

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

**Final Findings**

New Delhi, the 5<sup>th</sup> March, 2009.

**Subject: Anti-Dumping (Sunset Review) investigations concerning imports of Vitamin ‘E’ originating in or exported from China PR.**

No.15/10/2008-DGAD. 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 Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, recommended imposition of provisional duty vide Notification No. 14/32/2002-DGAD dated 2.12.2002 on imports of **Vitamin ‘E’** (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred as subject country) and such provisional duty was imposed by the Govt. of India vide Customs Notification No. 41/2003 dated 17.03.2003. The Authority issued its Final findings recommending imposition of definitive Anti Dumping Duty, vide Notification No. 14/32/2002-DGAD dated 22.08.2003 and such definitive duty was imposed by the Govt. of India vide Customs Notification No. 145/2003 dated 6.10.2003.

2. The Designated Authority in terms of section 9A (5) of said Act. received a duly substantiated application from M/s. Merck Ltd., Shiv Sagar Estate ‘A’, Dr. Annie Besant Road, Worli, Mumbai-400018 requesting for review and continuation of the anti-dumping duties levied on the subject goods, for another five years on the grounds that the dumping had continued in spite of imposition of anti-dumping duty on imports of subject goods from subject country and the domestic industry continued to suffer injury on account of dumping by the subject country. It was also claimed that expiry of measure against the subject country would likely to result in continuation or recurrence of dumping and injury to the domestic industry. The Designated Authority issued a Public Notice No. 15/10/2008-DGAD dated 7.03.2008, published in the Gazette of India, Extraordinary, initiating anti-dumping (Sunset Review) investigations, to examine whether the expiry of anti dumping duty would lead to continuation or recurrence of dumping, injury or both.

**PROCEDURE**

3. 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. Transaction-wise data of imports for the period of investigation and preceding three years were called from Directorate General of Commercial Intelligence and Statistics (DGCI&S) in addition to the data of IBIS provided by the domestic industry. Both the information of IBIS and DGC&IS, without overlap, have been relied upon in this investigation;
  - vi. Copies of the initiation notification were also sent to FICCI, CII and ASSOCHAM for wider circulation.
  - vii. None of the exporters from subject country have responded to the Designated Authority with prescribed questionnaire response.
  - viii. No other interested parties filed their response to the initiation notification.
  - ix. M/s Merck Ltd, being the domestic industry, submitted the information/data. 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 16.01.2009 to hear the interested parties orally, which was attended to by the representatives of domestic industry only. The written submissions received from the domestic industry subsequent to the public hearing have been considered in this findings;

xi. Investigations were carried out for the period of investigation (POI) from 01.01.2007 to 31.12.2007. However, injury analysis shall cover the years 2004, 2005, 2006.

xii. The authority had issued a disclosure statement on 3rd February, 2009 disclosing therein the facts of the investigation. None other than the domestic industry had replied to the same. The views of the domestic industry are dealt in this notification.

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

#### *PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE*

4. The product under consideration in the original investigation as well as Sunset Review is **Vitamin 'E'**. **Vitamin 'E'**, is an organic chemical and has been classified under Chapter 23 and 29 of the Customs Tariff Act. All forms of **Vitamin 'E'** i.e Vitamin 'E' Acetate IP/USP/BP/EP, Vitamin 'E' Acetate 50% Dry Powder USP/BP/EP/IP (Pharma/Food Grade), Vitamin 'E' – Forms & Derivatives, are within the scope of the product. Vitamin-E covered in this investigation is obtained through synthetic process. However, the product is available in its natural form also. This natural Vitamin-E is priced much higher than the synthetic Vitamin-E. Such Vitamin-E is not within the scope of the present petition. This is sunset review of the product (against which duty is already in force) as defined in the original investigation. As there has been no significant development or change in the product during the period thereafter, the Authority holds that the goods being manufactured by the domestic industry and the goods being manufactured and exported from subject country are like article as per Rule 2(d) of Anti-Dumping Rules.

#### **Standing and scope of the Domestic Industry**

5. a) In the original investigations, M/s Merck Ltd. had filed the petition before the Designated Authority.

b) In the present investigation also M/s Merck Ltd has filed the petition and M/s. Soham Organics Limited has supported the petition. The petitioner constitutes domestic industry within the meaning of the Anti Dumping Rules. The investigation has not shown any fact to the contrary as to what has been claimed and established by the petitioner. Having regard to the Rules and information on record, the Authority holds that M/s Merck Ltd. constitutes domestic industry for the purpose of the present investigations within the meaning of the Rules.

#### **METHODOLOGY FOR CALCULATION OF DUMPING MARGIN**

## **Dumping Determination: Normal Value, Export Price and Dumping Margin**

6. The Designated Authority, as per para 8 (2) of the annexure 1 of AD 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 has been treated as a non-market economy country.

7. 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 exporters/producers of the subject goods from People's Republic of China were 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.

8. The Authority sent copies of the questionnaires to all the known exporters for the purpose of determination of normal value. No exporters/producer responded to the Exporter's and Market Economy Treatment (MET) questionnaire. Hence, the

presumption of non-market economy remains unrebutted, therefore, the Authority has proceeded by treating the exporters/producers in China PR as operating under non-market economy.

9. 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.

10. 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.'

11. 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 the method 'any other reasonable basis'.

### **Normal Value**

12. Under the circumstances, the authority has constructed the normal value by considering the raw material for manufacture of Vitamin "E", the consumption norms of the domestic industry and reasonable profit. Based on above information available, the normal value has been calculated USD 24.07/kg. by considering the average exchange rate during the POI of 1USD=Rs.41.92/-

### **Export Price**

13. The export price has been determined on the basis of transaction-wise details provided by IBIS and DGCI&S. During POI, the weighted average CIF price was Rs.480.11/kg (US\$11.45/kg.). After making adjustments on account of inland freight, ocean freight and marine insurance, the ex-factory export price has been calculated as US\$ 10.72. per KG.

### **Dumping Margin**

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

# Dumping Margin

## USD/KG

Exporter/Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin %
All exporters from China PR	24.07	10.72	13.36	124.62

### F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK

#### INJURY DETERMINATION

#### CONTINUATION OF INJURY

#### Examination by the Authority

15. 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.”*

16. 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.

17. In this regard 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.

18. 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:** Volume effect of dumped imports and impact on domestic industry:

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

**Import volumes and share of the subject country:**

<b>Particulars</b>	<b>Unit</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007(POI)</b>
<b>Market share in Imports</b>					
China PR	MT	45.20	37.70	3.88	5.39
Other Countries	MT	194.25	376.16	299.99	502.77
Total Imports	MT	239.45	413.86	303.88	508.15
Trend	Indexed	100	173	127	212
<b>Market share in Imports</b>					
China PR	%	18.88	9.11	1.28	1.06
Other Countries	%	81.12	90.89	98.72	98.94

20. The DGCI&S and IBIS has provided transaction-wise data on imports, the same has been relied on for analysis in this finding. The data shows that imports from subject countries have reduced in POI. The total imports rose from 239 MT to 508 MT. The share in imports of subject countries has declined from 18.88% in 2004 to 1.06% in POI.

21. Demand, Production and Market Shares

<b>Particulars</b>	<b>Unit</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>POI</b>
Demand	MT.	<b>492</b>	<b>670</b>	<b>557</b>	<b>712</b>
Trend	Indexed	100	136	113	145
Domestic Industry	MT.	92	81	101	106
Captive consumption	MT	124	124	131	96
Sale of other producers	MT.	37	51	22	1
Imports – subject country	MT.	45	38	4	5
Imports – other countries	MT	194	376	300	503
<b>Market Share in demand</b>					
Domestic Industry	%	18.68	12.09	18.07	14.96
Captive consumption	%	25.20	18.50	23.46	13.45

Sale of other producers	%	7.49	7.66	3.87	0.19
Imports – subject country	%	9.18	5.62	0.70	0.76
Imports – other countries	%	39.44	56.12	53.90	70.65
Share of total imports	%	48.62	61.75	54.60	71.41

22. The demand of the subject goods has been calculated by addition of domestic sales including captive consumption of the domestic industry, sales of the other Indian producers and all imports from all countries.

23. The above data indicate that demand grew by 45% in POI as compared to base year. During the same period, the market share of domestic industry declined from 18.68% to 14.96%, the share of other producers which was 7.49% declined to 0.19%. However, it is noted that the share of total imports has increased from 48.62% in base year to 71.41% in the POI.

**a) Capacity, Capacity Utilization and Production of the Domestic Industry**

<b>Particulars</b>	<b>Unit</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>POI</b>
Capacity	MT	300	300	300	300
Trends	Indexed	100	100	100	100
Production	MT	231	257	267	248
Trend	Indexed	100	111	115	107
Capacity Utilization	%	77.16	85.63	88.99	82.63
Trend	Indexed	100	111	115	107

24. The above data shows that the domestic industry was able to increase its capacity utilization till 2006. However, capacity utilization declined in POI. The same trend was found in production also.

25. The production of the subject goods grew by 11% in 2005, 15% in 2006 and 7% in POI as compared to base year.

**b) Sales of Domestic Industry**

<b>Particulars</b>	<b>Unit</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>POI</b>
Domestic sales	MT	92	81	101	106
Trend	Indexed	100	88	109	116
Sales - Exports	MT	17	49	34	49

Trend	Indexed	100	290	198	288
Captive consumption	MT	124	124	131	96
Trend	Indexed	100	100	105	77
Total domestic Sales including captive consumption.	MT	216	205	231	202
Trend	Indexed	100	95	107	94

26. The above data shows that domestic merchant sale of the domestic industry have increased by 16% in POI as compared to base year. The captive consumption, however, has significantly declined in POI after increasing till 2006. The total domestic sale including captive consumption declined by 6% in POI as compared to base year and by 13% as compared to 2006.

#### **(B) Price Effect of the Dumped imports on the Domestic Industry**

27. The impact on the prices of the domestic industry on account of imports from the subject country have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (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 countries.

#### **Price Undercutting**

Particulars	Unit	2004	2005	2006	POI
Export Price	Rs./KG	506.43	433.41	543.74	480.11
Landed Value	Rs./KG	608.73	499.07	612.39	528.60
Net Sales Realization	Rs./KG	***	***	***	***
Trend	Indexed	100	87	80	74
Price Undercutting	Rs./KG	***	***	***	***
Trend	Indexed	100	99	32	45
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	40 to 50	45 to 55	10 to 20	25 to 25

#### **Price Underselling (Value in Rs./KG)**

#### **Net Sales Realisation**

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<b>Non Injurious Price</b>	***
Landed Value	528.60
Price Underselling	***
Price Underselling (%)	***
Price Underselling range	100-105

28. A comparison for subject goods during the period of investigation was made between the landed value of dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, the rebates, discounts and commission offered by the domestic industry have been adjusted.

29. The export price from the subject country has shown declining trend with an exception of increase in 2006. The export price has increased in 2006, however, there was significant decline in the POI. During the same period, the customs duty declined from 20% in base year to 10% in POI. The landed value from the subject countries continued to decline till POI, however, there was increase in 2006. The net selling price of the domestic industry continued to decline from base year to POI. The price undercutting from the subject countries was significant in 2004 and 2005 but declined in 2006 but further increased in POI.

30. 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 to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry by appropriately considering the cost of production for the product under consideration during the POI. The analysis shows that the underselling during POI was more than \*\*\*\*% .

#### **Examination of other Injury Parameters**

31. 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 analyzed hereunder as follows:

##### **(i) Profits and Actual and Potential Effects on Cash Flow**

(Merchant sale)

<b>Particulars</b>	<b>Unit</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>POI</b>
Profitability					
Cost of sales	Rs./KG	***	***	***	***
Trend	Indexed	100	88	88	98
Selling Price	Rs./KG	***	***	***	***
Trend	Indexed	100	88	82	78
Profit/ Loss	Rs./KG	***	***	***	***
Trend	Indexed	(100)	(88)	(167)	(397)

Profit/Loss(PBIT)	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	(84)	(178)	(371)
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	(90)	(214)	(457)

32. The profitability of the merchant sales and captive transfer of the domestic industry has been analyzed from the records of the domestic industry. The above table shows the performance of the company as regards both captive sales and merchant sales. Selling price of captive sales has been assumed to be same as merchant sales.

33. The data shows that the cost of sales of declined by only 2% where as selling price declined by 22% POI as compared to base year as a result profit per KG declined significantly in POI as compared to base year.

34. The profit (PBIT) declined significantly in POI as compared to base year.

35. Domestic industry is a multi-product company therefore it was not possible to determine the actual magnitude of cash-flow of the product. However, the cash profit has been determined by addition of amount of depreciation to the profit (profit before tax). The trend shows the same trend of PBIT, plant being almost fully depreciated.

**(ii) Employment and Wages**

Particulars	Unit	2004	2005	2006	POI
Employees	Nos.	***	***	***	***
Trend	Indexed	100	99	99	98
Wages paid per unit of production	Rs./KG	***	***	***	***
Trend	Indexed	100	81	110	85

36. The petitioner being multi Product Company employees are not directly allocated to product under consideration. No. of employees actually declined to 98 (indexed) as compared to 100 of the base year. Petitioner has been able to bring down the wages per unit of cost of production from 100 in base year to 85 in POI.

**(iii) Productivity**

Particulars	Unit	2004	2005	2006	POI
Production	MT	231	257	267	248
Trend	Indexed	100	111	115	107

Productivity per employee	MT	0.87	0.98	1.01	0.95
Trend	Indexed	100	112	116	109

37. The data shows that productivity calculated as a production per employee has improved by 9% in POI as compared to base year but declined as compared to 2006.

#### **Inventories**

<b>Particulars</b>	<b>Unit</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>POI</b>
Average inventories	MT	***	***	***	***
Trend	Indexed	100	105	126	124
No. of days sales	Days	21	23	25	28

38. The data on inventory shows that average inventory has increased by 24% in POI as compared to base year. Inventory in terms of no. of day's sales also increased from 21 days in base year to 28 days in POI.

#### **Return on Investment and Ability to Raise Capital**

<b>Particulars</b>	<b>Unit</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>POI</b>
NFA	Rs. Lacs	***	***	***	***
Working Capital	Rs. Lacs	***	***	***	***
Capital Employed- NFA Basis (Total)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	209	154	185
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	(100)	(33)	(121)	(211)

39. The domestic industry has increased the capital employed during POI as compared to base year. The increase in capital employed was on account of increase in working capital. The total capital employed increased by 85% during POI as compared to the base year. The return on

capital employed was negative through out the injury period. In indexed form, the return on capital employed declined to 111% in POI as compared to base year.

#### **(VI) Factors affecting prices**

40. Evaluation of export prices from subject country shows that the prices in POI were at same level as of the base year but declined as regards immediate preceding year. The customs duty has, however, been declining from base year to POI. From 20% in 2004 it declined to 10% during POI. The landed value of the subject goods declined from base year to POI.

#### **(VII) Growth**

41. The production, capacity utilization, ROI, inventories , cash profit, PBIT , productivity shows negative growth. Merchant Sales of the domestic industry shows positive growth.

#### **OTHERS KNOWN FACTORS**

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

42. It has been seen that total Imports from other countries (than china) increased from 194 MT in 2004 to 503 MT in POI. The imports from other countries (not attracting duty) where the imports have actually increased, apparently appears to be at dumped prices.

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

43. Demand of the product under consideration has increased by 45% during POI as compared to base year. Contraction in demand, therefore, is not a possible reason, which could be affecting the performance of 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 be reason affecting the performance of the domestic industry.

##### **Development of technology and export performance**

45. Technology for production of the product is same for domestic industry and as used by the producers in the subject countries. Development in technology is not a factor which could affect the performance of the domestic industry.

46. The domestic industry has very small export activity. The export sale has increased in POI as compared to base year. However, for determination of injury only domestic sales and captive consumption has been taken into consideration. The export performance, therefore, cannot be considered a factor affecting the performance of the domestic industry.

47. The product is covered under Drugs price controlled order (DPCO) as controlled by National Pharmaceutical Pricing Authority (NPPA). The DPCO price prescribed by NPPA is much below the non injurious price of the domestic industry, hence some part of injury may be attributed to lower DPCO price as can be seen from the table below.

<b>Particulars</b>	<b>Unit</b>	<b>POI</b>
Landed Value	Rs./KG	528.60
Non Injurious price	Rs./KG	***
DPCO price	Rs./KG	791.00
Injury Margin (attributed to DPCO price)	Rs./KG	***
Injury Margin ( attributed to Low price imports )	Rs./KG	***

## **48 CAUSAL LINK**

### **48.1 Likelihood of continuation or recurrence of injury**

The present investigation is a review investigation and the Designated Authority is required to examine whether revocation of duty is likely to lead to continuation or recurrence of dumping and injury. In this case, though declining, as there are continued dumped imports, the Designated Authority is required to examine whether revocation of duty is likely to lead to continued dumping of the product. Though in a declining trend, the exporters and producers from the subject country are exporting subject goods to India for the past several years. The current dumping margin is very significant. In the previously concluded investigation also dumping margin was significant. In such a situation, there is no reason to believe that the dumping will not intensify with the revocation of duty. Although from the data in the preceding paragraphs, it is evident that the volume of imports from the subject country has reduced much as compared to the base year. Considering the huge production of the subject goods in China and their export orientation and the increasing demand for the subject goods in India, in all likelihood any reduction or revocation of the anti-dumping duty may lead to spurt in the dumped imports injuring the domestic industries.

### **48.2 Likelihood of Dumping**

To examine the likelihood of dumping in a sunset review investigation, the Authority applies the same methodology and the procedure as are applied in original investigations. The dumping margin is also recalculated for the updated period.

### **48.3 Level of current and past dumping margin**

Considering the dumping margin determined by the Authority in the previous investigation and the dumping margin now assessed, it is quite evident that the exports were continued to be made at dumping prices and is likely to continue with revocation of anti dumping duties. Further, the volume of imports is likely to increase further in the event of revocation of anti dumping duties, given the significant price undercutting during the injury period.

### **48.4 Price attractiveness of Indian market**

The price at which material is being exported by China to India is also an indicator of the continuation of dumping. At the landed price there is significant undercutting. Thus, with the revocation of anti dumping duties, the Indian prices would be too attractive to the Chinese Producers and there is strong likelihood that Indian Consumers would import substantially due to increasing demand.

#### **48.5 Export orientation of China**

The Authority has procured exports data from the World Trade Atlas in respect of China's exports to world. It is observed from the data that China has exported more than 29000 MT of subject goods during POI to world over. The exports to world over have been 23954 MT in 2005, 28434 MT in 2006 and 29163 MT in 2007. This shows an increase of 18.7% in 2006 over 2005 and 2.56% in 2007 over 2006. The export price has shown a decline of approx 5% in POI over 2005 (from \$5.91 per kg to \$5.63 per kg in POI). In this scenario if anti dumping duty on the subject goods are revoked, India will be an attractive destination for the subject goods from China.

#### **49. FINAL FINDINGS:**

Having regard to the contentions 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 of the subject goods imported from China is substantial and above de-minimis.
- ii) The subject goods are likely to enter the Indian market at dumped prices and the likely dumping margins in respect of imports from China will be substantial and above de-minimis.
- iii) The subject goods are likely to enter Indian market at dumped prices, should the present measures be withdrawn.
- iv) The situation of domestic industry continues to be fragile. Further, should the present anti dumping duties be revoked, injury to the domestic industry is likely to continue and intensify.

#### **50 Indian industry's interest and other issues**

**50.1** The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the product in India. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practice, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the products to the consumers. The consumers could still maintain two or even more sources of supply.

**50.2** 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.

#### **51. Recommendations**

**51.1** 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 China, if the duties are revoked, the Authority is of the opinion that the measure is required to be extended in respect of imports from China. For the purpose of determining injury, the landed value of imports is compared with the non-injurious price of the petitioner company determined for the period of investigation.

51.2 Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the difference between the amount indicated in Col 9 of the table below and the landed value is recommended to be imposed on all imports of subject goods originating in or exported from China PR.

S. No.	Sub-heading or tariff item	Description of goods	Specification	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 28 00 2309 90	Vitamin E all forms	100%	People's Republic of China	Any country	Any producer	Any exporter	25.54	KG	US Dollar
2	2936 28 00 2309 90	Vitamin E Acetate	100%	Any country	People's Republic of China	Any producer	Any exporter	25.54	KG	US Dollar

**Note:-** The amount for the purposes of column (9) above, for concentrations other than those specified in column (4), shall be calculated on pro rata basis.

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

53. 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.

(R. Gopalan)  
The Designated Authority