customs Tariff Act read as under:

*“The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:*

*Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.”*

27. Rule 23 of the Anti-dumping Rules provide for procedure for conducting sunset review. For conducting the review, the provisions of Rule 6,7,8,9/10, 11, 16,17,18,19 and 20 have been made applicable. The Authority notes that as per Rules, present state of injury is to be assessed in the sunset review.

28. In this regard Article 3.1 of the WTO Agreement and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are 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 significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, 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.

29. For the purpose of assessing present state of injury, Annexure II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, 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. Examination of performance of the domestic industry is as under

30. For the purpose of assessing present state of injury, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

(A) **Volume Effect**. *The effects of volume of dumped imports from subject country has been examined as follows:*

(i) **Assessment of demand**

31. For the calculation of the domestic consumption/demand of the product under consideration, the Authority added the sales volume of the domestic industry to the total imports into India.

Unit in MT	2004-05	2005-06	2006-07	2007-08 (POI)
Sales of Domestic industry	316	405	665	837
Total Imports	301	239	526	295
Demand	617	644	1191	1132

The Authority notes that the demand has shown a positive trend and grew over the injury period. From the base year (2004-05) it grew by 83% in the POI.

(ii) **Import volumes and market shares**

	2004-05	2005-06	2006-07	2007-08 (POI)
<b>Imports (MT)</b>				
From China	46	41	106	103
Other countries	255	198	420	192
Total imports	301	239	526	295
<b>Market share in imports (%)</b>				
China	15	17	20	35
Other countries	85	83	80	65
<b>Demand (MT)</b>	617	644	1191	1132
<b>Market share in demand (%)</b>				
China	7.45	6.37	8.90	9.10
Other countries	41.33	30.74	35.26	16.96
Domestic industry	51.22	62.89	55.84	73.94

32. For the purpose of injury analysis, all imports from the subject country has been taken as dumped imports. From the data, it has been noted that:

- a) The volume of dumped imports increased significantly between 2004-05 to 2006-07. The volume declined in 2007-08, however there is an increase in volume in the POI as compared to the base year.
- b) Share of subject country in the total imports increased significantly over the injury period.
- c) The market share in demand in respect of subject country which was only 7.45% during 2004-05 increased to 9.10 % in POI.

**(iii) Production, sales, capacity and capacity utilization**

33. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below:-

	Unit	2004-05	2005-06	2006-07	2007-08
Capacity	Mt	600	720	1,170	1,440
Trend		100	120	195	240
Production	Mt	507	571	841	1,009
Trend		100	113	166	199
Capacity utilization	%	84.44	79.24	71.91	70.05
Unutilized Capacity	Mt	93	149	329	431
Sales of Domestic industry	Mt	316	405	665	837
Trend		100	128	210	265

34. The capacity of the domestic industry increased from 600 MT in base year to 1440 MT in the POI. The production increased from 507 MT to 1009 MT during the same period. Similarly, the domestic sale of the domestic industry also increased from 316 MT to 837 MT during the same period. The capacity utilization declined from 84% to 70% but it is noted that the capacity of the domestic industry increased as a result of entry of M/s Bajaj Healthcare in 2006-07. It is further noted that domestic industry still has unutilized capacity in the POI.

**(iv) Price effect of the dumped imports on the Domestic Industry**

35. The impact on the prices of the domestic industry on account of dumped imports from the subject country has been examined with reference to the price undercutting and price underselling, if any. For the purpose of this analysis, weighted average Net Sales Realisation (NSR) and the Non-Injurious Price (NIP) of the domestic industry (worked out on the basis of the costing information of the domestic industry) have been compared with the landed value of imports from the subject country.

**(a) Price undercutting**

36. In order to ascertain the price undercutting being caused by the dumped imports, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization was arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of subject imports. The landed value of imports has been compared with net sales realization of the domestic industry and it has been found that the dumped imports are undercutting the prices of the domestic industry.

	2004-05	2005-06	2006-07	2007-08
CIF export price from China Rs/Kg	207	207	169	290
Landed value of imports from China Rs./Kg	261	251	196	322
Net sales realization (Rs/Kg)	***	***	***	***
Indexed	100	81	90	115
Cost of sales (Rs/Kg)	***	***	***	***
Indexed	100	86	95	140
Price undercutting Rs/kg	***	***	***	***
Price Undercutting Range %	***	***	***	***

37. It is noted that the dumped imports were undercutting the prices of the domestic industry in the market. The price undercutting continues throughout injury period were in the range of 15-40%. For POI, undercutting was in range of 20-30%.

**(b) Price underselling**

Net Sales Realisation (Rs/kg)	***
Non Injurious Price (Rs./kg)	***
Price Underselling (China PR)	***
Price Underselling (%)	***
Price Underselling range	10-15

38. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non injurious price and compared the same with the landed value of dumped imports to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producer by appropriately considering the cost of production for the product under consideration during the POI. The analysis shows that the underselling from China PR was in the range of 10-15% .

**(v) Examination of other Injury Parameters**

39. 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:-

**(a) Profits and Actual and Potential Effects on Cash Flow**

	Unit	2004-05	2005-06	2006-07	2007-08(POI)
Cost of sales (Rs/Kg)	Rs/kg	***	***	***	***
Trend	Indexed	100	86	95	140
Net sales realization (Rs/Kg)	Rs/kg	***	***	***	***
Trend	Indexed	100	81	90	115
Profit/(Loss) per unit	Rs/kg	***	***	***	***
Trend		100	(139)	(165)	(1027)
Profit/(Loss) (PBT)	Rs/Lacs	***	***	***	***

Trend		100	(178)	(347)	(2721)
Profit/(Loss) (PBIT)	Rs/Lacs	***	***	***	***
Index		100	(37)	22	(901)
Cash profits	Rs/Lacs	***	***	***	***
Trend		100	42	118	(329)

40. The data shows that cost of sale increased by 40% (Rs.141/kg) in POI as compared to base year. The net sales realization increased by 15% (Rs.54/kg) during the same period. The profit per unit which was positive in the base year turned negative and it was -80(indexed) in POI as compared to 100 of the base year. Profits (PBIT) similarly turned negative in POI. It was -901(indexed) in the POI as compared to 100 of the base year.

41. Instead of cash flow trend, the cash flow profits of the domestic industry has been assessed and the trend indicates that it turned negative in POI. It was -329 in POI as compared to 100 of the base year.

**(b) Employment, wages and productivity**

	Unit	2004-05	2005-06	2006-07	2007-08
Number of employees	Nos.	***	***	***	***
Trend	Indexed	100	109	111	114
Wages	Rs/Lacs	***	***	***	***
Trend	Indexed	100	131	249	474
Wages per unit of production	Rs/Mt	***	***	***	***
Trend	Indexed	100	116	150	238
Productivity	MT/day	***	***	***	***
Trend	Indexed	100	113	166	199

42. Both the companies are multi product companies. Bajaj Health care Ltd has commenced the production in 2006-07 only. Number of employees has increased by 14% in POI as compared to base year. The wages also increased considerably during POI as compared to base year.

**(c) Inventories**

	Unit	2004-05	2005-06	2006-07	2007-08
Average stock	Mt	***	***	***	***
Trend	Mt	100	88	414	521

43. Average stock of finished products with the domestic industry showed increasing trend. In terms of sale days it increased from 1.29 days in base year to 2.35 days in POI.

**(d) Return on Investment and Ability to Raise Capital**

Particulars	Unit	2004-05	2005-06	2006-07	POI
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Net Fixed Assets	Rs. Lacs	***	***	***	***
Working Capital	Rs. Lacs	***	***	***	***
Capital Employed- NFA Basis (Total)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	121	238	248
Return on Capital Employed (Domestic)	%	***	***	***	***
Trends	Indexed	100	(147)	(146)	(1095)

44. The data shows that the capital employed increased by 148% in POI as compared to base year. The increase in capital employed was on account of increase in net fixed asset as well as working capital. The return on capital employed which was positive in the base year turned negative in 2005-06 and continued thereafter.

**(e) Growth**

45. Large number of the injury parameters show adverse trend during the Injury period

**(f) Magnitude of dumping Margin**

46. The Authority has found significantly positive dumping margin in case of imports from China. The producers/exporters from China continued to dump their material in the Indian market even after imposition anti dumping duties. In fact, level of dumping margin is still very significant, as may be seen from the table below.

**I. Conclusions on Injury**

47. The demand of the subject goods has been growing over the injury period i.e. from 2004-05 to 2007-08. It grew by 83% in POI as compared to the base year.

48. The domestic industry has added capacity in 2005-06, 2006-07 and POI and has increased it to 1440 MT from 600 MT. The production has doubled during the same period. The sale also increased to 837 MT from 316 MT. The market share of domestic industry improved to 74% from existing 51% indicating that domestic industry has taken advantage of the growth of demand in the market.

49. The Authority has noted that the profile of the producers have been changed since imposition of the anti-dumping duty. The producers who constitute the domestic industry in the original period of investigation could not sustain and left the market. Earlier Ambalal Sarabhai was producer, however, now it no longer in the production. In this context, it has been noted that earlier M/s Bajaj Health Care Ltd. was trader, however, now it has become producer of the subject goods. This trend indicates that the producers of the subjects goods are facing serious difficulties in continuing in the business.

50. During the injury period, cost of sale has increased by 40% (Rs.141/kg.) whereas selling price increased by 15%(Rs.54/kg.). The profit/loss per unit turned to loss in 2005-06 from profit in the 2004-05. The position deteriorated further in 2006-07 and 2007-08. The return on capital employed was -1095(indexed) from 100(indexed) in the 2004-05.

51. The continuous losses of the domestic industry indicate that despite increase in market share, the domestic industry continue to suffer material injury.

**J. Other factors which may be causing injury to the domestic industry**

52. The authority has also examined following known factors other than dumped imports which may have been causing or contributing injury to the domestic industry:

***Volume and prices of imports from other sources***

Imports from other countries also constitute significant volume, however, export price from these country were far higher than that of the subject country.

***Changes in the patterns of consumption:*** - The pattern of consumption with regard to the product under consideration has not undergone any change. Changes in the pattern of consumption could not have, therefore, contributed to the injury to the domestic industry.

***Trade restrictive practices of and competition between the foreign and domestic producers:*** - There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.

***(c) Developments in technology:*** - Technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.

***(d) Export performance:*** - Applicants have exported the product under consideration. The exports of the applicant has increased. The injury of the domestic industry however has been analysed for the domestic sales only. Therefore, export performance of the domestic industry cannot be considered to be contributing to the injury to the domestic industry.

***(e) Productivity:*** - Productivity of the domestic industry has declined. However, this decline in productivity is due to addition of employees by Bajaj Healthcare, which has set up new facilities. In any case, even if the impact of this productivity were segregated, it would be seen that the domestic industry has suffered injury.

**K. Submissions by domestic industry on Likelihood of continuation or recurrence of injury**

53. The domestic industry has submitted the following arguments on likelihood of continuation or recurrence of injury:-

(a) Dumping of the product under consideration is likely to continue. This is established by (a) significant exports already being made from China; (b) significant difference in the export volumes reported by Chinese Customs and Indian Customs, thus establishing possible circumvention and likely intensified dumping in the event of revocation; (c) global exports from China at comparable (or even lower) prices.

(b) The present situation is clearly suggestive that (a) the dumping would continue in the event of revocation of anti dumping duty; (b) the volumes would further increase, once the present anti dumping duties are revoked.

(c) The petitioners submit that the present level of dumping margin is 75% which is not only more than de-minimus but also significantly high. The circumstances, which were prevalent at the time of earlier investigations, are very much in existence even in the present period of investigation.

(d) Petitioners further submit that there exists no reason why the level of dumping would disappear or decrease if the measures were to be repealed.

(e) Following are some of the considerations, which reflect that the dumping would occur rather at aggravated level in the event anti-dumping duties are revoked or not extended for the next five years.

**(i) Exports to other countries**

54. Chinese exporters are exporting the subject goods in a large number of countries in significant volumes and at dumped prices. It is evident that in the case of revocation of anti dumping duty, dumping of Chinese material into the Country would intensify.

55. Petitioners did an analysis of exports from China to various countries. It was found that about 40,000 MT Vitamin-C was exported from China at an average price of Rs. 226 per kg., as opposed to a price of Rs. 296 per kg. for India. In fact, about 24000 MT has been exported to US alone at a price of Rs. 222 per kg. It is thus evident that the Chinese producers would have significant better business opportunities in the Indian market in the event of revocation of anti dumping duties. Given meager demand of 1400 MT, in fact, entire Indian demand can be easily catered by the Chinese producers.

**(ii) Surplus capacities with Chinese producers**

56. The significantly high capacities created by producers in China indicate that the volume of imports into India would increase significantly in the event of revocation of anti dumping duties. The petitioners could collect information with respect to the some of the producers of the subject goods in China, which shows the following position –

S.N.	Name of the Company	Capacity/Production (MT)
1	Northern General Pharmaceuticals Factory	22,000
2	Jiangsu Jiangshan Pharmaceuticals Co.	20,000
3	Hebei Welcome Pharmaceuticals	20,000
4	Weishang Pharmaceuticals (Shijiazhuang)	25,000
5	Zibo Hualong Pharmaceuticals	5,000
	Total	92,000

57. The Authority would conclude its analysis of dumping and likelihood of injury after receipt of the comments on the disclosure statement from all interested parties.

#### **L. Causal Link, Likelihood of continuance of the recurrence of dumping and injury**

58. The dumping of the subject goods from the subject country is continuing as is evident from assessment of dumping margin in earlier section of this findings. The domestic industry has pointed out the names of producers and their capacities in China PR. However, in the absence of any evidence, the statement of the domestic industry cannot be taken as facts. However, it is also noted that no producers from China PR has cooperated and provided any information/evidence about the excess capacities available in China PR. The Authority also takes note of the fact that in a anti-trust litigation in USA concerning Vitamin-C in which MOFCOM appear in the Court and taken the plea that prices by producers of Vitamin-C in China PR were controlled by the MOFCOM. Further, it has also been noted that anti-trust litigation was filed by the purchaser of Vitamin-C in USA when the Chinese manufacturers formed a cartel to fix prices and limit Vitamin-C exports to the US. In view of the fact that the dumping is continuing from the subject country and absence of any material on the record that dumping would discontinue on revocation of anti-dumping duty, the Authority holds that the dumping would continue on revocation of the anti-dumping duty.

59. The Authority has noted that the domestic industry continue to suffer material injury. The Authority further notes that producers in India are bound to sell the Vitamin-C under the Drug Price Control Order i.e. they cannot sell at the price higher than the price fixed by the NPPA. It has been submitted by the domestic industry that they have already filed application with the NPPA for revision of the price keeping in view the rising cost of production.

60. The continuance of imports from China PR at prices which undercut the domestic selling price of the domestic industry indicate that on revocation of duty, the domestic industry would be forced to match the prices of imports from China PR and would result in further deterioration of the financial performance of the domestic industry. The Authority therefore holds that the injury to domestic industry would intensify in case of revocation of the anti-dumping duty.

#### **M. Final Findings**

61. The Authority after considering the foregoing concludes that:

*a. Subject goods originating in or exported from China PR has been exported to India below their normal value, resulting in dumping;*

*b. The performance of domestic industry has not improved during the continuation of anti-dumping duty on the subject goods;*

*c. And discontinuation of anti-dumping duties on the subject goods from subject country would lead to the continuation of dumping and injury to the domestic industry.*

#### **N. Indian industry's interest & other issues**

62. 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.

#### **O. Recommendations**

63. In view of positive determination of likelihood of dumping and injury on account of imports from subject country the Authority is of the opinion that continuation of the measure is required against imports from subject country. However, considering the current level of dumping

from subject country and performance of the domestic industry, the Authority is of the opinion that the measure in force needs to be revised. Therefore, Authority considers it necessary and recommends anti-dumping duty on imports of subject goods from subject country in the form and manner described hereunder.

64. The Authority notes that the current anti-dumping duty is in form of reference price. However, same has not been able to prevent injury to domestic industry because of changes in cost of production and rise in prices. This situation cannot be allowed to continue as anti-dumping measures are meant for short period so that the domestic industry can cope with the challenges of the imports from subject country. In case the form of duty is not in position to adequately remove the injury of the domestic industry, it need to be changed. The domestic industry has requested that the anti-dumping duty may be recommended as a fixed duty as rise in prices of raw material (2-KGA) would make duty in form of reference price as meaningless. The Authority therefore has acceded to the request of the domestic industry and recommend that the duty may be imposed as a fixed duty.

65. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever is lesser, so as to remove the injury to the domestic industry. The Authority, therefore, recommends definitive antidumping duty equal to the amount indicated in Column-9 of the table below 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 country

Sl. No	Tariff Item	Description of Goods	Grade	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	2936.27	Vitamin-C *	Any	China PR	China PR	Any	Any	3.99	Kg	USD
2	Do	Do	Do	China PR	Any country other than China PR	Any	Any	3.99	Kg	USD
3	Do	Do	Do	Any	China PR	Any	Any	3.99	Kg	USD

\* the anti-dumping duty is applicable to all synonyms of Vitamin-C. However, most commonly used synonyms of Vitamin-C are ascorbic Acid, L-Xyloascorbic Acid, 3-Oxo-L-gulofuranolactone (enol form), L-3-Ketothreohexuronic Acid Lactone, etc., as described under entry number “867 of Merck Index

66. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

**(R. Gopalan)**  
**The Designated Authority**