

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

**NOTIFICATION**

New Delhi, the 2nd December 2002

**PRELIMINARY FINDINGS**

**Subject:** Anti-dumping investigation concerning imports of Vitamin 'E' originating in or exported from the China PR - Preliminary Findings,

**No. 14/32/2002-DGAD** - 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, thereof;

**A. PROCEDURE:**

**2. The procedure described below has been followed:-**

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. Merck Limited, Mumbai on behalf of the domestic industry, alleging dumping of Vitamin 'E' (hereinafter referred to as subject goods) originating in and exported from China PR (hereinafter referred to as subject country) ;
- ii. The Authority notified the Embassy of China PR in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- iii. The Authority issued a Public Notice dated 27th August, 2002 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Vitamin 'E' of Schedule I of the Customs Tariff Act.
- iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainant and gave them an opportunity to make their views known in writing.
- v. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassy of subject country in India.

- vi. The Authority sent questionnaires, to elicit relevant information, to the following known exporters from China PR.

**CHINA PR:**

M/s. Zhejing Nhu Company Limited, No.4, Jiangbei Road Chengguan Town, Xinchang Country, Zhejian Province, People Republic of China

M/s. Zheijiang Xinchang Pharmaceuticals Company, 59, Huancheng Road, Xiinchang Zhejiang, People Republic of China.

However, only M/s. Zhejing Nhu Company Ltd. China PR has replied to the Authority from amongst the exporters to whom Exporters' Questionnaires have been sent.

- vii. The Embassy of China PR in New Delhi was also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time; M/s. Zhejiang Medicine Company Ltd, Zhejiang, China PR has responded to the petition.
- viii. The Ministry of Foreign Trade, (MOFTU) Beijing, Govt. of China PR was also informed about the initiation of investigation and requested to advise the exporters /producers from their countries to respond to the questionnaire within the prescribed time.
- ix. The questionnaire was sent to the following known users/importers of subject goods:-
  1. M/s.C.J. Shah & Co. Mumbai.
  2. M/s. Cadila Pharmaceuticals Ltd, Ahmedabad..
  3. M/s. Glenmark Pharmaceuticals Ltd., Mumbai
  4. M/s. Medi Pharma Drug House, Mumbai.
  5. M/s. Nandlal Bankatlal Pvt. Ltd. Mumbai
  6. M/s. Nav Maharashtra Chakan Oil Mills, Pune.
  7. M/s. Sheetal Pharma , Mumbai.
  8. M/s. Sundar Chemicals Pvt. Ltd, Chennai
  9. M/s. Universal Medicare Ltd. Mumbai.

None of the users/importers except for M/s. CLFMA, Mumbai, which is an Association of live stock industry, have responded to the questionnaire.

- x. The Authority kept available 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;

- xii. \*\*\*\* in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xiii. The investigation covered the period from 1st January 2001 to 31st March 2002;
- xiv. Additional details regarding injury were sought from the petitioner, which were also furnished.
- xv. The Authority conducted on the spot investigation of the domestic industry to the extent considered necessary.
- xvi. The cost of the production of the domestic industry was also analysed to work out the optimum cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the petitioner so as to ascertain if anti Dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.
- xvii. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

## **B. PETITIONER'S VIEWS:**

### **3. The petitioner, M/s. Merck, Ltd, Mumbai has made the following points in their submissions: -**

- i. The product under consideration in the present petition is Vitamin 'E' which is also known as DL – Alpha – Tocopheryl. It is an organic chemical, fats soluble vitamin and is composed of a group of compounds called Tocopheryl. It is first produced in its Acetate form, which is known as Vitamin E Acetate which can either be used as it is or further processed to obtain the different types which includes Vitamin E – Pure, Vitamin E – Animal Grade (Feed Grade or dry powder) 50%, Pharma Grade 50% and compounds and derivatives. The Vitamin E in this petition is obtained through synthetic process though the product is available in its natural form also. The natural Vitamin E is priced much higher than the synthetic Vitamin E and as such is not within the scope of the present petition.
- ii. Tri methyl phenol and Isophytol are major raw materials for production of Vitamin E. It is classified under the Customs Sub-heading 2936.28 under Customs tariff act 1975 and the feed grade of Vitamin E (used in animal compound feed as an additive) is cleared under 2309.90.
- iii. The petitioner is the only producer of Vitamin E in India as it accounts for whole of its Indian production of this product.

- iv. There is no significant difference in the Vitamin E produced by the petitioner and exported from subject country. Vitamin E produced by the petitioner and imported from subject country is comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions and uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Vitamin E produced by the petitioner should be treated as like article to Vitamin-E imported from subject countries in accordance with the anti-dumping Rules.
- v. As regards the determination of normal value in the case of subject country, the petitioner has drawn the attention of the Authority towards the amended Para 8 of the Annexure I of the anti dumping rules wherein the non-market economy country has been defined. The petitioner maintains that China is a non-market economy and has been treated as non-market economy by European Country and United States in the past three years. In India also the Designated Authority has treated China as non-market economy in practically in all the investigations initiated against China. The petitioner has added that the normal value in China can be determined on any of the following basis:
  - a. The price in market economy third country;
  - b. Constructed value in market economy third country
  - c. The price from such a third country to other countries including India;
  - d. The price actually paid in India adjusted to include a reasonable profit;
  - e. The price actually payable in India adjusted to include a reasonable profit margin.

The petitioner has determined normal value on the basis of price actually paid in India (duly adjusted for profit margin).

- vi. As regards determination of export price from the subject country, the petitioner has procured the information from DGCI&S as well as secondary sources (International Business Information Service, Mumbai). While analysing the information, the petitioner has observed that import volumes shown in the DGCI&S data is less than shown in the data compiled from the secondary sources. Apparently, full import volumes are not being reflected in the DGCI&S data. In view of the same, the petitioner has relied upon the data compiled from secondary sources for determination of volume, value and export price. With regard to the feed grade, the customs classification 230990 is not very dedicated for this product as all kinds of compound animal feed are being imported under this classification. In view of this, the petitioner has relied upon secondary source information compiled by IBIS for the determination of volume, value and import price.

- vii. The petitioner has submitted an account of various economic parameters affecting the domestic industry. The import statistics during the Period of Investigation shows that import from China have increased in absolute terms and their share in the total import has also increased significantly. The petitioner has claimed that share of China in the demand of the subject goods has also increased significantly while the share of domestic industry has declined.
- viii. As regards the production, capacity utilization and sales, the petitioner has drawn the attention of the Authority towards the fact that the production and capacity utilization of the petitioner must be seen in the light of their substantial captive consumption. The overall production and capacity utilization of the domestic industry with respect of Acetate grade increased up to 2001. However, the quarter wise information with regard to sales volumes shows a substantial decline during the Period of Investigation. The petitioner has also added that it is faced with the increasing stocks of subject goods. With regard to selling price and profitability, the petitioner claims that though the sales realisation of the domestic industry with respect of Acetate grade has not decreased much, they have lost significant sales volumes due to their not reducing their selling price. In the feed grade, however, the selling price has declined considerably during the POI as against previous years.

Though the petitioner has been able to improve its profitability in Acetate grade, the same is not attributable to increase in prices. The petitioner claims that the same has been affected due to the cost cutting measures undertaken by the petitioner. With respect to the feed grade, the profitability of the petitioner has suffered adversely and they are now making losses. Thus, the petitioner has claimed volume injury from imports of Acetate grade and volume as well as price injury from imports of feed grade.

## **C. EXPORTERS, IMPORTERS' AND USERS' VIEWS:**

### **4. EXPORTERS**

Response has been received from the following exporters:

- i. Zhejiang Medicine Co. Ltd. Xinchang Pharmaceutical Factory, 59, Huan Cheng East Road, Xin Chang, Zhejiang Province, China.
- ii. Zhejiang Nhu Company Ltd. No.4, Jiangbei Road, Chengguan Town, Xinchang Country, Zhejiang, China.

Zhejiang Medicine Co. Ltd. China.

- a. Zhejiang Medicine Co Ltd is a joint stock company and incorporated as per the company Law of the People's Republic of China. During the period of the investigation, they have exported Vitamin E Oil 93% and Vitamin Oil 96% to India but did not export Vitamin E 50% powder to India.
- b. During the POI, they did not produce the Vitamin E Powder themselves but provided the raw material to a producer who processed it into Vitamin E 50% Powder.
- c. The Exporter quoted the export prices to the Indian Trading Company or the Indian end user, then the respondent entered into contract with the Indian customer. The shipment and the invoice were directly made from the respondent to the customer in India and the customer paid to the respondent directly.
- d. The main difference between Vitamin E 93% and Vitamin oil 96% is the purity. Generally, Oil 93% is condensed to Oil 96% through distillation process and this results into the cost difference between Vitamin E oil 93% and Vitamin E Oil 96%. Vitamin E powder is obtained by mixing Vitamin E Oil 93% with Silica proportionately.
- e. Vitamin E in the form of 50% powder that is transformed from 93% can also be used for other purposes other than the feeding stuff. However Vitamin E Oil can only be used for human being purpose as a health product.
- f. The Exporter wishes to highlight that the selling price of 50%, 93% and 96% are varied substantially primarily due to the varying cost components, which gives rise to different level of purity. They have requested the Authority to make a proper comparison on the basis of different purities, as the costs and prices are all different.
- g. They have submitted replies to the various appendices as prescribed in the exporters questionnaire, which have been examined at the appropriate place in the findings.

Zhejiang Nhu Company Ltd. No.4, Jiangbei Road, Chengguan Town, Xinchang Country, Zhejiang, China.

M/s. Zhejiang Nhu Company Ltd, China PR has responded that they have not exported Vitamin-E (Acetate as well as Feed Grade) to India during the POI. They have given an account of sales information for the subject goods to the Authority in terms of domestic sales and sales to other countries.

## **5. IMPORTERS AND USERS:**

None of the importers and users has made submissions for these investigations. However CLFMA, which is an association of the Livestock Association in India, has represented that they have not been addressed though they happen to be the largest

users of the Animal feed grade Vitamin E powder (50%) grade in India. Their other submissions are as follows:

1. E. Merck is manufacturing Vitamin E in India and the company has its headquarters in Germany. The company is manufacturing Vitamin E in over 30 years old plant, which was initially exporting to the then USSR.
2. Vitamin E was under the DPCO, but the same was sold by E-Merck below DPCO price for number of years. To manufacture Vitamin E intermediates are required, which are being imported from Europe. The same intermediates are also manufactured by the People Republic of China. It is learnt that E-Merck is also importing the intermediates from China. Needless to add that intermediates from China are much cheaper. Also we do not know whether E-Merck, Germany has filed a similar petition on anti-dumping of Vitamin E in Europe. In the light of the above information, E-Merck (I) Ltd., Mumbai does not hold good petitioning to you on anti-dumping duty on Vitamin-E.

#### **D. EXAMINATION AND FINDING BY AUTHORITY:**

6. The submission made by the domestic industry, exporters and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

#### **E. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:**

7. The product under consideration is Vitamin E, which is produced in the acetate form, and is then known as vitamin –E Acetate. It can either be used as it is or further processed to obtain the different types, which includes, pure or IP grade (96% and above) and Animal Grade (Feed Grade or dry powder) Vitamin E (50%). In the Acetate grade, IP grade (96% and above) is used for pharmaceutical purposes and Vitamin E (93%) Grade is used for making feed grade. The Authority has accepted the submission of exporter that selling prices of Vitamin E (50%) feed grade and Vitamin E Acetate Grade (96% and 93%) are varied substantially primarily due to the cost components which gives rise to different level of purity. The Authority has accepted the exporter's submission to make a proper comparison on the basis of different purities.

All types of Vitamin E-Acetate (96% and 93%) are classified in Chapter 293628 and Vitamin-E (50% dry powder) feed grade is classified in terms of 230990 as preparations of a kind used in animal feeding. The investigation is against the product under consideration irrespective of the classification under which it is imported.

Customs classification is indicative only and is in no way binding on the scope of the present investigation.

Rule 2(d) of the Anti Dumping rule specifies that Like Article is an article, which is identical and alike in all respects to the product under investigation or in absence of such an article, another article having characteristics closely resembling those of the articles under examination.

The Petitioner has claimed that the goods produced by them are like articles to the goods originating in or exported from subject country. No dispute has been raised on the definition of the product under consideration and like article by any interested party in the investigation. The Authority notes that Vitamin E (Acetate as well as feed grade or dry powder) produced by domestic industry has characteristics, which are similar to those of the Vitamin-E(Acetate as well as the feed grade or dry powder) imported from subject countries. In view of the above, the Authority hold that Vitamin-E (Acetate as well as the feed grade) produced by the domestic industry and those being imported from the subject countries are Like Articles within the meaning of the rules for the purpose of injury determination.

#### **De Minimus Limits:**

The petitioner has represented that the statistics shown in the DGCI&S data with regard to Vitamin-E Acetate is not representative as import volumes indicated by DGCI&S is much less than import volumes obtained through secondary sources, IBIS, Mumbai. The Authority has examined the transaction wise data submitted by the petitioner through secondary sources (IBIS, Mumbai, based on Customs Daily Lists) with the data made available by the DGCI&S (for the POI) and the cooperating exporter from China PR and after analyzing the data, The Authority observes that these largely correspond to each other. However the Authority has taken into account import data made available by DGCI&S for the Acetate grade for the POI. For earlier periods for Acetate grade, the Authority has culled out transactions wise data from the IBIS (Secondary sources of information) for working out quantum of import. Similarly, for feed grade also, the Authority has taken into account import statistics culled out from the transaction wise statements from IBIS, Mumbai for working out the import data from subject country and countries other than China PR as Customs classification is not exclusive to the product. The data gathered from these sources indicate that the import of subject goods from China PR during the POI is above de-minimus levels.

#### **F. DOMESTIC INDUSTRY:**

8. The petition has been filed by M/s. Merck (India) Ltd. Mumbai. The petitioner is the sole producer of the subject goods in India. Accordingly, the petitioner satisfies the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra.

## **G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN:**

9. Under Section 9A(1) (c) of the Customs Tariff Act 1975, Normal value in relation to an article means:

- i. The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-
  - a. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
  - b. The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

### **10. CHINA PR:**

The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). Only one of the exporters from China PR i.e. M/s. Zhejiang Medicine Co. Ltd., China PR., has responded to the Authority with replies to all the appendices mentioned in the Exporter's Questionnaire. It has been observed that M/s. Zhejiang Medicine Co. Ltd., China PR. has furnished the information in the prescribed format. They have

represented that they have exported the subject goods in Acetate form to India during the period of investigation and they have given the transaction-wise statement as required under the Appendix II of the Exporters' Questionnaire. The exporter has represented that they have made exports to India under 96% and 93% of Vitamin E Acetate Grade and they have submitted the grade-wise information with respect to sales price structure for exports to India under Appendix 4 and factory cost and profit of exports to India under Appendix 8 of the exporters' questionnaire. They have further submitted that though they have domestic sales of 50% feed grade or dry powder of Vitamin E, they have not exported the same to India during the POI. They have submitted information relating to sales in the home market on transaction-wise basis as per Appendix 1 pertaining to all the different grades (Acetate as well as Feed Grade). In appendix 3 they have given information relating to sales of goods of the company with regard to exports to India, domestic market sales and exports to other countries.

However, as regards sales price structure for exports to India in Appendix 4, they have not given an account of inland insurance, storage, handling (charges after ex-factory and before f.o.b.), and shipping charges duty, clearance and handling charges after f.o.b. As per appendix 7 of the exporters' questionnaire, they have not given the licensed capacity for other products manufactured in the plant. As regards factory cost and profit of exports to India, they have not mentioned about the rate at which the utilities have been consumed for the production of subject goods. As the company appears to be a multi product company, full information regarding basis of allocation of costs for manufacture of subject goods needs to be explained which is required as per general information part D. As the domestic sales should be in the ordinary course of trade i.e. these should be a price to recover the cost of production and selling, general and administrative expenses. Though they have submitted the replies to the appendices 8,9 and 10, they have not commented upon direct and indirect subsidy given by the Government, if any, on production, procurement, sale and transportation of raw material, utilities, finances, etc. They have also not submitted the Profit and Loss account and balance sheet for the complete POI.

As communicated to the known exporters and to the Embassy of China PR the Authority proposes to examine the claim of the petitioner in the light of Para 7 and 8 of the Annexure I of the Anti dumping Rules as amended. The Authority notes that the exporter has not submitted complete information as indicated in the above-mentioned paragraph, the test of domestic sales in the ordinary course of trade is not possible in the given circumstances and a determination of normal value as per provisions contained in Section 9A(i) c (i) & (ii) read with rule 2 (i) and (ii) of the Annexure I of the Anti dumping rules can not be made. The Authority also notes that the exporter has not furnished necessary information/sufficient evidence as mentioned

in the sub paragraph (3) of the paragraph 8 of Annexure I of Anti Dumping Rules to enable the Designated Authority to consider the following criteria as to whether;

(i). the decision of concerned firms regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to the market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values; the production cost 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; such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and the exchange rate conversions are carried out at the market rate"

The Authority notes that in the absence of information as mentioned above, determination of normal value as per provisions contained in Section 9A(i) c (i) & (ii) read with rule 2 (i) and (ii) of the Annexure I of the Anti dumping rules can not be made. The Authority is therefore unable to apply the principles set out in the paragraph 1 to 6 and is constrained to proceed as per the facts available.

Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods in China PR.

The Normal value determined by the Authority for M/s. Zhejiang Medicine Co. Ltd., China PR. comes to US\$ \*\*\*\* per Kg and US\$ \*\*\*\* per Kg for Vitamin-E Acetate grade 96% and 93% respectively.

### **EXPORT PRICE:**

The Authority has taken into account the DGCI&S data for all the transactions during the POI for the Acetate Grade. As regards Feed Grade, the Authority has relied on the data furnished from secondary sources i.e. IBIS, Mumbai for calculating the quantum of exports and their value from China PR to India as no transaction wise data was made available by the DGCI&S. However the data submitted by the exporter corresponds with the information culled out from the IBIS (Secondary sources) data, which are based on transaction wise statements of imports from the subject country. The Authority notes that 53931 Kg of Vitamin E-Acetate (96% and above), 9040 kg of Vitamin-E (93%) Acetate Grade and 24750 kgs. of Vitamin E – Feed Grade (50%)

have been exported to India during the POI from China PR for Rs. 33645825, Rs 4147975 and Rs 702990 and the weighted average export price per kgs of exports for the grades mentioned above come to US \$ 13.17, US \$ 9.69, and US\$ 6.00.

However, the Authority notes that **M/s. Zhejiang Medicine Co. Ltd.**, China PR has exported \*\*\*\* kg of Vitamin E-Acetate (96%) and \*\*\*\* kg of Vitamin E Acetate (93%) to India during the POI for a value of US\$ \*\*\*\* and US \$ \*\*\*\* with the unit price of US \$ \*\*\*\* per kg and US \$ \*\*\*\* per kg respectively. The Authority has made adjustments towards inland freight and insurance and overseas freight and insurance as suggested by the exporter. Discounts mentioned in the Annexure have also been accepted by the Authority for arriving at the export price at the Ex factory level. The Authority has accepted these adjustments for the limited purpose of preliminary determination for calculating the net export price at ex factory level from China PR to India subject to further examination and verification. After adjustments, the net export price at ex factory level comes to US \$ \*\*\*\*/kg for Vitamin-E Acetate Grade (96% and above) and US \$ \*\*\*\*/Kg (For Vitamin-E Acetate 93% Grade);

#### **DUMPING MARGIN:**

11. The principles governing the determination of normal value, export price and the dumping margin as laid down in the Custom Tariff Act and the Anti Dumping Rules are elaborated in Annexure I to the Rules. The dumping margin for exports of the subject goods from M/s. Zejiang Medicine Co. Ltd. China PR is assessed by the Authority at US \$ \*\*\*\*/Kg or 78.8% of the export Price for Vitamin E - Acetate Grade (96% and above) and US \$ \*\*\*\* per kg or 139% of the export price for Vitamin-E Acetate Grade (93%).

#### **Zhejiang Nhu Company Ltd, China PR**

M/s. Zhejiang Nhu Company Ltd, China PR has responded to the exporters' questionnaire by stating that they have not exported the goods of any form of either feed grade or acetate grade to India during the POI. However, in order to cooperate with the investigation they have submitted their sales information for the goods during the relevant period to the Authority. The Authority notes that the exporter has not made any exports of the subject goods during the POI to India and has also not submitted non-confidential version of their submissions to the Authority.

#### **H. Other Exporters from China PR**

12. The Authority provided opportunity to the known exporters from China PR to furnish information relevant to the investigations and offer comments, if any, in accordance with the Section cited above. The Authority wrote to the Embassy of

China in India also. However, no other exporters from China have responded to the Authority's request for information. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested party (ies). Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods in China PR.

- The normal value for China P.R. based on the best information available works out to US\$ \*\*\*\* per Kg for Vitamin-E Acetate (96% and above), US \$ \*\*\*\* per kg for Vitamin-E Acetate (93%) and US \$ \*\*\*\* per Kg for Vitamin-E dry powder (50% feed grade). The Export price at the Ex factory level has been calculated by taking the lowest export price of the cooperating exporter from China PR during POI. The net ex-factory export price worked out on these parameters and allowing adjustments as made in the case of cooperating exporter works out to US\$ \*\*\*\* per Kg, for Vitamin E Acetate Grade (96% and above), and US \$ \*\*\*\* per kg for Vitamin E Acetate Grade (93%). The net export price for Non-cooperative exporters for feed grade has been as lowest export price as per transaction wise data made available through IBIS, Mumbai. The dumping margin for exports of the subject goods from China PR is assessed by the Authority at US \$ \*\*\*\*/Kg or 86.6% of the export Price for Vitamin E - Acetate Grade (96% and above), US \$ \*\*\*\* per kg for Vitamin-E Acetate Grade (93%) or 183% of the export price and US \$ \*\*\*\* per Kg or 95.9% of the export price for Vitamin E (50%) Feed Grade respectively.

### 13. Dumping Margin:

Dumping Margin Calculation for Vitamin-E for imports from China PR (US\$)						
	Description		NV	EP	DM	DM%
Zhejiang Medicine Co. Ltd, China PR	Vit -E Acetate	96%	****	****	****	78.82
	Vit -E Acetate	93%	****	****	****	139.31
Other Exporters, China PR	Vit-E Acetate	96%	****	****	****	86.7%
	Vit -E Acetate	93%	****	****	****	183.8%
	Vit-E Dry Powder	50%	****	****	****	95.9%

## I. INJURY:

14. Under Rule 11 supra, Annexure –II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect

on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...." In considering the effect the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

16. For the examination of the impact of the imports on the domestic industry in India, the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II (iv) of the Rules supra.

### **Views of the Petitioners:**

1. Vitamin-E is covered under Drug Price Control Order. Thus, the prices of the product are controlled by the Govt. of India. Such being the case, the petitioner has no option but to sell its goods at the prices notified by the Govt. of India.
2. Petitioner makes a number of products using Vitamin-E. Petitioner competes with other producers of these goods. While the petitioner is forced to transfer its goods at its higher cost of production, the other producers are getting an undue advantage from such unfairly priced imports. Thus, the petitioner is suffering not only on its merchant sales but also on its captive consumption.
3. Market for Vitamin-E where the imports are reported in huge volumes can be divided in two parts – Acetate Grade and Feed Grade. Cost and price of Feed Grade is almost half of Acetate Grade, as it contains 50% Vitamin-E and some additives in small value.
4. Performance of the domestic industry has very materially changed in the proposed investigation period (January 2001 – March 2002). Petitioner requests that the injury analysis may kindly be carried out on quarter-to-quarter or month-to-month basis in the investigation period.
5. Imports from China have increased in absolute terms and the share of China PR in total imports of Vitamin E has increased significantly. As a direct consequence, the share of domestic industry has declined significantly.
6. The decline in export prices has directly resulted in decline of landed value of imports. Analysis of quarterly trends particular in feed grade further shows that the share of the domestic industry declined significantly until such time the domestic industry reduced its prices.
7. Though the overall production and capacity utilization of the domestic industry in respect of acetate grade increased up to 2001, the quarter-wise information shows that the production declined.

8. Since the company has substantial captive consumption, the impact of dumping is not very visible in terms of loss of production of acetate grade. The petitioner adds that their merchant sales volume have declined significantly during the POI and is faced with increasing stocks of the subject goods in spite of significant captive consumption and reduction in production.
9. In the feed grade, the petitioner has reduced the prices significantly. The petitioner adds that within the proposed investigation period, till such time, the petitioner was not reducing its selling prices, its volumes declined. However, reduction in the selling prices resulted in some increase in the sales volumes, which, however, remained sub-optimal.
10. In acetate grade, the petitioner has been able to improve its profitability due to the cost cutting measures taken by the petitioner. At the same time, the petitioner had to bear the burnt of not reducing the prices in this segment in terms of significant loss of volumes. In feed grade, the profitability of the petitioner has suffered very adversely. The petitioner, which was earlier making profits, has not turned into severely losses.

## **J. EXAMINATION BY THE AUTHORITY**

15. Analysis of Injury to the domestic industry has been done on the basis of the information available on record and the verification done by the officials of Directorate of Anti-Dumping & Allied Duties. The following parameters have been analysed for the purpose of assessment of injury to the domestic industry:

### **Volume Effect:**

#### Quantum of Imports:

To ascertain the quantum of imports, the Authority has considered the import statistics of the subject goods made available by DGCI&S, Calcutta for the POI and secondary information sources namely IBIS, Mumbai by taking transaction wise analysis of imports from the subject country and country other than China PR. The Authority has also examined the export statistics given by cooperating exporters from China PR and the secondary sources information (transaction wise information from IBIS, Mumbai) made available by the petitioner for Vitamin-E (Both for Acetate as well as Feed Grade). After examining this data, the Authority notes that the volumes shown by secondary sources data and the exporter's data broadly corresponds during the POI and previous two years

1. The domestic industry has claimed that imports from China PR have increased in absolute terms and their share has also increased significantly. The Authority has

examined the import statistics during the POI and two years prior to it for both acetate and feed grade and conclude that there has been a rapid increase of imports from China PR in absolute terms and increase is more prominent in case the quantum of imports are analysed from quarter to quarter basis. The Authority observes that imports have increased more than 300% during the POI over previous year in Acetate grade and 900% in Feed grade. The imports during first quarter (Q1, 2002) from subject country are more than 60% and 900% from Q-1 2001 for Acetate grade and feed grade respectively. Thus, the authority concludes that there has been a very significant increase in imports from China PR for the subject goods during the POI as compared to the previous years and also during the POI when analysed quarter wise.

### **Absolute increase in Quantum of Imports from China PR**

	Unit	1998	1999	2000	POI Annul	
Acetate	kg	0	2000	15300	50376.8	
Feed	kg	0	13000	2000	19800	
Total China	kg	0	15000	17300	70176.8	
Other Coun	kg	18739	115112	40255	66342	
Total Imp	kg	18739	130112	57555	136518.8	
Quarter Wise Information relating to Imports (Absolute Values in kg) For POI						
Total China						
		Q12001	Q2	Q3	Q4	Q12002
Total China	Kg	11000	9750	16273	32998	17700
Others	Kg	5895	14773	18195	32710	11355
Total Imports	Kg	16895	24523	34468	65708	29055

### **ii) Market share of Imports:**

The Authority observes that the share of China PR in the total imports of Vitamin E has increased by 70% over the previous year. While the imports from other countries have declined during the POI as compared to previous years. As a consequence, the share of domestic industry has declined significantly.

### **Market Share of Imports from China PR in Total Imports (%)**

Year	1998	1999	2000	POI
China	0	11.53	30.06	51.4045
Others	100	88.47	69.94	48.5955

Market Share in Total Imports during POI Q-Q(%)					
	Q1 2001	Q2	Q3	Q4	Q12002
China	65.11	39.76	47.21	50.22	60.92
Others	34.89	60.24	52.79	49.78	39.08

Total	100	100	100	100	100
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**(iii) Share of imports from subject countries as a proportion to demand.**

The Authority has calculated the total demand in the country by adding the total imports to the sales of the domestic industry of the product under consideration. The Authority notes that the share of China PR in total demand of the subject goods has increased from 8.5% during year 2001 to 22% during the POI while the share of other imports has increased marginally from 19.7% to 21.6%. The share of the domestic industry in the total demand has decreased from 71% during 2000 to 55% during POI. Thus, the Authority concludes that there has been a significant rise in the market share of imports of the subject countries as a share of total demand and it has increased significantly during the POI as compared to previous years.

**Market Share of Imports in total Demand (Absolute and Percentage share) to be checked**

Demand	Unit	1998	1999	2000	POI (Ann)
Imp China	Kg	0	15000	17300	70176.8
Others	Kg	18739	115112	40255	66342
Total Imp	Kg	18739	130112	57555	136518.8
Demand	Kg	****	****	****	****

Share in Demand	98	99	2000	POI
China	Nil	100	155	419
Others	100	328	154	169
Total Imp	100	370	221	348
Dom Ind	100	60	82	63

Taking base as 100

**PRICE EFFECT**

16. As regards the impact of the dumped imports on the domestic industry the principle (iv) of Annexure-II of the Anti-Dumping Rules states:

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

In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree. The Authority has compared the landed value of imports of subject goods from subject countries during the POI with the net sales realization and has found that there has been a significant price under-cutting by the dumped imports. The landed value of imports has been found to be significantly lower than the domestic industry's net sales realization.

The Authority has also examined the claim of the petitioner that the domestic industry is suffering on account of the losses from the sale of Vitamin E Acetate Feed Grade. The Authority notes that price underselling is an important indicator to make an assessment of the injury. The Authority has worked out the Non-injurious price for the product under consideration and compared the same with the landed value to arrive at the extent of price underselling. The analysis shows a significant level of incidence of price underselling causing injury to the domestic industry. Additionally, the imports were having significant suppressing/ depressing effect on the prices in the domestic market, as the domestic industry had not been able to raise its selling price in view of the dumped imports especially in the feed grade. Thus examination of the available evidence shows that the domestic industry as a whole has suffered injury on its sales of subject goods during POI. The Authority has determined the extent of price undercutting during the POI and conclude that the domestic industry has suffered significant price undercutting and price underselling during the POI because if import from the subject country.

### Price Undercutting in Acetate Grade (in Rupees)

	1999	2000	Q1 2001	Q2	Q3	Q4	Q12002	POI Ann
Landed V	****	****	****	****	****	****	****	****
Sell Price	****	****	****	****	****	****	****	****
Price UC	****	****	****	****	****	****	****	****

Rs	Price Undercutting Feed Grade							
Landed V	****	****	****	****	****	****	****	****
Sell Pr	****	****	****	****	****	****	****	****
Pr UC	****	****	****	****	****	****	****	****

### Production and Sales Volume:

17. The authority notes that though the overall production and capacity utilization of the domestic industry in respect of Acetate Grade has increased up to 2001, a Quarter-wise information suggests that the production and sales volume during the POI has decreased during the POI and sales volume during Q-1, 2002 shows a 47% decrease over Q-1, 2001. The sales volume of the petitioner shows a marginal decline during POI as compared to the year 2000. With regard to Feed Grade there has been no reduction in the production and sales volume.

**Selling Price & Profitability:**

18. The Authority does not find any decline in the sales realization of the Acetate Grade. Their profitability with regard to acetate grade has improved during the POI as compared to previous year though there has been a significant loss of volumes during the different quarters of the POI and also as compared to previous years. As regards Feed Grade, the Authority observes that the petitioner has reduced its prices significantly during the POI as per the Quarter wise information and also as compared to previous years. Their profitability with regard to feed grade has also suffered and the petitioner, which was earlier making profit, has turned into severe losses.

The authority notes that for feed grade the selling prices of the domestic industry is significantly below the price, which would have permitted the domestic industry, a fair recovery of its cost of production and earn a reasonable return. Thus, the dumped imports have prevented the domestic industry from effecting legitimate price increase to realise a reasonable price. The industry has suffered material injury on account of depressed selling prices resulting in non-recovery of cost of production and thereby suffering financial losses.

19. Other injury parameters evaluated by the authority are as follows:

a. The employment levels of domestic industry have not undergone any significant change during the period of investigation.

Finished Goods Closing stock as at		
	Vitamin E Acetate	Vitamin E 50% Animal
	Kgs indexed	Kgs indexed
Jan-01	100.00	100.00
Mar-01	113.69	101.69
Jun-01	52.41	137.29
Sep-01	108.99	347.46
Dec-01	105.91	40.68
Mar-02	134.55	199.58

There is a marked rise in the closing stocks during POI indicating that there is a significant change in the inventory position of the domestic industry during the period of investigation.

Raw Material Closing stock as on		
	Isophytol	TMP
	Kgs indexed	Kgs indexed
Jan-01	100.00	100.00
Mar-01	134.58	80.00
Jun-01	159.45	80.00
Sep-01	109.85	176.67
Dec-01	175.75	184.68
Mar-02	106.51	186.67

### Conclusions on Injury

From the foregoing, the following conclusions are made by the Authority regarding injury suffered by the domestic industry

1. Imports from the subject country of subject goods have increased significantly in absolute terms.
2. Imports from subject country have increased in relation to total imports of Vitamin-E India.
3. Imports from the subject country have increased in relation to the demand of Vitamin-E in India.
4. Imports are significantly undercutting the selling prices of the domestic industry.
5. The petitioner is suffering from price underselling also as landed price of subject goods are below the Non Injurious price or fair selling price of the domestic industry.
6. The petitioner is suffering from price suppression/ depression as landed price of the subject goods from subject country are less than cost of production of the domestic industry.
7. The domestic industry has suffered losses on account of sales on feed grade. However they have improved their profitability in the Acetate grade though they suffered a loss on their sales volume.
8. The domestic Industry has suffered mainly volume injury in Acetate grade and Volume as well as price injury in Feed grade. On the whole, the domestic industry has suffered material injury.

### K. CAUSAL LINK:

20. In determining whether injury to the domestic industry was caused by the dumped imports, the Authority took into account the following facts: -

- i. In establishing that the material injury to the domestic industry has been caused by the dumped imports from the subject country, the Authority holds that the increase in the quantum of import from the subject country resulted in the curtailment of market share of the petitioner. In considering the effect of dumped imports of Vitamin-E (Acetate as well as feed grade), the Authority has found that based on the close resemblance of their chemical characteristics and usage these are like article to the domestically produced Vitamin-E (Acetate as well as feed grade). Import of Vitamin-E from the subject country had the effect to displace the demand of domestically produced Vitamin-E. The Authority holds that substantial increase in imports of subject goods have contributed to the increase in imports in absolute terms. This had the effect of undercutting the prices of domestic industry to sell below its fair selling price in the case of Feed grade and to reduce in sales volume in the case of Acetate grade. Thus the Authority has found that Substantial imports of subject goods from China PR at dumped prices forced the domestic industry to reduce its selling prices in Vitamin E Feed Grade to un-remunerative level, which has resulted in a situation of price undercutting in the Indian market. Also With regards to Acetate grade, the landed price of imports from subject country is well below the selling price of the domestic industry, which is resulting in price undercutting in the Indian Market. The Authority has also examined the landed price of imports from countries other than the subject country and has found that landed price from Non subject country has been much higher than the imports from China PR and their share in total imports have also decreased during the POI as compared to previous year.
- ii. The imports from China PR suppressed the prices of the product Vitamin-E 50% dry powder (Feed Grade) in the Indian market to such an extent that the domestic industry was prevented from recovering its full cost of production and earn a reasonable profit from the sale of subject goods in India.

21. The Authority, therefore, notes from the above that the imports of subject goods (Both Acetate as well as the feed grade) from the China PR have been at a price below the non-injurious price for the domestic industry. Imports from other countries have grown much less than the subject country and prices from these countries are higher than the subject country. The Authority could not find any evidence of contraction of demand, change in pattern of consumption, trade restrictive practices of and competition between the foreign and domestic producers. It is also noted that developments in technology has not been a cause for injury to the domestic industry.

These parameters collectively and cumulatively indicate that the petitioner has suffered material injury due to the dumped imports.

## **L. INDIAN INDUSTRY'S INTEREST:**

22. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. 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 practices, 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 anti dumping measures would not restrict imports from China PR in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

The Authority has examined the submission made by CLFMA regarding the old establishment or plant being maintained by the petitioner for the production purpose and also the fact that they are importing the raw material from China PR. However the Authority observes that old plant or establishment of the petitioner has no relevance to the Anti dumping investigations. As regards import of the raw material from the subject country by the petitioner, the Authority observes that this too has no relationship with the Anti dumping investigations being carried out against the import of subject goods from the subject country.

## **M. CONCLUSIONS:**

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

- i. Vitamin E (Acetate as well as Feed Grade) or product under consideration has been exported to India from the subject country below its normal value.
- ii. The Indian industry has suffered material injury;
- iii. The injury has been caused by the dumped imports from Subject Country.

24. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of Vitamin E (Acetate Grade (96% and 93%) as well as Vitamin E (50%) Feed Grade in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend 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 is proposed to be compared with the non-injurious price of the petitioner company determined for the period of investigation.

Accordingly, the Authority recommends that the provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of Vitamin E Acetate Grade (96% and 93%) and Vitamin E (50% Feed Grade) falling under Custom Heading 293628 and 230990 originating in or exported from Peoples Republic of China pending final determination. The Anti-Dumping duty shall be the difference between the amount mentioned in column 3 of the following table and the landed value of imports per Kg. to be imposed from the date of Notification to be issued in this regard by the Central Govt. on all the imports of subject goods falling under Chapter 29 of the Customs Tariff, originating in or exported from the countries mentioned below: -

Serial Number	Country/Exporter	Description	Amount (US \$per kg)	
A.	China PR 1. M/s. Zhejiang Medicine Co. Ltd 2. Zhejiang Province, China PR.	Vitamin –E Acetate	96% Grade	22.64
			93% Grade	21.94
B.	Other Exporters	Vitamin –E Acetate	96% Grade	22.64
			93% Grade	21.94
	China PR		Feed Grade or Dry Powder	50% Grade

25. 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.

## **N. FURTHER PROCEDURE:**

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

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

- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. The Authority would provide opportunity to all the interested parties for making oral submissions which have to be rendered thereafter in writing;
- d. The Authority would conduct further verification to the extent deemed necessary;
- e. The Authority would disclose essential facts before announcing final findings.

**L.V.SAPTHARISHI,**  
DESIGNATED AUTHORITY