

Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan,

NOTIFICATION

New Delhi, the 14th. December 2007

FINAL FINDINGS (SUN SET REVIEW)

Subject: Anti-dumping (Sunset Review) investigation concerning import of Trimethoprim originating in or exported from China PR

No.15/26/2006-DGAD : Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) 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

i). WHEREAS, having regard to above Rules the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation on 23rd July 2001 into alleged dumping of Trimethoprim originating in or exported from China PR and provisional antidumping duty was imposed on imports of Trimethoprim from China PR, vide customs notification No. 3/2002 dated 9th January 2002 on the basis of the preliminary findings of the Authority dated 7th Sept 2001. The final findings of the Authority were notified, vide notification dated 12th July 2002 and the Department of Revenue imposed definitive anti dumping duties on the subject goods, imported from China PR, vide notification no. 89/2002 dated 3rd Sept 2002.

ii). On the basis of a duly substantiated application filed by the Domestic Industry in 2006, in terms of Section 9A (5) of the said Act, requesting for continuation of the duty for a period of another five years, the Designated Authority initiated a sunset

review proceedings against the said measure vide notification dated 29th December 2006, to examine whether the expiry of the duty would lead to continuation or recurrence of dumping and/or injury. Investigation was carried out for the period starting from 1st October 2005 to 30th September 2006 (POI). However, injury analysis was conducted for a period from 2003-04 to September 06.

B. PROCEDURE

1. In these proceedings the procedure described below has been followed:
 - i) After initiation of the review the Authority sent questionnaires, along with the initiation notification, to the known exporters/producers in the subject country in accordance with the Rule 6(4), to elicit relevant information.
 - ii) Notices were also sent to the domestic industry in India seeking relevant information in accordance with the Rules;
 - iii) The Embassy of the subject country in New Delhi was 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.
 - iv) Questionnaires were sent to the known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4),

- v) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigations;
- vi) Copies of the initiation notification were also sent to FICCI, CII and ASSOCHAM for wider circulation.
- vii) No exporter/producer and importer responded to the questionnaires.
- viii) M/s. Inventaa Chemicals Limited, Hyderabad and M/S Punjab Chemicals & Crop Protection Limited Unit-Alpha Drug, Lalru, Patiala, being domestic industry, submitted the information/data;
- ix) The Authority verified the information furnished by the domestic industry to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to examine the injury suffered, to work out optimum cost of production, cost to make and sell the subject goods in India and so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- x) The Authority held a public hearing on 3.9.2007 to hear the interested parties orally, which was attended by representatives of the domestic industry alone. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from interested parties have been considered by Designated Authority in this determination;

- xi) The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request.

- xii) The views expressed by various interested parties in response to the initiation notification and subsequent to the public hearing are discussed in the relevant paragraphs to the extent these are relevant as per rules and have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in relevant paragraphs.

- xiii) Investigations were carried out for the period of investigation (POI) from 1st October 2005 to 30th September 2006 However injury analysis has been carried out for the years 2003-04, 2004-05 and 2005-06 and the period of investigation.

- xiv) Disclosure statement was issued on 3rd December 2007 and all interested parties were advised to make their comments known to the Designated Authority. However, none of the interested parties except domestic industry has offered comments. In their comments, domestic industry reiterated their previous submissions and requested the Designated Authority to continue the duty for further period of five years.

- xv) xxx in this Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the AD Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

2. The product involved in the original investigation was Trimethoprim (TMP). This being a Sunset review, therefore, the investigation covers the product covered in the original investigation.

3. Trimethoprim (TMP) is an organic chemical. It is a bulk anti-bacterial pharmaceutical ingredient directly used in formulations. Formulation of TMP is used in the combination of Sulphamethoxazole. TMP goes along with the combination of Sulphamethoxazole in 1:5 ratios by weight. There is no viable substitute for Trimethoprim. The chemical formula of TMP is as under:

5-(3, 4, 5-Trimethoxy Benzyl) Pyrimidine-2, 4-Diamine (C₁₁H₁₄N₄O₃).

The production of Trimethoprim involves five stages, which are; adduct formation, Compound formation, Sodium Methoxide formation, TMC formation and TMP purification. After purification there is another stage involving a second crop recovery.

4. The product is classified under Customs dedicated sub-heading no. 293359.20, of Chapter 29 of the Customs Tariff Act, 1975 and ITC No. 29335920. The Customs and ITC HS classification is, however, indicative only and in no way binding on the scope of the present investigation.

5. The domestic industry also produces Trimethoprim (TMP) having similar characteristics and specifications. No argument has been extended, by any interested party, on the issue of product under consideration or like article and therefore, the Authority holds that the product being manufactured by the domestic industry and the product being manufactured and exported from the subject country is like articles as per 2(d) of Anti Dumping Rules.

DOMESTIC INDUSTRY

6. In the original investigation the application for anti-dumping investigation was filed by M/s. Inventa Chemicals Limited, Hyderabad and M/S Punjab Chemicals & Crop Protection Limited (Unit-Alpha Drug, Lalru, Patiala) (formerly known as Alpha Drugs India Limited) on behalf of the domestic industry. In the present sunset review the information / data has been provided by the same two manufacturers /units i.e. M/s. Inventaa Chemicals Limited, Hyderabad and M/S Punjab Chemicals & Crop Protection Limited Unit-Alpha Drug,Lalru,Patiala and they continue to constitute the Domestic Industry.

INITIATION OF THE REVIEW AND ARGUMENTS RAISED

Views of applicant domestic industry

7. The present petition being a sunset review investigation for continuation and enhancement of existing Anti Dumping Duty in force, Domestic Industry has pleaded that as provided under section 9A(5), the Designated Authority is required to examine whether cessation of the existing duty is likely to lead to continuance or recurrence of dumping and injury. It has further been pleaded that the duty should remain in force to the extent necessary to counteract dumping which is causing injury. The Domestic Industry states that producers and exporters from China continued to dump material in the Indian market, which itself justify continued imposition of anti dumping duty. It has been pleaded that, continued dumping from China, even after duty in force, shows that present duty in force is not sufficient to provide due relief to the domestic industry and such being the situation, petitioners submit that duty is required to be continued for further period of five years with due enhancement.

8. Domestic industry has submitted that despite anti-dumping duty on Trimethoprim (TMP), dumping continued from the subject country. In their submissions they have stated that 'Given the volume of imports and level of prices at which the goods have been exported to India in spite of existence of anti-dumping duty, it is likely that volume of import would further increase in case anti-dumping duties are withdrawn. It has further been contended that the imposition of anti dumping duty on subject country have helped the Domestic Industry to improve its performance, however, the domestic industry has not been able to improve to the extent it should have and thus, there is a great likelihood of dumping and injury in case, duty in force is revoked. Regarding present state of performance, the domestic industry submitted that to maintain and increase their production and maintain its

sales volume and Capacity utilization the existing anti-dumping duty should continue. They have contended that the Market share of the domestic industry has declined despite increase in demand and production, resulting in increase in inventory. Their contention is that significant losses have come down after the ADD was put in place the performance of the Domestic Industry has improved slightly but profits have continued to elude them. Landed price of imports, as per submissions made by them, is significantly below the net sales realization of the domestic industry. They have pleaded that the Imports are already undercutting the prices of domestic industry to a significant extent, and should the present duty be revoked, the extent of price undercutting would further increase. Their contention is that the performance of domestic industry was already adverse during the period under consideration (POI) and it is likely that revocation of anti-dumping measure would result in intensified injury to the domestic industry. It has also been submitted that as per understanding of the domestic industry the production capacity in China for the product under consideration is higher than their domestic demand and should the current measure be allowed to lapse, there is a threat that significant proportion of the unused production capability would be used to flood the Indian market.

Views of other interested parties

9. No other interested parties have filed any response and did not put forwarded any submissions.

EXAMINATION BY THE AUTHORITY

10. The Authority takes note of arguments put forth by the domestic industry regarding continued injury to the domestic industry. These arguments have been taken into account while analyzing the injury to the domestic industry as also threat of recurrence of dumping and injury to the domestic industry.

DUMPING MARGIN

Examination of Market Economy Treatment by the Authority

11. The Designated Authority, as per Para 8 (2) of the annexure 1 of Anti-Dumping Rules, for the purpose of assessing the normal value, proceeded with the presumption that any country that has been determined to be or has been treated as a non-market economy for the purposes of anti-dumping investigations by the

Designated Authority or by the competent authority of any WTO member country during the three years period preceding the investigation is a non-market economy country. In the past three years China PR has been treated as a non-market economy country in the anti-dumping investigations by WTO members such as EU and USA. In the instant case China PR is being treated as a non-market economy country.

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

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

d) The exchange rate conversions are carried out at the market rate.

13. The Authority sent copies of the questionnaires to all the known exporters as per information available in the petition for the purpose of determination of normal value. No exporters/producer responded to either the Exporter's or the Market Economy Treatment (MET) questionnaire. Hence, the presumption of non-market economy remains un-rebutted, and therefore, the Authority is proceeding, treating exporters / producers in China PR as operating in non-market economy.

14. In view of the above, the Authority is unable to apply the principles set out in paragraph 1 to 6 of Annexure 1 for determination of normal value for the Chinese exporters. Therefore, the normal value in respect of all exporters / producers from China PR is determined as per Rules relating to non-market economy as contained in Para 7 of Annexure 1 of AD Rules.

15. As per Para 7 of Annexure 1 of AD Rules, the Authority is required to determine normal value on the basis of 'price or constructed value in the market economy third country or the price from such a third country to other countries, including India, or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product.' No data or information was made available by the domestic industry about normal value in market economy third country. Exporters/Producers have also not responded in this case. The Authority, therefore, in absence of any other option, has determined the normal value by resorting to method 'any other' reasonable basis.

Normal Value

16. Under the circumstances, the authority has constructed the normal value by considering the raw material for manufacture of Trimethoprim (TMP) at the international prices, the consumption norms of the domestic industry and reasonable profit. Based on above information available, the normal value has been calculated USD xxx/ kg by considering the average exchange rate during POI of 1USD=Rs.45.57

Export Price

17. The Authority has collected transaction-wise information of imports as per DGCI&S. It was found that some other products (viz. Metroindazole, Diazabi-cyclo, Sodium Dichloro Phenyl etc.) are also being reported in the custom code meant for Trimethoprim (TMP). Such transactions are excluded from the analysis for determining the export price.

18. The export price has been determined on the basis of transaction-wise details provided by DGCI&S during POI the CIF value of weighted average export price was Rs.667.43/kg (US\$14.65/kg). After making adjustments on account of inland freight as US\$ xxx /Kg Ocean freight as US\$xxx/Kg and marine insurance as US xxx /Kg), port expenses as US\$xxx /Kg., the ex-factory export price has been calculated as US\$ xxx /Kg. (1 US\$ = Rs.45.57 during the POI).

19. Apart from above expenses, expenses claimed on account of bank charges and commission for exclusion by D.I. for arriving at net export price is not being allowed.

Dumping Margin

20. Based on the normal value and export price as determined above, the Authority determined the dumping margin as under:

Exporter/Producer	Normal Value USD/kg.	Export Price USD/kg.	Dumping Margin USD/kg.	Dumping Margin %
All exporters from China PR	xxx	xxx	xxx	15.88

INJURY AND CAUSAL LINK

CONTINUATION OF INJURY

Views of the Domestic Industry

Views of Domestic industry are summarized below:

21. Imposition of anti-dumping duty has helped the domestic industry to improve its performance. Profitability of the domestic industry improved after imposition of duty. The losses suffered earlier were huge and with ADD in place they were in position to cut down the losses by almost xxx % during POI compared to 2003-04. ROI and cash profit also followed the same trend. On the contrary, the market share, as put forth by the domestic industry in their submissions declined despite increase in demand and production resulting in increase in inventory. The Capacity utilization has declined by more than xxx % during POI over the base period, 2003-04. Further productivity of the domestic industry declined despite increase in production. Landed price of imports are claimed to be significantly below the net sales realization of the domestic industry. In their submissions they have pleaded that although the imposition of ADD has helped the industry to revive its performance to some extent, the situation of Domestic industry is still bad as it has only started to improve but losses have not converted into profits and further protection has been sought to stabilize its positive growth. Injury to the domestic industry, as claimed by them, is likely to recur in case

present duty in force is revoked. The likely volumes and prices of imports from China subsequent to any repeal of measures would put the domestic industry at further risk as claimed by them in their submissions. The production capacity in China as per information gathered by them thru internet and downloaded from Made-in-China .Com is 9200 MT/ per year.

Examination by the Authority

22. The Authority has taken note of various arguments raised in regard to injury to the domestic industry. The facts verified substantiate their claim of continuing to make losses, though on a lesser scale since the anti dumping duty was put in place against China PR. In its final determination in respect of China PR, the Authority has determined that imports from subject country were at dumped prices as the landed value continues to be much lower compared to the non-injurious price even after the anti dumping duty being in place. Therefore, for the purpose of injury and causal link analysis, the imports from subject country have been treated as dumped imports.

23. 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 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 the importing member. With regard to the price effect of the dumped imports, the authorities are 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.

24. For the purpose of injury analysis 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.

Volume Effect

25. The effects of volume of dumped imports from subject country have been examined as follows:

Import Volumes and share of the subject country:

Market share in imports as per DGCI&S

	<u>Unit</u>	2003-04	2004-05	2005-06	Oct05 - Sept06
<u>Market Share in Imports</u>					
Imports - China	MT	45.82	64.31	119.67	156.55
Indexed	Trend	100	140	261	342
Imports - Other Countries	MT	8.22	-	-	-
Total Imports	MT	54.04	64.31	119.67	156.55
Indexed	Trend	100	119	221	290
<u>Market Share in Imports</u>					
Imports - China	%	84.79	100.00	100.00	100.00
Indexed	Trend	100	118	118	118
Imports - Other Countries	%	15.22	-	-	-

26. The transaction-wise details of imports provided by Director General Commercial Intelligence and Statistics (DGCI&S) shows that imports have continued to increase during POI and previous years. Information provided by DGCI&S shows that imports from the subject country from base year to POI increased by 242%. Although there were some imports from countries other than China in the base year

2003-04, the same have totally stopped and import from China command 100% share in the total import during POI.

Production of the Domestic Industry

	<u>Unit</u>	2003-04	2004-05	2005-06	Oct05 - Sept06
Capacity	MT	690	690	690	690
Indexed	Trend	100	100	100	100
Production	MT	431	395	376	360
Indexed	Trend	100	92	87	83
Capacity Utilization	%	62.52	57.27	54.54	52.12
Indexed	Trend	100	92	87	83

27. The data shows that the capacity of the domestic industry continued to be constant from the base year 2003-04 through 2004-05, 2005-06 to POI. The production compared to the capacity on the contrary continued to decrease and this decrease was by 8% in 2004-05, 13% in 2005-06 and whopping 17% during POI compared to the base year 2003-04. The capacity utilization also continued to slide down consistently in line with the decline in production.

Sales of Domestic Industry

	<u>Unit</u>	2003-04	2004-05	2005-06	Oct05 - Sept06
Sales - Domestic	MT	315.88	274.91	231.24	240.43
Indexed	Trend	100.00	87.03	73.20	76.11
Sales - Exports	MT	115.39	131.83	139.36	130.24
Indexed	Trend	100.00	114.24	120.77	112.87

Total Sales	MT	431.27	406.74	370.60	370.66
Indexed	Trend	100.00	94.31	85.93	85.95
Domestic Sales including Captive	MT	315.88	274.91	231.24	240.43
Indexed	Trend	100.00	87.03	73.20	76.11

28. The analysis of the data reveals that in spite of anti dumping duty in place, the domestic sales continued to decline and there was a drop of near about 24% in POI compared to the base period 2003-04. The data also reveals that even though they had considerable exports sales, the sum total of both kinds of sales could not match their production capacity and the decline on overall sales was in the vicinity of 14% during POI compared to base year 2003-04.

Demand and Market Share

	<u>Unit</u>	2003-04	2004-05	2005-06	Oct05 - Sept06
Sales of Domestic industry	MT	316	275	231	240
Imports	MT	54	64	120	157
Demand	MT	370	339	351	397
Indexed	Trend	100	92	95	107
Market Share in Demand					
China	%	12.39	18.96	34.10	39.44
Other Countries	%	2.22	-	-	-
Domestic industry	%	85.39	81.04	65.90	60.56

29. The data indicates that although the demand grew by 7% during POI as compared to base year 2003-04, the market share of subject country increased from 12% in base year 2003-04 to 39% during POI. The share of the domestic

industry, on the contrary, continued to decline right through from 85% in base year 2003-04 to 61% during POI. The share of other countries in demand, which was 2% during the base year, became Nil during POI.

Price Effect of the Dumped imports on the Domestic Industry

30. 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, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, 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 landed value of imports from the subject country. . NSR has been arrived at by averaging realization exclusively for the production of PUC, without considering excise duty and expenses incurred beyond ex-factory level such as sales commission, outward freight etc

Price Undercutting

Particulars	Unit	POI
Price undercutting/ prices suppression		
Export Price	Rs./kg.	xxx
Landed Value-China	Rs./kg	xxx
Net Sales Realisation	Rs./kg	xxx
Price Undercutting	Rs./kg	xxx
Price Undercutting	%	xxx
Price Undercutting (Range)	%	10-15%

Price Underselling

Particulars	Unit	POI
Net Sales Realisation	Rs./kg.	xxx
Non Injurious Price	Rs./kg	xxx
Landed Value	Rs./kg	xxx
Price Underselling	Rs./kg	xxx
Price Underselling (%)	%	xxx

Price Underselling range	%	5%-10%
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31. A comparison for subject goods during the period under investigation was made between the weighted average landed value of dumped imports and the domestic selling price in the domestic market. The landed value of imports from the subject country was lower than the net sales realization of the domestic industry for the subject goods during the POI and consequently the undercutting during POI was in the range of 10-15%

32. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non injurious price after excluding the recoveries on account of micronisation and other charges at par with recoveries excluded for working out cost of production. This has been compared with the landed value 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 weighted average landed value of the subject goods from subject countries is less than the non injurious price determined for the domestic industry during the period of investigation. The underselling margin was in the range of 5% to 10% during the POI.

Examination of other Injury Parameters

33. 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.

Profits and Actual and Potential Effects on Cash Flow

Particulars	Unit	2003-04	2004-05	2005-06	Oct.05- Sep.06
Profitability					
Cost of sales weighted	Rs./kg	xxx	xxx	xxx	xxx
Trend	Indexed	100	97	113	111
Selling Price Weighted	Rs./kg	xxx	xxx	xxx	xxx

Trend	Indexed	100	90	112	122
Profit/ Loss	Rs./kg	xxx	xxx	xxx	xxx
Trend	Indexed	(100)	(127)	(115)	(58)
Total PBIT - Domestic	Rs. Lacs	xxx	xxx	xxx	xxx
Trend	Indexed	(100)	(111)	(80)	(34)
Cash Profit	Rs. Lacs	xxx	xxx	xxx	xxx
Trends	Indexed	(100)	(118)	(86)	(35)

34. The profitability of the merchant sales of the domestic industry has been analyzed from the records of the company and the table above gives the details of the verified particulars.

35. The cost of sales came down by 3% during 2004-05 from base year, 2003-04, but increased by 13% and 11% during 2005-06 and POI respectively. The net selling price saw a decrease of 10% in 2004-05 but there was a higher realisation by 12% and 22% respectively during 2005-06 and POI compared to the base year 2003-04. The loss per unit from base year indexed 100 was higher at 127 in 2004-05 but the losses came down subsequently and stood at only 58 during POI.

Employment and Wages

Particulars	Unit	2003-04	2004-05	2005-06	Oct.05-Sep.06
Employment					
Employee	Nos.	xxx	xxx	xxx	xxx
Wages paid to employees	Rs. Lacs	xxx	xxx	xxx	xxx
Trend	Indexed	100	137	126	122
Wages per Kg. of production	Rs.	xxx	xxx	xxx	xxx
Wages per Kg. of production	Index	100	149	144	147

36. The employee base in Inventaa Chemicals, Hyderabad was noticed to be more than five times that of the other domestic producer, i.e., Punjab Chemicals, although the production volume of Inventaa Chemicals during POI was 150 % of other domestic producer, the higher number of employees was there primarily because Inventaa Chemicals have been manufacturing the product under consideration from the Paraceresol route whereas Punjab Chemicals were manufacturing from TMBA route. Number of employees has decreased by around 15% during POI as compared to base year 2003-04. Wages paid to employees on the contrary have increased by around 22%. On being asked to explain, it was stated that there was a wage revision carried out in the year 2004-05 which resulted in an abrupt jump on account of wages which has subsequently remained more or less stagnant.

Productivity

Particulars	Unit	2003-04	2004-05	2005-06	Oct.05-Sep.06
Productivity					
Productivity per employee	MT	xxx	xxx	xxx	xxx
Trend	Indexed	100	96	103	98

37. The production per employee declined to 98% during POI as compared to base year.

Inventories

Particulars	Unit	2003-04	2004-05	2005-06	Oct.05-Sep.06
Average inventories	Kgs.	xxx	xxx	xxx	xxx
Trend	Indexed	100	58	35	85

38. The average inventory (sufficient for number of day's sales) shows that it was equivalent to xxx days in 2003-04 and increased to xxx days during POI (the total sales during 2003-04 stood at 315884 Kgs. which got reduced to 240425 Kgs. during POI).

Return on Investment and Ability to Raise Capital

Particulars	Unit	2003-04	2004-05	2005-06	Oct.05-Sep.06
Capital Employed-NFA Basis	Rs. Lacs	xxx	xxx	xxx	xxx
Return on Capital Employed	%	xxx	xxx	xxx	xxx
Trends	Indexed	(100)	(158)	(86)	(37)

39. Return (PBIT) on capital employed continued to remain negative in POI but with a considerable decline in negativity element. Indexed at minus 100 in 2003-04, the index went up and the decline was only 37 during POI.

Profits and actual and potential effects on the cash flow

40. The domestic industry is a multi-product company therefore it was not possible to determine the actual magnitude of cash-flow of the product.

Factor affecting prices

41. Evaluation of export prices from subject country shows that it had been increasing from base year to POI by 45%. The customs duty has also been declining from base year to POI. From 25% in 2003-04 it declined to 15% and 12.5% during POI. The combined effect of decreased export price and reduced customs duty consequently impacted the landed value of subject goods.

CAUSAL LINK

OTHER KNOWN FACTORS

Volume and prices of imports from other sources

42. During the POI the imports have taken place only from China PR. Thus other sources are not possible factor causing injury to the domestic industry.

Contraction in demand and / or change in pattern of consumption

43. The total demand of the subject goods shows significant growth. It increased by 7% during POI as compared to the base year 2003-04 and therefore; this factor is not possible reason which could have caused injury to the domestic industry.

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

44. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. Therefore, this factor could not have been reason to cause injury to the domestic industry

Development of technology and export performance

45. Technology or technology related issues have not been raised by any interested party as cause of injury to the domestic industry. It is noted that the domestic industry has continued to export during POI consistently as have they be doing during injury periods. It is also seen that export realization is far in excess of the domestic sales realization and stands in excess of 50% and has been a source of cheer for the Domestic Industry as this has compensated them to make up for some losses incurred on Domestic Sales and therefore, this factor being a cause of injury to the domestic industry does not arise.

Productivity of the Domestic Industry

46. The capacity of domestic industry has remained stagnant and productivity of the domestic industry has declined. It has declined by 2% during POI as compared to the base year. Wages to the employees have increased by 22% during POI compared to base year 2003-04 and wages per unit of production increased in 2004-05 and thereafter remained stagnant upto POI.

LIKELIHOOD OF RECURRENCE OF DUMPING AND INJURY

47. The domestic industry has made following submissions regarding Likelihood of continuance of dumping and injury:

A. Injury to the domestic industry is required to be examined in the context of the requirements under review. In this regard, imports are already undercutting the prices of the domestic industry, and domestic industry is being forced to sell its product at a price which do not even permit recovery of full cost of production, leave aside reasonable return on investment. Such being the situation, should the present duties be revoked, the price undercutting would lead to further increase in imports, which would result in intensified dumping and injury, given the prices at which these exporters are exporting material. Further, the performance of the domestic industry is already adverse during the period under consideration and it is likely that revocation of anti-dumping measures would result in intensified injury to the domestic industry.

B. Production capacity in China for the product under consideration is significantly higher than domestic demand, which is evident from the fact the Chinese producers are exporting subject goods to India in spite of imposition of duty. Should the current measures be allowed to lapse, there is likelihood that significant proportion of unused production capacity would be used to flood the Indian market. Given the price at which the imports were made, there is no reason to believe that future prices would be higher than this if the present duties are revoked.

C. Domestic industry considers that when examining the impact of such low-priced imports on the situation of the domestic industry, the following are relevant:-

48. Petitioners have further highlighted the following factors to suggest that injury to the domestic industry is likely to be continued in case present duty in force is revoked.

A. **Level of current dumping margin:-** It has been pleaded that dumping margin is very significant and in the previously concluded investigation also, the Designated Authority found significant dumping margin.

B. **Export orientation of foreign producers:-** Chinese producers are stated to have built capacities far in excess of its domestic demand. It has further been pleaded that capacity has been created considering export market and such being the case, revocation of duty would result in flooding of Indian Market by such dumped material.

C. **Ample production capacity:** - The Domestic Industry has pleaded that India and China are major producers of subject goods meeting world requirement of subject goods. Chinese exporters have built capacities far in excess of their domestic demand which is stated to be about 800 MT compared to production capacity of 15000 MT and actual production is stated to be 9200 MT.

49. Designated Authority notes that evidence provided by the domestic industry in the form of information downloaded from internet shows that capacity created in China for product under consideration is significant and more than demand of product concerned in China PR. Further, producers from China continue to dump the product concerned in spite of imposition of duty. Therefore, there is no reason to believe that the producers from China would not dump subject goods in large volumes in case of revocation of duty. The Designated Authority therefore, determines that there is likelihood of continuation of dumping and recurrence of injury to the domestic industry in case the duty is revoked.

Conclusion

50. On the basis of the above examination of the current level of dumping, injury, causal links and likelihood of continuation of dumping and injury the Authority concludes that

- a) The subject goods are continuing to enter the Indian market from China PR at dumped prices;
- b) The domestic industry is suffering material injury due to the dumped imports;
- c) Dumping of the subject goods from subject countries and injury to the domestic industry is likely to continue if the duties are withdrawn.

Indian industry's interest & other issues

51. 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. Imposition of anti-dumping measures is not either intended or would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

FINAL FINDINGS:

52. Having regard to the issues raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current and likely dumping and injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:

- i) the subject goods are entering the Indian market at dumped prices and dumping margins from subject countries are substantial and above de-minimis. The subject goods are likely to enter Indian market at dumped prices, should the present measures be withdrawn. Thus, it has not been established that the continued imposition of the duty to offset dumping is unnecessary,
- ii) even though the domestic industry has improved its performance over the injury period, the situation of domestic industry continues to be fragile. Further, should the present anti dumping duties be withdrawn, injury to the domestic industry is likely to continue or recur.

53. Having concluded that the situation of the domestic industry continues to be fragile and there is likelihood of continuation or resumption of dumping and injury on account of imports from subject countries if the duties are revoked, the Authority is of the opinion that continuation of the measure is necessary against import from these countries. However, in view of the current level of dumping from subject countries and injury suffered by the domestic industry the anti dumping duty in force needs to be revised. Therefore, the Authority considers it necessary and

recommends continuation of anti dumping duty on imports of subject goods from subject countries.

54. The Authority considers it necessary to continue with an anti dumping duty on all imports of Trimethoprim (TMP) from China in order to remove the injury to the domestic industry. The Authority recommends the amount of anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports has been compared with the weighted average non-injurious price of the domestic industry determined for the period of investigation.

55. Accordingly, the Authority recommends imposition of definitive anti dumping duty on all imports of TRIMETHOPRIM (TMP) falling under customs heading 29335920 of chapter 29 of Customs Tariff Act, originating in or exported from China. The anti-dumping duty shall be the difference between the amount mentioned in Col.9 and the landed value of imports

	Description of goods	Specification	Country of origin	Country of Export	Producer	Exporter	Amount Rs.	Unit of Measurement	Currency
	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	Trimethoprim	Any Grade	China PR	China	Any	Any	826	KG	INR
	Trimethoprim	Any Grade	Any other than China PR	China PR	Any	Any	826	KG	INR
	Trimethoprim	Any Grade	China PR	Any	Any	Any	826	KG	INR

56. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

57. The Authority may review the need for continuation, modification or termination of the definitive measure as recommended herein from time to time as per the relevant provisions of the Act and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party as per the time limit stipulated for this purpose.

R. Gopalan
Designated Authority