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No. 15/1009/2012-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
Udyog Bhawan, New Delhi

Date: 12.05.2014

NOTIFICATION

(Final Findings)

Subject:- Final Findings in the Sunset Review of anti dumping duty imposed on the imports of Sodium Nitrite originating in or exported from European Union.

No. 15/1009/2012-DGAD:- Having regard to the Customs Tariff Act, 1975 as amended from time to time, and the Customs Tariff (Identification, Assessment and Collection of Anti- Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof:

A. Background of the case

1. Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules), definitive anti-dumping duty was originally recommended by the Designated Authority (hereinafter referred to as the Authority) vide Final findings Notification No. 54/1/2001-DGAD dated 28th October, 2002 on the imports of Sodium Nitrite (hereinafter also referred to as the subject goods) originating in or exported from European Union and Taiwan and whereas the Central Government imposed definitive anti-dumping duty on the imports of Sodium Nitrite originating in or exported from European Union and Taiwan w.e.f. 28.3.2002 vide its Notification No 132/2002-Customs dated 29th November, 2002.
2. And Whereas, in terms of the provisions for sunset review investigations, M/s Deepak Nitrite Ltd, Pune and M/s Punjab Chemicals & Crop Protection Ltd., Chandigarh representing the Domestic Industry approached the Authority with a

duly substantiated application requesting for review of the anti dumping duty in force for its continuation for another five years, and the Authority conducted the sunset review of the anti dumping duty in force and concluded that continued imposition of such duty was warranted to offset dumping and the injury which is likely to continue or recur if the duty was revoked or varied or both. The Final Findings recommending continuation of anti dumping duty on the imports of Sodium Nitrite originating in or exported from European Union were notified by the Authority vide Notification No. 15/6/2006(SSR)-DGAD dated 3rd March 2008 and definitive duties on the subject goods imported from European Union were imposed by the Department of Revenue vide Notification No. 49/2008-Customs dated 11th April 2008.

3. Whereas M/s Deepak Nitrite Ltd, Pune, representing the domestic industry, has again filed a duly substantiated application before the Authority in accordance with the Act and the AD Rules alleging dumping of Sodium Nitrite originating in or exported from European Union (hereinafter referred to as the subject territory) and has requested for review, modification and continuation of the anti-dumping duties.
4. And, whereupon in accordance with Section 9 A (5) of the Act, read with Rule 23 of AD Rules, the Authority issued a public notice dated 23rd March, 2013, published in the Gazette of India, Extraordinary, initiating the sunset review investigation to review the need for continued imposition of duties in force and to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.
5. And, whereas, the antidumping duty as notified vide Notification No. 49/2008-Customs dated 11th April, 2008 was extended up to 10th April, 2014 vide Notification No. 04/2013-Customs (ADD) dated 10th April, 2013 in terms of Section 9(A)(5) of the Act.

B. Procedure

6. In this investigation, the procedure described herein-below has been followed:
 - i. The Authority received a duly substantiated Sunset Review application from M/s Deepak Nitrite Ltd, Pune, as domestic industry, for review, enhancement and continuation of the duty in force on imports of Sodium Nitrite originating in or exported from European Union. The petitioner submitted prima facie evidence in this regard, requesting for review, continuation and enhancement of the anti dumping duty in force.

- ii. The Authority intimated to the Delegation of the European Commission to India in New Delhi that it has received a petition from the domestic industry to initiate sunset review investigation against imports of the subject goods originating in or exported from European Union.
- iii. The Authority, on the basis of sufficient prima facie evidence submitted by the petitioner to justify initiation of the investigation, decided to initiate sunset review investigation against imports of the subject goods originating in or exported from European Union.
- iv. The scope of the present review covers all aspects of Notification No.15/6/2006(SSR)-DGAD dated 3.3.2008.
- v. The Delegation of the European Commission to India in New Delhi was informed about the initiation of the investigation, in accordance with Rule 6(2) of the AD Rules.
- vi. The Authority sent copies of the initiation notification 23rd March, 2013 to the Delegation of the European Commission to India; known exporters/producers from the subject territory; known importers and other interested parties; and the domestic producers, as per the information available with the Authority.
- vii. The interested parties to this investigation were requested to file response to the questionnaire in the form and manner prescribed and make their views known to the Authority in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters/producers were also sent to the Delegation of the European Commission to India along with a list of known exporters / producers with a request to advise the exporters / producers from the subject territory to respond to the questionnaires within the prescribed time limits.
- viii. Questionnaires were sent to the following known exporters/producers from the subject territory in accordance with Rule 6(4) of the AD Rules to elicit relevant information:

BASF Aktiengesellschaft Carl-Bosch-Strasse 38 67056 Ludwigshafen Germany	M/s.Terra Nitrogen (UK) Ltd, PO Box 90 Radcliffe Crescent Thornaby, Stockton-on-Tees Cleveland - TS17 6BS
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- ix. None of the above mentioned producer/exporter has, however, filed questionnaire response.
- x. Questionnaire was also sent to the following known importers, users and associations of the subject goods in India seeking necessary information:

Ratnemani Metals and Tubes Ltd Survey No. 474,	Sangeeta Metal (INDIA) 26/24, 68/1, Ground Floor,
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Village Bhimasar, Ta: Anjar, Nr. Gandhidham, Dist. Kutch Pin- 370 240	Sindhi Lane, Mumbai
Bhandari Foils & Tubes Ltd Plot No D1-D4, Phase-I, INDL. Area A.B Road Dewas (M.P)	Ramani Steel House 65/73, C.P Tank Road, Mumbai
Prakash Steelage ltd Plot No. 26 Sector KWC, Kalamboli, Navi Mumbai, Maharashtra	Nishant Infinn Pvt. Ltd 7, Taldhwaj Bhuvan, 1 st Floor, Off No. 1 3 rd Panjrapole Lane, Mumbai
Rajendra Mechanical Industries Ltd 11, Cama Industrial Estate Goregaon, East Mumbai	A.C Steel Sgop Laheer Building, Ground Floor 282, S.V Road, Corner of 5 th Khatwadi Lane, Mumbai
Phoenix Foils Pvt Ltd Plot No 3, Expansion Area, New GIDC, Umbergao, Distt Valsad, Gujarat	Quality Folis(India)Pvt Ltd 3, Industrial Development Colony Hisar, Haryana
Domet Trading Pvt Ltd. Plot No. 1867 Road No. 25, KWC Steel Ware Housing Complex, Kalamboli, Maharashtra	Process Plant and Machinery Association of India 002 Loha Bhavan, 91/ 93 , P D'Mello Road, Masjid (E), Mumbai – 400 009, India
Stainless Steel Exporters Welfare Association PD-4A, Pitampura, Delhi - 110088 India	All India Stainless Steel Association of India 302, Arun Chambers Madan Mohan Malavia Road Mumbai 400 034

- xi. In response to the initiation notification, none of the importers, users or associations has responded.
- xii. The import data for the period of investigation and preceding three years was obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been considered in the investigation.
- xiii. The Authority made available non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7) of the AD Rules.

- xiv. Exporters, producers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- xv. The Authority has examined the information furnished by the domestic industry to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all the interested parties to present their views orally in an Oral Hearing held on 7th January, 2014. Only the domestic industry participated in the Oral Hearing. The domestic industry was requested to file written submissions of the views expressed orally. The arguments made in the written submissions received from the domestic industry have been considered, wherever found relevant, in this Final Findings Notification.
- xvii. The Period of Investigation (POI) for the purpose of the present review is October 2011 to September 2012. However, injury analysis has covered the years April 2009–March 2010, April 2010–March 2011, April 2011–March 2012 and the POI. The data beyond the POI has also been examined to determine the likelihood of dumping and injury.
- xviii. Verification to the extent deemed necessary was carried out in respect of the information and data submitted by the domestic industry.
- xix. Information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to the other interested parties.
- xx. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 12.03.2014. Only the Domestic Industry responded to the Disclosure Statement and no opposing interested party responded to the said Disclosure Statement. The post Disclosure Statement submissions received from the domestic industry have been considered, to the extent found relevant, in this Final Findings Notification.
- xxi. Since no opposing interested party has filed any questionnaire response or legal submission, or has otherwise provided necessary information during the course of the present investigation, the Authority has recorded its conclusions in the Final Findings on the basis of the 'facts available'.

- xxii. The original date to complete the investigation was up to 22.03.2014. However, at the request of the Authority, this date was extended by the Ministry of Finance up to 22.05.2014.
- xxiii. *** In this Final Findings Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the AD Rules.
- xxiv. The US exchange rate for the POI has been taken as Rs. 52.88 = 1 US\$ as per notifications issued by the Ministry of Finance.

C. Product Under Consideration and Like Article

C.1 Views of the Domestic industry

- 7. The product under consideration is 'Sodium Nitrite'. The product involved in the present sunset review investigation is the same as has been held by the Authority in the previous investigations. Sodium Nitrite is an oxidizing as also a reducing agent. It is a white crystalline powder mostly used in pharmaceuticals industries, Dye industries, Lubricants, Construction chemicals, Rubber blowing agent, Heat transfer salts, meat processing, Textiles, etc. The product is classified under Customs Tariff heading 28.34.10 of the Customs Tariff Act. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation. The goods produced by the domestic industry and imported from the subject territory are like articles in accordance with the Rules.

C.2 Views of the opposing interested parties

- 8. None of the opposing interested party has filed any questionnaire response or legal submission, or has otherwise provided necessary information during the course of the present investigation.

C.3 Examination by the Authority

- 9. Product under consideration in the present investigation is Sodium Nitrite in all its forms. Sodium Nitrite is an inorganic chemical and is oxidizing and reducing agent. It is a white crystalline powder mostly used in pharmaceuticals industries, dye industries, lubricants, construction chemicals, rubber blowing agent, heat transfer salts, meat processing, textiles etc.
- 10. The present investigation is a sunset review investigation and the Authority confirms that the scope of the present investigation is the same as the scope of product attracting anti dumping duty at present.

11. The product is classified under Customs Tariff heading 28.34.10 of the Customs Tariff Act. This classification is, however, indicative only and in no way binding on the scope of the present investigation.
12. The product under consideration in the present sunset review will remain the same as in the previous investigations, as the present investigation is only a review of the anti dumping duty already imposed.
13. The goods manufactured by domestic industry and exported from the subject territory are identical and technically and commercially substitutable. Therefore, the Authority holds that the subject goods produced by the domestic industry are like articles, as per Rule 2(d) of the Rules Supra, to the product under consideration.

D. Scope of the Domestic Industry

D.1 Views of the Domestic industry

14. The petition was filed by M/s Deepak Nitrite Limited. There are three more producers of Sodium Nitrite in the country, apart from the petitioner, namely, Punjab Chemicals & Pharmaceuticals Limited, National Fertilizer Limited and Rashtriya Chemicals and Fertilizers Limited. The petitioner commands 87% share in the Indian production in the POI and, therefore, constitutes domestic industry. Further, in the case of sunset review, standing is not required to be examined.

D.2 Views of the opposing interested parties

15. None of the opposing interested party has filed any questionnaire response or legal submission, or has otherwise provided necessary information during the course of the present investigation.

D.3 Examination by the Authority

16. Rule 2(b) of the AD Rules defines the domestic industry as under:-

"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers"

17. The application was filed by M/s Deepak Nitrite Limited as domestic industry. There are three more producers of Sodium Nitrite in the Country, apart from the petitioner namely, Punjab Chemicals & Pharmaceuticals Limited, National Fertilizer Limited and Rashtriya Chemicals and Fertilizers Limited. However, none of the other domestic producers has submitted any information to support the petition. As per the information available, the production of petitioner accounts for 87% of Indian product and, therefore, the production of the petitioner accounts for a major proportion in the Indian production of the subject goods. The Authority, therefore, concludes that the petitioner constitutes domestic industry within the meaning of the Rules.

E. Assessment of Dumping – Methodology and Parameters

E.1 Views of the Domestic industry

18. The Domestic Industry, in brief, has claimed the following:

- i) Sodium Nitrite has a long history of continued dumping in the country for more than a decade from EU as well as China.
- ii) None of the European exporters has responded to the Authority with prescribed questionnaire response.
- iii) The European producers have continued to dump the material in the Indian market.
- iv) European and Chinese producers compete with each other both in Indian market and third countries. The import prices from both the countries are almost at the same level. Revocation of anti dumping duty on EU would divert exports to India.
- v) There has been an increase in raw material price and consequently cost for both the exporters as well as the domestic industry. However, increase in import price is much less than increase in costs on account of raw materials (international RM prices). This shows dumping. Further, this has resulted in price suppression.
- vi) In the absence of any evidence of price or cost in EU, petitioner has determined Normal Value in EU on the basis of cost of production in India, duly adjusted by considering petitioner's procurement price of raw materials after adjusting for customs duty, international price of utilities, consumption norms of the petitioner and conversion cost to the petitioner after excluding selling & distribution and interest cost.
- vii) Alternatively, the petitioner has determined normal value based on export price of Sodium Nitrite in EU from India, after excluding ocean freight in accordance with Section 9A(1)(c)(i).
- viii) Alternatively, the petitioner constructed the normal value determined by the USA in the investigations conducted by them. The normal value was determined by them on the basis of price in EU (BASF, one of the European

- producers had cooperated with the investigating authority in the US case). Thus, the petitioner constructed the selling price in EU determined by US authorities by considering the information available in public domain. The normal value determined by the US authorities has been appropriately adjusted for the increase in the raw materials costs over the relevant period.
- ix) The fact that the normal value determined on the basis of estimated selling price in EU is far higher than the normal value determined on the basis of constructed normal value establishes why the European producers prefer non cooperation with the Designated Authority. They are well aware that the normal value and dumping margin would be significantly higher if they file questionnaire response.
 - x) Export Price - Petitioner has relied upon the IBIS data to assess the volume and value of subject import in India. The export price has been determined as the weighted average import price into India, which has been adjusted for expenses such as ocean freight, marine insurance, commission, port expenses, inland freight and bank charge; which may have been incurred by the exporter for exporting the material to India in order to determine ex-factory export price.
 - xi) Dumped imports from EU have remained significant and continue to hold significant market share. Further, the benchmark form of anti dumping duty has been insufficient as it is far lower than the actual prices prevailing in the current period.

E.2 Views of the opposing interested parties

19. None of the opposing interested party has filed any questionnaire response or legal submission, or has otherwise provided necessary information during the course of the present investigation.

E.3 Examination by the Authority

a) Normal value

20. The Authority had sent questionnaires to the known exporters/producers from the subject territory, advising them to provide information in the form and manner prescribed. None of the exporters/producers in EU has cooperated with the Authority in this investigation. In view of non-cooperation by the exporters/producers in EU, the Authority has considered 'facts available' on record.

Methodology adopted for constructing Normal Value

21. In the absence of any verifiable information in the form and manner prescribed, the Authority has determined normal value on the basis of constructed value, by

adopting best estimates of cost of production. Methodology for determination of normal value is as follows

- i) Prices of major inputs have been considered on the basis of prevailing international price.
- ii) Consumption of raw materials per unit of production and the conversion costs have been considered on the basis of best information/data available on record, that is, on the basis of information/data of the domestic industry.
- iii) Selling, general & administrative costs have been taken on the basis of best information/data available on record, that is, on the basis of information/data of the domestic industry.
- iv) Profit has been taken @ 5% of ex-factory costs.
- v) By adopting this method, the normal value which is determined is mentioned in the Dumping Margin Table below.

b) Export Price

22. The petitioner determined export price on the basis of transaction wise data provided by IBIS. The Authority obtained transaction wise data of imports of the subject goods from DGCI&S. On comparison, it was found that the volume of imports reported by DGCI&S was higher than IBIS. The Authority has, therefore, adopted DGCI&S data for determining the export price of the subject goods to India. During the POI the CIF value of weighted average export price was Rs. 31,573/MT (US\$ 597.13/MT). Since the price is CIF export price, the Authority has determined ex-factory export price as per facts available on record. After making the adjustments, on account of ocean freight @ US \$ 80 PMT, marine insurance @ 0.5%, commission @ 3%, inland freight, @ 0.5%, port expenses @ 0.5% and bank charges @ 0.5%, the ex-factory export price which is determined is mentioned in the Dumping Margin Table below.

c) Dumping Margin

23. On the basis of the normal value and export price so determined at ex-factory level; the dumping margin during the POI for all exporters/producers from European Union which is determined is mentioned in the Dumping Margin Table below.

S.No.	Particular	Unit	POI
1	Exchange Rate	USD/INR	52.88
2	Normal Value	US\$/MT	***
3	Net Export Price	US\$/MT	***

4	Dumping Margin	US\$/MT	***
5	Dumping Margin - %	%	***
6	Dumping Margin Range	%	20-30

Injury

F.1 Views of the domestic industry

24. The Domestic Industry, in brief, submitted as follows:

- i. Demand for the product has shown increasing trend over the period.
- ii. Imports from EU increased in 2010-11 and even though it declined thereafter, the volume of imports in investigation period was higher than the volume of imports in 2009-10. Further, the volume of imports is significant, considering that the present investigation is a sunset review investigation.
- iii. The share of dumped imports has switched between EU and China depending on the relative price difference between the two sources.
- iv. The imports are still continuing in significantly increased volumes and are being reported at low and dumped prices.
- v. Imports from EU constitutes significant share in relation to production and consumption in India.
- vi. Price undercutting is significantly positive. Reference duty is significantly below the CIF import price and, therefore, remained insufficient in protecting domestic industry from dumping of the product in the country. Resultantly, the domestic industry is suffering significant price suppression being caused by dumped imports.
- vii. Positive price undercutting by dumped imports of the product in India adversely affected the domestic industry, as evidenced by decline in sales and market share.
- viii. Price suppression led to a situation wherein the domestic industry suffered significant deterioration in its performance in respect of profits, return on investment and cash flow. Even the sales volumes declined.
- ix. Price suppression establishes the likely adverse price effect of dumped imports on domestic industry in the event of expiry of the anti dumping duty in force.
- x. Cessation of anti dumping duty is likely to lead to continued dumping and injury to the domestic industry. This is clearly established by (i) significant price undercutting, (ii) price underselling, (iii) significant capacities in Europe (BASF is the major producer of Sodium Nitrite in EU and holds a capacity of 80,000 MT per

- annum), (iv) imposition of anti dumping duty by the US, which is now likely to be extended (as evidenced by the fact that US has undertaken expedited expiry review), (v) decline in exports from EU to the US, (vi) significant current exports from EU to India, (vii) increase in import price far below increase in costs and resultant inability of domestic industry to increase its prices in proportion to increase in cost, and (viii) the fact that the domestic industry is suffering material injury at present.
- xi. The circumstances, which were prevalent at the time of previous investigations, are very much in existence even till date. There has been no change in the circumstance, which could suggest that dumping would not recur at the aggravated level at which it was at the time of previous investigations.
 - xii. Imports from China PR are also attracting anti dumping duty. Further, the petitioner has sought modification in the form of duty and enhancement in the quantum of duty on imports from China. The authority has initiated midterm review investigations. Once the domestic industry is adequately protected against dumping from China, the imports from EU would suffer enhanced injury from European imports.
 - xiii. Considering the huge production capacities of the subject goods in the subject territory and the export orientation of European producers 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 industry.
 - xiv. Price suppression indicates the likely adverse price effect of dumped imports on domestic industry in the event of expiry of the anti dumping duty in force. In the event of revocation of anti dumping duties, the domestic industry would face much bigger threat of imports from the subject territory.
 - xv. Factors like volume and prices of imports not sold at dumping prices; contraction in demand; changes in the patterns of consumption; trade restrictive practices of and competition between the foreign and domestic producers; developments in technology; the export performance and productivity of the domestic industry, have not caused claimed injury to the domestic industry.
 - xvi. Factors such as positive price undercutting and price underselling; import causing price suppression, deterioration in performance of the domestic industry in respect of sales volumes, market share, profits, return on investment and cash flow establish that the injury to the domestic industry is being caused by dumped imports.

F.2 Views of the opposing interested parties

25. None of the opposing interested party has filed any questionnaire response or legal submission, or has otherwise provided necessary information during the course of the present investigation.

F.3 Examination by the Authority

26. Rule 11 of the Anti Dumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “..... taking into account all relevant facts, including the volume of dumped imports, their effects on prices in the domestic market for the like articles and the consequent effect of such imports on domestic producers of such articles.....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been 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 suppress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

27. For the examination of the impact of the dumped imports on the domestic industry in India, the indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude of margin of dumping etc. have been considered in accordance to the Annexure II of the rules supra.

28. Present investigation is a sunset review investigation of the anti dumping duty in force. Rule 23 provide that provisions of Rule 11 shall apply on mutatis mutandis basis. The Authority has therefore, determined injury to the domestic industry considering, mutatis mutandis, provisions of Rule 11 read with Annexure II. Further since anti dumping duties are in force on imports of product under consideration, the Authority considers that the fact of existing anti dumping duties on the product imported from the subject territory is required to be considered while examining the injury to the domestic industry. The Authority has examined whether existing measures are not sufficient to counteract the dumping which is causing injury.

I. Volume Effect -

29. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in

absolute terms or relative to production or consumption in India. In this regard, Annexure II (ii) of the AD Rules provides as under:

“While examining the volume of dumped imports the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

a.) Assessment of Demand and Market Share

30. For the calculation of the domestic consumption/demand of the product under consideration, the Authority has added sales volume of the domestic industry and other Indian producers to the total imports into India. Imports for the purpose have been determined on the basis of transaction wise import data received from DGCI&S. Demand for the product over the injury period was as follows.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Sales of domestic industry	MT	25,679	26,378	25,020	24,599
Sales of other domestic producers	MT	3,955	4,127	3,871	3,754
Imports-EU	MT	2,595	5,776	4,703	3,908
Imports – China PR (attracting ADD)	MT	11,332	7,163	10,259	13,686
Imports – Other countries	MT	89	213	369	143
Demand/consumption	MT	43,650	43,656	44,221	46,089
Market share in Demand					
EU	%	5.95	13.23	10.63	8.48
China PR	%	25.96	16.41	23.20	29.69
Other Countries	%	0.20	0.49	0.83	0.31
Domestic Industry	%	58.83	60.42	56.58	53.37
Other Indian Producers	%	9.06	9.45	8.75	8.15

31. The Authority notes that:

- i. The demand for the product under consideration has shown an increase over the injury period.
- ii. Market share of the subject territory increased in 2010-11 and thereafter declined till POI but remained significant.
- iii. Market share of the domestic industry has increased in 2010-11 and declined thereafter till the POI.

b.) Import Volume and Market Share

32. The information regarding imports and market share is provided in the table below.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Imports-EU	MT	2,595	5,776	4,703	3,908
Imports – China PR (attracting ADD)	MT	11,332	7,163	10,259	13,686
Imports – Other countries	MT	89	213	369	143
Total Imports	MT	14,016	13,152	15,330	17,736
Imports in relation to					
Total Imports	%	18.52	43.91	30.67	22.03
Total Production	%	7.83	16.71	13.61	11.30
Consumption	%	5.95	13.23	10.63	8.48

33. The Authority notes from the above that:

- i. The volume of imports from EU increased between 2009-10 and 2010-11. Though the imports from EU declined in 2011-12 and then in the POI as compared to 2010-11, the volume in POI was significant and higher than the base year 2009-10.
- ii. The market share of subject territory in total imports is significant.
- iii. The market share of imports from the subject territory in relation to production and consumption in India is also significant. It is noted that this is despite the anti dumping duty levied on the imports of the subject goods from the subject territory.

II. Price Effect

34. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules states as under:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

a.) Price Undercutting and Price Underselling

35. It was examined whether there has been a significant price undercutting effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of recurrence of adverse price effect after revocation of duty. Since the present investigation is a sunset review investigation, the Authority is required to consider what would be the extent of price undercutting, if the current duties are allowed to cease. In this context, the Authority has undertaken an analysis of the net sales realization, non-injurious selling price of the domestic industry and the landed price of the imports from the subject territory during the period of investigation.
36. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting and price underselling. For this purpose, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with the landed value of imports from the subject territory. The net sales realization was arrived at after excluding excise duty, rebate, discount and taxes. Landed value of imports has been calculated by adding 1% landing charge, applicable basic customs duty and cess to the CIF value of the subject imports. The landed value of imports was compared with net sales realization of the domestic industry so determined. The trend of undercutting and underselling is given below:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Non-injurious Price	Rs./MT				***
Cost of Sales	Rs./MT	***	***	***	***
<i>Indexed</i>		100	102	141	161
Net Sales Realization	Rs./MT	***	***	***	***
<i>Indexed</i>		100	104	115	121
Landed price of imports	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	0-10	0-10	0-10	Negative
Price Underselling	Rs./MT				***
Price Underselling	%				***
Price Underselling	% Range				0-10

37. The Authority notes that the landed price of imports were above benchmark of anti dumping duty and the selling prices of domestic industry. The domestic industry has claimed that if the landed price of imports from Europe is not undercutting the selling price in the POI it is only in view of the fact that the domestic industry has to match its prices with the landed price of dumped imports from various sources, which includes imports from China and Europe. The volume of imports from China is significantly high and having an adverse effect on the sales volume and market share of the domestic industry. The domestic industry had separately filed a petition seeking midterm review and suitable enhancement in the quantum of anti dumping duty in respect of imports from China. The Authority has initiated mid-term review investigations in respect of imports from China. Since landed price of imports from EU is below the NIP of the domestic industry, revocation of anti dumping duty shall have significant adverse price impact on the domestic industry and shall result in significant price underselling. The Authority examined price undercutting in respect of imports from China and cumulatively in case of dumped imports from China and EU. Table below shows the factual position:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Net Sales Realization	Rs./MT	***	***	***	***
Landed price of imports					
➤ China	Rs./MT	24,521	27,243	28,298	30,460
➤ EU	Rs./MT	27,534	27,501	29,884	34,352
➤ China & EU	Rs./MT	25,083	27,358	28,797	31,324
Price Undercutting					
➤ China	Rs./MT	***	***	***	***
➤ EU	Rs./MT	***	***	***	***
➤ China & EU	Rs./MT	***	***	***	***
Price Undercutting		***	***	***	***
➤ China	%	***	***	***	***
➤ EU	%	***	***	***	***
➤ China & EU	%	***	***	***	***
Price Undercutting					
➤ China	% Range	5-15	0-10	5-15	0-10

➤ EU	% Range	0-10	0-10	0-10	Negative
➤ China & EU	% Range	5-15	0-10	0-10	0-10

b.) Price suppression/depression

38. The Authority notes that in a sunset review investigation, the Authority is required to examine whether there was a significant adverse price effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of significant adverse price effect in case of revocation of anti dumping duty.

39. To examine price suppression and depression effect, the Authority has examined cost of sales and selling price per unit of the domestic industry during the POI and the injury period. The trends in this regard are given in the table below:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs./MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>102</i>	<i>141</i>	<i>161</i>
Selling Price	Rs./MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>104</i>	<i>115</i>	<i>121</i>

40. The Authority notes that cost of sales of the domestic industry for the product increased significantly over the injury period. Whereas the cost of production increased by 61%, the selling price increased only by 21%. The imports were suppressing the prices of the domestic industry in the market.

III. Economic Parameters Affecting Domestic Industry

41. Annexure II to the AD Rules, the determination of injury shall involve an objective examination of the consequent impact of the imports of subject goods on domestic producers of the subject goods. The relevant extract of the said Rule is reproduced herein below -

“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 utilization of capacity; factors affecting domestic prices, the magnitude of the

margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

a) Sales, Capacity, Production, and Capacity Utilization

42. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry. Capacity, production, capacity utilization and sales volumes of the domestic industry have been as under:-

Particulars	Unit	2009-10	2010-11	2011-12	POI
Gross Demand	MT	43,599	43,656	44,221	46,089
Operating Capacity	MT	***	***	***	***
Production-Sodium Nitrite	MT	***	***	***	***
Total Production: SNI+SNA	MT	***	***	***	***
Capacity Utilization	%	***	***	***	***
Domestic Sales	MT	***	***	***	***
Captive Consumption	MT	***	***	***	***
Domestic Sales including Captive	MT	***	***	***	***

43. The Authority notes that: -

- a. Production, sales volumes and capacity utilization of the domestic industry increased up to 2010-11 and then declined in 2011-12 and the POI.
- b. The sales volume of the domestic industry including captive consumption increased in 2010-11 and then declined in 2011-12 and the POI.
- c. The petitioner submitted that the existing capacity dedicated for Sodium Nitrite is ***MT in the POI. The capacity was enhanced by ***MT in November 2012 and commercial production started in June 2013. However, the company has not been able to undertake full-fledged commercial production at the new plant.

- d. Despite significant demand for the product in the Country, the domestic industry has not only lost sales volumes but also has not been able to utilize new production facilities in view of presence of dumped imports from EU and China.

b) Market Share

44. Market share of the domestic industry and others moved as follows:

	Unit	2009-10	2010-11	2011-12	POI
Domestic industry	%	58.78	60.42	56.58	53.37
Imports from EU	%	5.95	13.23	10.63	8.48
Imports from China	%	25.99	16.41	23.20	29.69
Other domestic producers	%	9.07	9.45	8.75	8.15
Imports from other countries	%	0.21	0.49	0.83	0.31

45. It is noted from the table above that whereas the market share of dumped imports has remained significantly high in the POI as compared to the base year; the market share of Indian producers has declined. The petitioner has claimed that given the significant volumes of dumped imports, it follows that the market share of the subject territory would further increase significantly should the current anti dumping duty cease.

c) Profitability

46. The cost of sales, selling price and profit and loss of the domestic industry shows as follows:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs./MT	***	***	***	***
<i>Trend</i>		100	102	141	161
Selling price	Rs./MT	***	***	***	***
<i>Trend</i>		100	104	115	121
Profit/Loss	Rs./MT	***	***	***	***
<i>Trend</i>		100	111	-11	-73
Profit/Loss	Rs. Lacs	***	***	***	***
<i>Trend</i>		100	115	-11	-69

47. It is noted that: -

- a. Cost of sales increased significantly during 2011-12 and in the POI.
- b. Selling price of the domestic industry also increased in the same period. However, the increase in selling price was far lower than the increase in the cost.
- c. The information provided by the domestic industry showed that increase in costs is due to increase in the cost of major raw materials – caustic soda, ammonia and nitric acid.
- d. Whereas both the selling price and the costs have increased; the increase in cost is significantly higher than the increase in selling price. This has resulted in losses in 2011-12 and the POI from a situation where the domestic industry was earning profits in the preceding two years. The losses increased significantly in the investigation period.

d) Cash Profit and Return on Investment

48. Cash profit and return on investments earned by the domestic industry from the sales of the subject goods in the domestic market were as under: -

Particulars	Unit	2009-10	2010-11	2011-12	POI
Profit/loss on domestic sales	Rs Lacs	***	***	***	***
<i>Trend</i>		100	115	(11)	(69)
Profit before interest & tax	Rs Lacs	***	***	***	***
<i>Trend</i>		100	109	(1.72)	(49.76)
Cash Profit	Rs Lacs	***	***	***	***
<i>Trend</i>		100	107.40	4.11	(42.35)
Return on Investments	%	***	***	***	***
<i>Trend</i>		100	119.00	(1.55)	(48.57)

49. The Authority notes that:

- i) Profit, cash profit and return on investment increased in 2010-11. The profits, however, plummeted thereafter to the extent that the domestic industry suffered financial losses in 2011-12, which increased further in the period of investigation.
- ii) Return on investment and cash profits have followed the same trend as that of the profits.

iii) Cash profits and return on investment increased in 2010-11. The same, however, declined sharply thereafter to the extent that the domestic industry suffered cash losses and negative return on investment in 2011-12, which increased further in the POI.

e) Inventories

50. Inventory position of the domestic industry is given in the table below:

Inventories	Unit	2009-10	2010-11	2011-12	POI
Average stock	MT	***	***	***	***
Trend	Indexed	100	143	156	410

51. Inventories with the domestic industry increased over the injury period. Petitioner has claimed that it cannot afford to hold high stock of inventories and have to dispose of the same at whatever prices it can sell the product in the domestic as well as the export market. Despite this the level of inventories increased over the injury period.

f) Employment, Wages and Productivity

52. The number of employees employed by the domestic industry, its productivity and wages paid show as follows:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Employment	Nos.	***	***	***	***
Trend	Indexed	100	91	94	101
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	105	136	101
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	114	110	102

53. The Authority notes that employment with the domestic industry has remained at the same level. Wages paid have increased up to 2011-12 and then declined in the POI. Productivity per employee of the domestic industry has improved up to 2010-11 and then declined in 2011-12 and the POI.

g) Factors affecting domestic prices

54. Consideration of the import prices from the subject territory, dumped imports from China and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market would show that the landed value of imported material from the subject territory and dumped Chinese imports is cumulatively below the selling price of the domestic industry, causing price undercutting and price underselling in the Indian market. The benchmark for the Indian producers' prices is the import prices from the subject territory and China. There is no viable substitute to this product. Demand for the product was showing significant jump and could not have been a factor responsible for price suppression faced by the domestic industry. It is, thus, evident that the only factors responsible for the domestic industry's prices are the import prices of the product from EU & China and the cost of production of the domestic industry. As the information would show, whereas the cost of production increased, the import prices were much lower and therefore, prevented the domestic industry from increasing their prices in line with the increase in the cost.

h) Magnitude of Dumping Margin

55. The Authority notes that dumping margin from the subject territory is more than the de-minimis limits.

i) Ability to raise fresh capital

56. The domestic industry is a multi product company. Therefore, dumping of the subject goods has not affected the ability of the domestic industry to raise capital.

j) Growth

57. The analysis of the growth of the domestic industry over the previous years in respect of some important parameters reflects the following trend:

Growth (year to year)	Unit	2009-10	2010-11	2011-12	POI
Production	%	-	38.13	(10.70)	(1.76)
Domestic Sales	%	-	4.06	(6.20)	(3.00)
Cost of Sales	%	-	***	***	***
Selling Price	%	-	***	***	***

Profit/ Loss per unit	%	-	***	***	***
Return on Capital Employed	%	-	***	***	***

58. The Authority notes that the negative trend is observed in most of the price parameters as well as the sales volume.

k) Conclusion on Injury

59. In view of the above, the Authority concludes that –

- a) The imports from EU are still continuing in significant volumes and are being reported at dumped prices.
- b) The domestic industry is suffering price suppression. Whereas both cost of production and selling price increased, the increase in selling price was far lower than the increase in cost of production.
- c) Price suppression led to a situation where in the domestic industry suffered significant deterioration in its performance in respect of profits, return on investment and cash flow.
- d) Domestic industry lost sales volumes despite increase in demand for the product in the Country.
- e) Imports from China PR are also attracting anti dumping duty and the Authority is at present conducting midterm review investigations.
- f) Price suppression indicates the likely adverse price effect of dumped imports on domestic industry in the event of expiry of the anti dumping duty in force. In the event of revocation of anti dumping duties, the domestic industry would face threat of imports from the subject territory.
- g) There is continued dumping from the existing sources and consequent injury to the domestic industry.

Likelihood Of Continuation Or Recurrence Of Dumping & Injury

60. The domestic industry in its submissions claimed that the requirement under a sunset review is to examine whether revocation of anti dumping duty is likely to lead to continuance or recurrence of dumping and injury to the domestic industry. All such factors brought to the notice of the Authority have been examined to find if there is a likelihood of continuation of dumping and injury in the event of withdrawal of the duty. The Authority has determined whether the subject goods are likely to continue to enter the Indian market at dumped prices in the event of withdrawal of anti

dumping duties and whether injury to the domestic industry is likely due to these dumped imports if the duty is removed.

61. In addition to the examination of continued dumping and injury, likelihood of continuation or recurrence of dumping and injury to the domestic industry has also been examined by the Authority on the basis of information and evidence as submitted by various interested parties during the course of the investigations.

62. The petitioner has claimed that: -

- i) The exporters in the subject territory have built capacities far in excess of their domestic demand. BASF alone holds a capacity of 80,000 MT for the production of product under consideration.
- ii) The prices prevailing in Indian market are quite attractive for the foreign producers to export significant volumes in case anti dumping duty is revoked.
- iii) The domestic industry has suffered continued injury from dumped imports from EU and China. In the past also, the authority found that the domestic industry has suffered injury. This clearly establishes that the domestic industry is vulnerable to injury from dumped imports.
- iv) The landed price of imports is far lower than the cost of production, selling price and the NIP. Imports are already causing price suppression. Resultantly, the domestic industry was unable to increase its prices when the costs were increasing in the current POI. Therefore, the existing form of anti dumping duty has been insufficient in providing any relief to the domestic industry.
- v) European and Chinese producers compete with each other as can be seen from the relative import volumes from the two sources over the injury period.
- vi) The analysis of data of volume of imports in post POI period indicates that the volume of imports in the six months period post POI from EU has remained significant as can be seen in the table below.

SN	Parameters	Unit	2009-10	2010-11	2011-12	Oct'11-Sep'12	Oct'12-Mar'13 (Post POI)
1	Imports-Volume						
a	EU	MT	2,595	6,335	4,051	3,474	1,116
b	China-attracting ADD	MT	11,332	7,746	9,965	12,914	7,411
c	Other Countries	MT	89	65	75	0	0
d	Total Imports	MT	14,016	14,146	14,091	16,388	8,527
2	Share in Imports						

a	EU	%	19%	45%	29%	21%	13%
b	China-attracting ADD	%	81%	55%	71%	79%	87%
c	Other Countries	%	1%	0%	1%	0%	0%

- vii) Further, the profitability per unit has declined in the post POI period. This has resulted in increased losses to the domestic industry.
- viii) Cessation of anti dumping duty is likely to lead to continued dumping and injury to the domestic industry. This is clearly established by price underselling; significant capacities in Europe (BASF is the major producer of Sodium Nitrite in EU and holds a capacity of 80,000 MT per annum); imposition of anti dumping duty by the US; decline in exports from EU to the US; significant current exports from EU to India; increase in import price far below increase in costs and resultant inability of domestic industry to increase its prices in proportion to increase in cost and the fact that the domestic industry is suffering material injury at present.
- ix) The circumstances, which were prevalent at the time of previous investigations, are very much in existence even till date. There has been no change in the circumstance, which could suggest that the dumping would not recur at the aggravated level at which it was at the time of previous investigations.
- x) Imports from China PR are also causing injury and attracting anti dumping duty. Further, the petitioner has sought modification in the form of duty and enhancement in the quantum of duty on imports from China. The authority has initiated midterm review investigations. Once the domestic industry is adequately protected against dumping from China, the imports from EU would cause enhanced injury.
- xi) In the event of revocation of the anti-dumping duty, the product is likely to be dumped more intensively and undercut the prices of the domestic industry more significantly.
- xii) USA has earlier imposed anti dumping duties on imports from Europe which were extended further in 2008 after conducting a sunset review. In the sunset review conducted by US, the US authorities found as follows. Relevant extracts from the US findings are enclosed with these submissions.
- xiii) There is only one producer of Sodium Nitrite in Germany i.e. BASF AG. BASF informed the US Authorities that the company did not participate in the investigation conducted by the Designated Authority because of low overall importance of the Indian market to BASF. The company stated that the anti dumping duty imposed by India did not have any impact on BASF. Based on facts, US Authorities held that the US domestic industry suffered continued injury and extended anti dumping duties. BASF informed US Authorities that it faced competition in the European market. Even though, the names of the competitors

have been suppressed, it is evident that they have referred to the competition from China. Thus, BASF is facing competition from Chinese imports in Indian, European and US markets.

- xiv) US is at present conducting sunset review in the present product. As per notification issued by the US authorities (copy enclosed), the US is conducting an “expedited review”. Relevant extracts from the US laws on how expedited reviews are conducted is enclosed with this letter. It would be seen that in case of expedited review, the US authorities do not collect further evidence for the present period, does not conduct hearing and merely relies upon the evidence on record. This de-facto implies that the present anti dumping duty would get further extended in USA. Enhancement of anti dumping duty by the US shall further imply likelihood of injury to the Indian domestic industry.
- xv) Domestic industry has suffered injury in the current period. In fact, so significant has been injury to the domestic industry that the domestic industry was constrained to file an application requesting imposition of safeguard duty. The Director General has made a recommendation of imposition of 30% safeguard duty on all imports into India (relevant extracts from the findings are enclosed). This clearly establishes injury being suffered by the domestic industry.

Examination by the Authority

63. The present investigation is a sun set review of anti-dumping duties imposed on the imports of subject goods from EU. Under the Rules, the Authority is required to determine whether continued imposition of anti dumping duty is warranted. This also requires examination of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In the present investigation, as there are continued dumped imports, the Authority is not required to examine whether revocation of duty is likely to lead to continued dumping of the product. However, considering the fact that there are favorable market conditions in the Indian market with respect to demand and price for the subject goods which are likely to get a boost from the fact that there is decline in exports from EU to the US, the Authority has reason to believe that dumping will intensify if the duty is revoked. It is a matter of fact that despite anti dumping measures in force, the subject territory could maintain a significant presence in the Indian market to the detriment of the domestic industry. The following analysis speaks about the likelihood of intensification of dumping and aggravated injury to the domestic industry in the event of revocation of the duty:

a. Level of current and past dumping margin

- i) Volume of import of the subject goods, originating in or exported from the subject territory, has significantly increased despite the existence of anti-dumping duties. Given the significant price suppression during the injury period of the present investigation and considering the capacity in EU and demand in India, the volume of dumped import is likely to increase further in the event of revocation of anti-dumping duty. It is evident that the exports of the subject goods, originating in or exported from the subject country, were continued to be made at dumped prices injuring the domestic industry despite the anti-dumping duty in force. The Authority, therefore, concludes that the dumped imports of the subject goods from the subject territory are likely to intensify in the event of revocation of the anti-dumping duties.

b. Price attractiveness of Indian market

- ii) European and Chinese producers compete with each other both in Indian market and third countries. The share of dumped imports has switched between EU and China depending on the relative price difference between the two sources. The import prices from both the countries are almost at the same level. Revocation of anti dumping duty on EU would divert exports to India.

c. Market share of EU in the Indian market

- iii) The Authority notes that despite the anti-dumping duty in place, the subject territory has maintained a significant share in the Indian market during the injury period.

c. Third Country Dumping

- iv) Exports of product under consideration from EU and China to third countries are also at dumped prices. US imposed on EU and further imposed anti dumping and anti subsidy duties on China. The exporters from EU and China are thus resorting to dumping practices in global market, in competition to each other, since years and have been dumping not only into India but also to third countries. The US has now initiated SSR on imports from these countries. In the event of revocation of anti dumping duty against EU, the exporters would intensify dumping and would divert their exports which were meant for US markets to India due to heavy anti-dumping duty imposed by US. Further, Europe and China's exports to US have declined.

64. Based on the above, the Authority concludes that the dumping and injury would continue if the anti dumping duty is revoked.

F. Causal link

65. Annexure-II to the Rules provides as follows with regard to Causal Link:

“It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the Designated Authority. The Designated Authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter-alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.”

66. The Authority examined whether other factors listed under the Rules caused injury to the domestic industry.

a) Volume and value of imports not sold at dumping prices:

67. It is noted that the domestic industry is facing injury from dumped imports from the subject territory and China. Imports from China are also at dumped prices and are also attracting anti dumping duty. The domestic industry has filed a petition seeking midterm review of anti dumping duty on imports from China and the authority has initiated. Imports from other countries are not significant in volume. It cannot, therefore, be said that the volume of imports not sold at dumping prices have also caused injury to the domestic industry.

b) Contraction in demand:

68. Demand of the product under consideration has not registered any negative growth. Instead, it has increased and shown a positive growth. Thus, contraction in demand

is not a possible reason which could have contributed to the claimed injury to the domestic industry.

c) Changes in the patterns of consumption:

69. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is not a factor that could have contributed to the injury to the domestic industry.

d) Trade restrictive practices of and competition between the foreign and domestic producers:

70. There is no trade restrictive practice which could have contributed to the claimed injury to the domestic industry.

e) Developments in technology:

71. Technology for production of the product has not undergone any change nor are there any likely changes in the coming future. Developments in technology are, therefore, not a factor of injury.

f) Export performance:

72. The petitioner exports the product under consideration. The export volume has increased over the injury period. However, information relating to domestic sales has been taken into consideration for assessment of injury to the extent possible.

Particulars	Unit	2009-10	2010-11	2011-12	Oct'11-Sep'12
Export	MT	***	***	***	***
Trend	Indexed	100	115	145	148

g) Performance of other products produced and sold by the domestic industry:

73. The petitioner is a multi product company. The information provided for the product under consideration does not contain any information of other products. The authority has relied upon information with regard to product under consideration only for the present purpose. Therefore, the performance of other products did not cause the claimed injury to the domestic industry.

74. In view of the foregoing, the Authority holds that other factors listed under the Rules have not caused claimed injury to the domestic industry. The Authority further examined factors that establish that injury to the domestic industry is caused by continued dumping.

(i) Dumped imports are available at prices lower than the selling price, cost of production and NIP of the domestic industry. Consequently, the consumers are increasingly switching over to imports, thus, forcing the domestic industry to offer sub-optimal prices. Inability of the domestic industry to increase its prices in view of increases in cost of production is due to presence of dumped imports in the country.

- (ii) Even when the domestic industry has not increased its prices in proportion to cost increases, it has lost sales volumes. Thus, the decline in sales volumes by the domestic industry is because of presence of dumped imports in the market.
- (iii) Inability of the domestic industry to raise prices in proportion to cost increases led to significant decline in profits, cash profits and return on investment. Thus, the decline in profits, cash profits and return on investment is due to dumping of the product in the country.
- (iv) The imports are occurring at dumped prices and shall cause price underselling in the market in the event of cessation of anti dumping duty. Cessation of anti dumping duty shall result in significant price underselling.
- (v) The decline in performance of the domestic industry on account of profits, return on investment, cash flow and sales volumes is on account of dumped imports.

75. It is, thus, concluded that the injury to the domestic industry is due to continued dumping of the product in the country. Further, the product is likely to be exported at dumping prices in the event of cessation of anti dumping duty and the domestic industry is likely to suffer injury in case the present duty is not extended further.

G. Indian Industry's interest

76. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to reestablish 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 continuation of anti dumping duties might affect the price levels of the products manufactured by using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the anti dumping measures. On the contrary, continuation 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 continuation of anti dumping measures would not restrict imports from the subject territory 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.

H. Magnitude of injury and injury margin

77. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports from the subject territory to determine injury margin. The injury margin has, thus, been worked out as follows:

Particular	USD/MT
Non Injurious Price (NIP)	***
Landed Price	***
Injury Margin	***
Injury Margin-%	***
Injury Margin-% Range	0-10

I. Post Disclosure Statement Submissions By The Interested Parties

J 1. Post Disclosure Statement submissions by the opposing Interested Parties

78. None of the exporters/importers/users and other opposing interested parties has made any post Disclosure Statement submissions.

J 2. Post Disclosure Statement submissions by the Domestic Industry

79. Following are in brief the post Disclosure Statement submissions made by the domestic industry:

- (a) Non-injurious price may be re-determined confirming to AD Rules and past methodology applied by the Authority in this regard.
- (b) Product under consideration continues to be exported to India below its normal value resulting in dumping from the subject territory.
- (c) Domestic Industry has suffered continued injury in spite of existing anti dumping duty.
- (d) Recommend the same form of duty as was recommend in the previous investigations and express the duty in US\$ terms.

J 3. Examination by the Authority

80. The Authority has reached the conclusion that the post Disclosure Statement arguments of the domestic industry are repetitive and have already been dealt with by the Authority in the Disclosure Statement and under appropriate heads in this Final Findings Notification. As far as the issue of non-injurious price is concerned, the Authority has determined the non-injurious price as per the guidelines laid down in Annexure III to the AD Rules. As far as the issue of recommending the same form of duty as was recommend in the previous investigations and expressing the duty in US\$ terms is concerned, the Authority

noted that the form of duty is decided by the Authority keeping in view the nature, circumstances and merits of the individual case and accordingly, the form of duty and the currency of the duty has been determined in this case.

Conclusion and Recommendation

81. The Authority notes that none of exporters from the subject territory and importers/users and other opposing interested parties in India participated in the investigation, i.e., they neither submitted post initiation responses nor participated in the Oral Hearing nor made any post Disclosure Statement submissions. Having regard to the contentions raised, information provided and submissions made by the domestic industry and all the facts available before the Authority and on the basis of above analysis including analysis of likelihood of continuation of dumping and injury and post Disclosure Statement submissions made by the Domestic Industry, the Authority concludes and recommends that in order to remove injury to the domestic industry, the Authority considers it necessary to recommend imposition of definitive anti dumping duty on all imports of the subject goods originating in or exported from the subject territory.

82. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, anti dumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government on all imports of the subject goods originating in or exported from the subject territory.

Duty Table

Sl. No	Sub-heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	10
1	2834 10	Sodium Nitrite	European Union	European Union	Any	Any	3.00	Per MT	US\$
2	2834 10	Sodium Nitrite	European Union	Any other than subject country	Any	Any	3.00	Per MT	US\$
3	2834 10	Sodium Nitrite	Any other than subject country	European Union	Any	Any	3.00	Per MT	US\$

83. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
84. An appeal against the order of the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J S Deepak)

The Designated Authority