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F. No. 15/10/2014-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi-110011

Dated the 10th June, 2015

NOTIFICATION (FINAL FINDINGS)

Subject: Sunset review of anti-dumping duty imposed on the imports of Vitamin C originating in or exported from China PR.

No. 15/10/2014 - DGAD: Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

A. BACKGROUND OF THE CASE

2. Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred to as the AD Rules or Rules), the Designated Authority (hereinafter referred to as the Authority), in the Ministry of Commerce and Industry, Department of Commerce, Government of India, appointed under the Rules supra, had in the original investigation, recommended imposition of definitive anti-dumping duty on the imports of “Vitamin-C” (hereinafter referred as the subject goods), originating in or exported from China PR and Japan vide Notification No. 10/1/97/ADD dated 25th May, 1998 and definitive anti-dumping duty was imposed by the Central Government vide Notification No. 53/98-Cus dated 24th July, 1998.

3. WHEREAS, the Authority conducted a sunset review investigation in respect of the final anti-dumping duty imposed on the imports of the subject goods vide Notification No. 53/98-Cus dated 24th July, 1998 and examined whether cessation of anti-dumping duty was likely to lead to dumping and consequent injury to the domestic industry and recommended extension of anti-dumping duty imposed on the imports of the subject goods from China PR vide Notification No. 14/14/2002-DGAD dated 31st July, 2003. The duty was extended by

the Central Government vide Customs Notification 159/2003-Customs dated 24th October, 2003.

4. WHEREAS, the Authority conducted second sunset review investigation and recommended extension of anti dumping duty vide Notification No. 15/16/2008 dated 21st May, 2009. The anti-dumping duties were imposed by the Central Government for five years vide Notification No. 67/2009-Customs dated 16th June, 2009.

5. WHEREAS, in terms of the Customs Tariff Act, 1975, the antidumping duty imposed shall unless revoked earlier cease to have effect on expiry of five years from the date of such imposition.

6. AND, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

7. AND, WHEREAS, in terms of the above provisions, Bajaj Healthcare Limited (hereinafter referred to as the applicant or the petitioner) representing the Domestic Industry has approached the Authority with a duly substantiated application requesting for continuation of the antidumping duties in force imposed by the Central Government vide Notification No. 67/2009-customs dated 16th June, 2009. The request is based on the grounds that dumping has continued in spite of imposition of antidumping duty on the import of the subject goods from China PR (hereinafter referred as the subject country) and the domestic industry continues to suffer injury on account of dumping from the subject country as the form and quantum of anti dumping duty in force has been insufficient. The applicant has further argued that expiry of the measure against the subject country would be likely to result in continuation or recurrence of dumping and injury to the domestic industry. The applicant also claims that revocation of anti-dumping measures would result in intensified injury to the domestic industry and, therefore, the duty is required to be continued for a further period of five years.

8. The application has been filed by Bajaj Healthcare Limited on behalf of the domestic producers of the subject goods in India. Further, Amoli Organics Pvt. Ltd. and Reckon Pharmachem Pvt. Ltd have supported the petition. As per the information available on record, the applicant accounts for a major proportion in Indian production of the subject goods and, therefore, constitutes the domestic industry within the meaning of the AD Rules and also satisfies the criteria of standing in terms of the Rules.

9. The Authority on the basis of prime facie evidence given by the applicant considered that initiation of sunset review proceedings in respect of the anti dumping duty in force on the imports of the subject goods, originating in or exported from the subject country would be appropriate to examine the need for continued imposition of such duties to offset dumping

and whether the injury would be likely to continue or recur if the duties were removed or varied or both.

10. Having satisfied itself on the basis of positive prima facie evidence of dumping and injury to the domestic industry given by the applicant, substantiating the need for a review, the Authority initiated the Sunset Review vide Notification No. 15/10/2014-DGAD dated 11th June 2014 in accordance with Section 9 A (5) of the Act, read with Rule 23 of the Antidumping Rules, to review the need for continued imposition of duties in force on the imports of the subject goods, originating in or exported from the subject country and whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

11. The validity of the anti-dumping duty on the imports of the subject goods from the subject country was extended by the Central Government up to and inclusive of 15th day of June, 2015, vide Notification No.33/2014-Customs (ADD) dated 23.07.2014.

12. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject country.

B. PROCEDURE

13. The procedure described below has been followed in this investigation:

- i) The Embassy of the subject country in New Delhi was intimated about the initiation of the investigation in accordance with Rules.
- ii) The Authority provided access to the copies of the non-confidential versions of the application to the known exporters and the embassy of the subject country and other interested parties in accordance with the Rules.
- iii) The Authority forwarded copies of the public notice to the following known producers/exporters in the subject country and provided them opportunity to make their views known in writing within forty days thereof in accordance with the Rules:

- (a) Baoji Oasier Bio-Tech Co. Ltd.
- (b) The TNN Development Limited
- (c) Ningbo Pharmacos International Trading Co. Ltd.
- (d) Zhengzhou Biocar Pharmaceutical & Health-Care Products Co Ltd
- (e) Dalian Sinobio Chemistry Co. Ltd.
- (f) Qingdao Dacon Trading Co., Ltd.

iv) No response or submission has been filed by any of the producers/exporters from the subject country.

v) China being a Non-Market Economy country, a Market Economy Treatment (MET) questionnaire was also forwarded to all the known producers/exporters in China PR

and the Embassy of China PR with the request to provide relevant information to the Authority within the prescribed time limit. While for the purpose of initiation the normal value in China was considered based on the cost of production of the subject goods in India, duly adjusted, the Authority informed the known producers/exporters from China PR that it examined the claim of the applicant in the light of Para 7 and Para 8 of Annexure I of Anti-dumping Rules, as amended. The exporters/producers of the subject goods from China PR were, therefore, requested to furnish necessary information/sufficient evidence as mentioned to enable the Authority to consider whether market economy treatment can be granted to the cooperative exporters/producers in that country. However, no response has been received from the producer/exporters from China PR in this regard.

- vi) The Authority forwarded a copy of the public notice to the following known importers/consumers/consumer associations (whose names and addresses were made available to the Authority) of subject goods in India and advised them to make their views known in writing within the prescribed time limit in accordance with the Rules.
- a) Glaxo Smith Kline Pharmaceuticals Ltd.
 - b) Pfizer Ltd
 - c) Global Exim
 - d) Anglo French Drugs & Industries Limited
 - e) Piramal Healthcare Ltd
 - f) Ranbaxy Laboratories Ltd.
 - g) Dr.Reddy's Laboratories Ltd.
 - h) Meyer Organics Private Limited
 - i) Vovantis Laboratories Private Limited
 - j) Jain Irrigation Systems Limited
 - k) Parle Agro Private Limited
- vii) The following importers responded to the importer questionnaire in response to the above notification:
- a) Abbott Healthcare Pvt. Ltd., Mumbai
 - b) Pfizer Ltd., Mumbai
- viii) The following importers/ association submitted their legal submissions after the initiation:
- a) Piramal Enterprises Ltd., Mumbai
 - b) Pride Drugs and Pharma Pvt Ltd, Ahmadabad
 - c) Abbott Healthcare Pvt. Ltd.
 - d) OPPI (Organisation of Pharmaceutical Producers of India)
- ix) The period of investigation for the purpose of the present review is 1st October 2012 to 31st December 2013 (15 months). However, injury analysis covered the periods Apr'10-Mar'11, Apr'11-Mar'12, Apr'12-Mar'13 and the POI.
- x) Request was made to the Directorate General of Commercial Intelligence and

Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigation. The import information provided by DGCI&S on transaction-wise basis has been adopted in this investigation.

- xi) Exporters, producers, importers 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.
- xii) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per the Rules.
- xiii) 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.
- xiv) In accordance with the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 6th May, 2015. The parties presenting their views in the oral hearing were requested to file written submissions of the views expressed orally.
- xv) The submissions made by the interested parties during the course of the investigation and the oral hearing, have been addressed in this investigation to the extent found relevant.
- xvi) Verification of the information and data submitted by the applicant was carried out to the extent deemed necessary.
- xvii) Information provided by the interested parties 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 other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xviii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded its views on the basis of the 'facts available' and treated such parties as non-cooperative.
- xix) A Disclosure Statement containing the essential facts in this investigation which formed the basis of the Final Findings was issued to all the interested parties on 02.06.2015. The post Disclosure Statement submissions have been considered, to the extent found relevant, in this Final Findings Notification.
- xx) **** in this Final Findings Notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.
- xxi) The exchange rate for the POI has been taken by the Authority as Rs. 58.05 = 1 US\$.

C. PRODUCT UNDER CONSIDERATION AND 'LIKE ARTICLE'

Views of the Domestic Industry

14. The views of the domestic industry are as follows:
- a) The product considered in the present investigation is Vitamin- C in all its form and derivatives.
 - b) Vitamin C is also known by various synonyms such as ascorbic acid, L-Xyloascorbic Acid, 3-oxo L-Gulofuranolactone (enol form), L-3-Ketothreohexuronic Acid Lactone etc.,as described under entry number '867 of Merck Index'.
 - c) Vitamin-C is primarily used by the pharmaceuticals companies for production of various medicines. However, the product has significant uses in non- pharmaceutical industry also.
 - d) Vitamin-C is an organic chemical. It is classified under customs sub-heading no. 2936.27 under the Customs Tariff Act. Complete classification of Chapter 29 in so far as it concerns imports of the product as per Customs Tariff Act is 29362700.
 - e) The scope of the product under consideration remains the same as that of product in original investigations.

Views of Interested Parties

15. None of the opposing interested parties has made any submissions in this regard.

Examination by the Authority

16. The product under consideration in the present review investigation is Vitamin-C in all its form and derivatives, originating in or exported from China PR. Vitamin C is also known by various synonyms such as ascorbic acid, L-Xyloascorbic Acid, 3-oxo L-Gulofuranolactone (enol form), L-3-Ketothreohexuronic Acid Lactone etc., as described under entry number '867 of Merck Index'. Vitamin-C is primarily used by the pharmaceuticals companies for production of various medicines. However, the product has significant uses in non-pharmaceutical industry also. Vitamin-C is an organic chemical. It is classified under Chapter 29 of the Customs Tariff Act under customs sub-heading no. 29362700.
17. The Authority further notes that the product under consideration produced by the domestic industry is like article to the goods imported from the subject country. Product under consideration produced by the domestic industry and imported from the subject country is comparable in terms of physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. Therefore, goods produced by the domestic industry and imported from the subject country are like articles in terms of the Rules.
18. The Authority holds that the present investigation is a sunset review investigation and, therefore, the scope of the product under consideration remains the same as that of

product in original investigations.

D. STANDING AND SCOPE OF THE DOMESTIC INDUSTRY

19. The petition was filed by M/s Bajaj Healthcare Ltd. as applicant domestic industry (hereafter referred to as the petitioner or the applicant).

Views of the Other Interested Parties

20. The opposing interested parties have contended that no information has been provided evidencing the actual production data of all known producers, including the supporters, i.e., M/s Amoli Organics and Reckon Pharmachem. There is no basis to conclude that the Petitioner actually constitutes major proportion of Indian production of the subject goods and is qualified to be determined as 'domestic industry'.

Views of the Domestic industry

21. The petition was filed by M/s Bajaj Healthcare Ltd. Apart from the petitioner, there are four other producers of the subject goods in India. Amoli Organics Pvt. Ltd. and Reckon Diagnostics Pvt. Ltd. have supported the petition. The production of the petitioner along with the supporters constitutes 88% of the total Indian production in the POI. On its own also, the production of the petitioner constitutes major proportion of the total Indian production in the POI and, therefore, the petitioner constitutes domestic industry. Further, in case of sunset review, standing is not required to be examined.

Examination by the Authority

22. As regards the argument that the production of petitioner may or may not constitute a major proportion in Indian production in the POI fixed by the Authority for detailed investigations and that no information has been provided evidencing the actual production data of all known producers, including the supporters, i.e., M/s Amoli Organics and Reckon Pharmachem, the Authority notes that the production of the petitioner alone constitutes 53% of the Indian production and in such a situation, there is no need to examine the data of the supporters for the purpose of determining standing of the petitioner as domestic industry. Therefore, the petitioner constitutes domestic industry within the meaning of the anti dumping Rules and also has standing under the Rules.

E. MISCELLANEOUS ISSUES

Views of the Opposing Interested Parties

23. The views of the opposing interested parties are as follows:

- a) Even after imposition of anti dumping duty for 15 years, the applicant still contends that there has been no improvement in its performance. Thus, it is clear that the applicant has been suffering any alleged injury as a result of its own inefficiencies. In addition, the present positive performance of the applicant, which is evident from the improvement on all the key injury parameters, has resulted from its own strategic decisions such as increase in capital investments and capacity and is independent of the imposition of the anti-dumping duty on the imports of the subject goods from China.
- b) It is not in the larger interest of the public in the country that the anti-dumping duty be imposed on imports of Vitamin C as the increased cost due to imposition of the anti-dumping duty will have to be finally borne by the end-users that comprise the vast poor population requiring affordable essential medicines.
- c) The user industry in India should not be penalized for the reluctance of the domestic industry to address structural issues existing therein since the last 15 years.
- d) The applicant has argued that in spite of low volume of import of the PUC many foreign jurisdictions continue to levy anti dumping duty. The case laws cited by the applicant are of foreign jurisdictions and are not applicable in the present investigation. Secondly, the respondents would draw the attention of the DA towards the Sunset Review investigation against imports of White Cement from UAE and Iran, wherein low volume of imports was one of the major considerations for revocation of the anti dumping duty.
- e) As per the new DPCO order of May 2013, drug formulation manufacturers are bound by the maximum retail price but bulk drug manufacturing companies are not bound. Extension of anti dumping duty for another five years on bulk drug Vitamin C would severally prejudice the objective of making Vitamin C drug available at affordable prices, as manufacturing of drug formulations in India would become unviable.
- f) The applicant has claimed that Chinese exporters of Vitamin C have been found guilty of forming cartel and fixing prices by a US court. The purpose behind forming a cartel is to exploit a market by fixing higher prices. In fact as per the article provided by the applicant, the monopoly by Chinese manufacturers has resulted in increasing the prices by more than 200%. Thus, if this is the case, then the argument of the applicant with respect to continued import of low priced import from China automatically gets rejected. Further this event has occurred in US and the applicant has not provided any evidence as to whether a similar practice is being followed in India or not. Even if such a practice is being followed, the remedy lies before the Competition Commission of India and not before DGAD.
- g) The issue of monopolistic behavior of Chinese exporters does not come within the ambit of anti dumping laws. Further, any company having a monopoly over a market would look to exploit the market by charging higher prices and not lower prices.
- h) Complete and updated information for revised POI and the injury period has not been made available to interested parties even after mandated period of 40 days since the initiation of the investigation has elapsed.
- i) Data for the present period which forms part of the POI cannot be kept confidential and, therefore, analysis of both dumping and injury remains deficient for the purposes of initiation.

- j) The Authority cannot request the interested parties to file the data for the POI, when the DA has not provided this data which has been considered in the present POI as accurate and adequate.
- k) The applicant has misconstrued the relevant provisions in contending that the Authority must compulsorily initiate a sunset review investigation. A sunset review may be initiated only if an interested party submits a request with “positive information substantiating the need for a review” or if the Authority determines that “good and sufficient grounds exists” for self-initiating a review. The application filed by the applicant does not contain “positive information substantiating the need for a review”.
- l) There is a gap of almost 6 months from the end of the POI and the date of initiation. The POI must end as close to the date of initiation as possible. Further, the application submitted prior to initiation was only for the period October 2012 – September 2013, while the POI extends from October 2012 until December 2013. Effectively, the gap between the data provided by the applicant and the initiation of the investigation was 9 months and the Authority still proceeded to initiate the investigation. The applicant submitted the data for the period from October 2012 until December 2013 only on August 21, 2014, post-initiation of the investigation.
- m) Initiation of the instant investigation is bad in law, as incomplete data which fails to cover the POI cannot be considered to constitute “positive information substantiating the need for a review” within the meaning of Article 11.2 of the WTO ADA and 23(1A) of the Indian AD Rules. Submission of positive information substantiating the need for a review by an interested party is a pre-condition for the initiation of any review. In the absence of such information at the time of initiation, the Authority is not permitted under the law to initiate the review.
- n) Preference of imported product over domestic product is in view of un-quantified quality differences.

Views of the Domestic Industry

24. The views of domestic industry are as follows:
- a) The Act and the Rules do not prescribe any time limit beyond which the anti dumping duty should not be extended. The legal provision states that the anti dumping duty can be extended further from time to time, if it is found that the dumping and consequent injury to the domestic industry is likely in the event of cessation of anti dumping duty.
 - b) As regards the argument that the imposition of anti dumping duty shall be against public interests, there has been no material adverse effect on the consumers because of anti dumping duty imposed in the past. Further, none of the interested parties have provided any information to establish that imposition of anti dumping duty shall have significant adverse effect on public at large.
 - c) The objective of anti dumping duty is to prevent dumping causing injury to the domestic industry in India and not penalizing consumers.
 - d) The petitioner has provided data for the POI fixed by the Authority and a non-confidential copy of the same was also submitted to be placed in the public file.
 - e) Petition for the POI fixed by the Authority is not a necessary precondition for the interested parties to file questionnaire response and other information for the POI

fixed by the Authority.

Examination by the Authority

25. With regard to the various contentions of the interested parties, the Authority notes as follows:

- a) With regard to the contention raised by the opposing parties that there is no case of anti dumping duty in India beyond 15 years and duty should not be extended; the Authority holds that the Act and the Rules do not prescribe any time limit beyond which the anti dumping duty should not be extended. Section 9A(5) clearly provides that the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, in which case the Central Govt. may, from time to time, extend the period of such imposition for a further period of five years. Thus, the legal provision clearly states that the anti dumping duty can be extended further from time to time, if it is found that the dumping and consequent injury to the domestic industry is likely in the event of cessation of anti dumping duty. The petition filed by the domestic industry contained sufficient information on dumping and consequent injury which was examined by the Authority before initiation of investigation and, on being prima facie satisfied, the Authority had initiated the investigation.
- b) The Authority further notes that in a sunset review investigation, anti dumping duty is required to be imposed so long as the investigation shows that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.
- c) As regards the argument that the imposition of anti dumping duty shall be against public interests, the Authority notes that none of the interested parties has provided any information to establish that imposition of anti dumping duty shall have significant adverse effect on public at large. On the contrary, the domestic industry claimed that there has been no material adverse effect on the consumers because of anti dumping duty imposed in the past. The Authority also notes that the purpose of anti dumping duty is to address the unfair practice of dumping causing injury to the domestic industry.
- d) As regards anti dumping duty penalizing consumers for long period, the Authority considers that anti dumping duty is not to penalize any party. The objective of anti dumping duty is preventing dumping causing injury to the domestic industry in India. It is also noted that none of the parties has quantified how imposition of anti dumping duty has caused or is likely to cause any adverse effect on the consumers.
- e) As regards the submissions of domestic industry and interested parties concerning low volume of imports and extension of anti dumping duty in such situations, the Authority considers that the issue is not relevant in the present case, as the volume of imports in the present case is quite significant.
- f) As regards applicability of DPCO, the Authority notes that the purpose of anti dumping duty is to provide level playing field to the producers of the product. It is also noted that the consumers have not established how continuation of anti dumping duty for another

five years on Vitamin C would severally prejudice the objective of making Vitamin C drug available at affordable prices and how manufacturing of drug formulations in India would become unviable. In any case, as per Price Drug Control Order of May, 2013, Vitamin C (bulk drug) is not covered under the DPCO order. It was covered before May, 2013.

- g) As regards submissions of domestic industry and interested parties concerning cartelization and court cases outside India, the Authority considers that the same is beyond the purview of present investigation. The Authority has considered the price at which goods have been imported into India from China and the prices at which goods have been exported from China to other countries.
- h) The petition was filed considering October 2012 to September 2013 as the investigation period. The Authority initiated the investigation considering October 2012 to December 2013 as the investigation period in order to allow the Authority to adopt most recent period. The petitioner has provided data for the POI fixed by the Authority and a copy of the same was placed in the public file, which was accessed by interested parties during the course of the proceedings.
- i) As regards confidentiality claims, the Authority has considered confidentiality claims made by parties and has allowed the same considering the confidentiality provisions under the law, the claims made by the domestic industry and past practices of the Authority. The Authority holds that the claims made by the domestic industry in this regard are consistent with the past practices of the Authority.
- j) The Authority considers that the POI in the petition need not be the period for which the Authority should conduct investigations. Further, the Authority considers that petition for the POI fixed by the Authority is not a necessary precondition for the interested parties to file questionnaire response and other information for the POI fixed by the Authority. At the stage of initiation, the Authority has asked all the interested parties to provide information for the POI fixed by the Authority. All information filed before the Authority has been placed in the public file to enable opposing parties to defend their interest. The Authority considers that absence of petition for POI fixed by the Authority cannot prevent the interested parties from filing their responses for the POI fixed by the Authority.
- k) As regards submissions of the domestic industry and interested parties with regard to compulsory initiation of sunset review investigation, the Authority considers that the present investigation has been initiated on the basis of duly documented petition.
- l) As regards submissions concerning confidentiality of information and non disclosure of costing information, evidence relating to normal value, import data for raw materials and evidences relating to export price, the Authority notes that the claims made by the domestic industry are consistent with the practice being followed by the Authority in this regard. Further, petitioner has made available evidence of raw material prices and evidence with regard to export price in their rejoinder submissions which has been placed in public file and has been made available to all interested parties.
- m) As regards submissions concerning unacceptable quality and rejection of material, the Authority notes that the domestic industry has produced and supplied the product for all those applications where imported product has been used. Petitioner provided information, duly certified by a Chartered Accountant showing that it has supplied

150,600 kgs. of material to M/s. Piramal Enterprises Ltd/ Piramal Healthcare Pvt Ltd., out of that 500 kgs of material was rejected. Further, for the rejected material, the company has not been paid sales consideration. The Authority also notes that preference of imported product over domestic product in view of alleged un-quantified quality differences cannot establish that the goods produced and supplied by the domestic industry are not like articles to the product under consideration. The rules require the Authority to consider whether goods supplied by the domestic industry are like article to the imported product. It is also submitted that the CESTAT has held in the matter of DSM Idemitsu Limited v. Designated Authority, reported in 2000 (119) E.L.T. 308 that the difference in quality between imported and domestic product does not imply that the domestic product is not a like article to the imported product.

- n) The Authority has also noted that there is no evidence on record before the Authority that the plant of the domestic industry near Vadodara in Gujarat where Vitamin-C is being manufactured was shut down by any Government body because of violation of pollution norms.
- o) The Authority has also noted that there is no evidence on record before the Authority that EU and USA have put any anti dumping duty on the imports of the subject goods.

F. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETRS

Determination of Dumping

- 26. The Authority notes that none of the exporters/producers from China PR has responded to the initiation notification by filing exporter questionnaire in the manner and format prescribed.

Views of other interested parties

- 27. The opposing interested parties have contended that the method for determination of normal value is flawed as (a) India is not an appropriate analogue country for China, (b) the scale of operations of producers in China is much larger as compared to producers in India resulting in lower cost of production in China, and, (c) producers of Vitamin C in India import 2 Keto L Gulonic Acid, which is the main raw material used for production of the subject goods from China, whereas Chinese producers manufacture and use 2 Keto L Gulonic Acid captively and save incremental cost related to procurement etc.
- 28. Normal value constructed based on United Kingdom's export price to India is impermissible as United Kingdom is not an appropriate analogue market economy third country as compensation cost, electricity cost and raw material cost in United Kingdom is far higher than in China.

29. The applicant is not at liberty to suddenly change the data set from IBIS to DGCI&S. Further, any choice on the Authority's part to select DGCI&S data simply because such data is more favourable to the applicant's interests would constitute violation of due process norms and principles of natural justice.

Views of the Domestic industry

30. It has been contended by the domestic industry that China PR should be treated as a non-market economy country, inter alia, stating that:
- a) Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity: The European Commission has consistently held that possibilities of State interference cannot be ruled out in cases where there is significant share of a State owned/controlled entity. It is not only the question of past interferences alone but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant for granting market economy treatment.
 - b) Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values. The Domestic industry contends that "substantially reflect market values" has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The Domestic Industry contends that the fact that such prices are comparable to the price prevailing in China PR is grossly insufficient.
 - c) Major inputs include utilities: The Domestic industry contends that production of the product concerned requires power and fuel as a major item of utility. Admittedly, while the power supplier is a State owned entity, insufficient information is available with regard to fuel supplier. It has not been established by the exporters that the prices of utilities reflect fair market values.
 - d) Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards: The domestic industry contends that Chinese exporters have repeatedly disputed the treatment of European Commission to reject market economy treatment in such situations where Chinese exporters are unable to establish that their books are consistent with Chinese GAAP. Chinese companies in such cases have been contending that the requirement of insisting on compliance with International Accounting Standards is beyond law. The European Commission has held that the requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report. To quote the European Commission, reliability of the accounts is not established with regard to this aspect unless the books are consistent with International Accounting Standards.
 - e) Market economy status cannot be granted even if one of the parameters is not satisfied: The Domestic industry contends that the European Commission has repeatedly insisted that market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid

down under the Rules.

- f) Onus/obligations: The Domestic Industry contends that it is not for the Authority to establish that the responding companies are indeed operating under market economy environment and are entitled for market economy treatment. On the contrary, it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
- g) Transformation: The Domestic Industry contends that in a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- h) Response from group as a whole: The Domestic Industry contends that market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected, regardless of the fact whether or not the other companies of the group are involved in production or sale of the product under consideration.
- i) Failure to satisfy a number of conditions mentioned above by the responding Chinese exporters is sufficient to hold that market economy status cannot be granted to responding Chinese companies and, thus, the Normal value should be determined in accordance with the Rules.
- j) None of the Chinese exporters has responded to the exporter's questionnaire response or claimed market economy treatment in the present case.
- k) Further, Normal Value could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not available to the petitioner.
- l) Export price from other countries to India cannot be adopted for the reason that import price from other countries could be affected due to imports from subject country.
- m) Petitioner has claimed determination of normal value on the basis of cost of production in India, duly adjusted.

Examination of Market Economy Treatment claims in respect of China PR by the Authority

31. Para 7 of Annexure I of the Rule provides that:

“7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner [keeping in view the level of development of the country concerned and the product in question] and due account shall be taken of any reliable information made available at the time of the

selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

32. Further, the relevant provisions laid down under Annexure I to the Antidumping Rules are as follows:

8. (1) *The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3).*

(2) *There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a nonmarket economy country. Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).*

(3) *The designated authority shall consider in each case the following criteria as to whether:*

(a) *the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;*

(b) *the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;*

(c) *such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

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

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”.

(4) Notwithstanding, anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti dumping investigations, by a country which is a member of the World Trade Organization.”

33. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules.
34. The Authority notes that none of the producers/exporters of the subject goods from China PR has submitted either questionnaire response or response to the market economy questionnaire consequent upon the initiation notice issued by the Authority or has sought to rebut the non-market economy presumption.
35. In view of the same the Authority has determined the normal value for China PR as per the relevant Rules on the basis of best available information.

Determination of Normal Value for producers and exporters in China PR

36. As regards the argument of the other interested parties that Normal value constructed based on United Kingdom’s export price to India is impermissible as United Kingdom is not an appropriate analogue market economy third country, the Authority notes that it has not constructed the normal value based on the data of UK. As regards the argument of the other interested parties that determination of normal value on the basis of cost of production is inappropriate, the Authority considered all available information on record. It was found that import price from third countries to India was an option available with the Authority for determining normal value. This would have, however, significantly increased the dumping margin. The petitioner in fact has submitted that the Authority should consider import price from other countries to India for determination of normal value. The Authority, therefore, considers that the methodology adopted is at the least more favourable to the exporters and consumers. It is also noted that none of the Chinese producers has made any quantified claim in this regard. It is further noted that none of the producers and exporters of the subject

- goods from the subject country has rebutted the non-market economy presumption.
37. As regards the contention that in view of production process and technology difference between Chinese producers and Indian producers, the normal value should be determined based on price constructed in a market economy third country and such price should be based on export price from China to EU, the Authority holds that Para 7 of Annexure-1 provides a number of alternate methodologies and the same does not include price from such non market economy country to other countries. In fact, if normal value based on cost or price in China cannot be adopted for the reasons specified in Para-7 and 8, it follows that price from China to Europe can also not be adopted.
38. In view of the above position and in absence of rebuttal of non-market economy presumption by the respondent Chinese company, the Authority considers it appropriate to proceed with para-7 of Annexure I to the Rules for determination of normal value in case of China PR. As none of the producers/exporters from China PR has submitted MET questionnaire response, the Authority is unable to grant market economy status to Chinese producers in general for the purpose of determination.
39. The Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject products imported from China PR into India has been constructed considering consumption of major raw materials as per information provided by the domestic industry, international prices for major raw materials, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry. 5% of cost of sales excluding interest has been allowed towards reasonable profit. The Normal Value so determined is as indicated in the Dumping Margin Table below.

Determination of Export Price for producers and exporters in China PR

40. Since none of the exporters from any of the subject country has responded to the Authority, the Authority has determined Export Price in respect of imports from China PR on the basis of best information available in accordance with the Rules. The petitioner has claimed export price on the basis of imports of the product under consideration in India, as reported in IBIS transaction-wise import data. The Designated Authority has also procured the transaction wise import data from the DGCIS. The Designated Authority has considered the data received from DGCI&S as per its practice in a large number of investigations and determined the export price considering all imports of the product under consideration in India. Thus, there is no sudden change from IBIS data to DGCIS data. Price adjustments have been made on the basis of claims made by petitioner domestic industry in view of non cooperation from the exporters from China PR. The Export Price so determined is as indicated in the Dumping Margin Table below.

Dumping Margin

41. Considering the normal value and export price as determined above, dumping margins

have been determined as follows. It is seen that the dumping margins are more than de-minimis and significant.

Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin range
US\$/kg	US\$/kg	US\$/kg	%	%
***	***	***	***	110-140

G. INJURY AND CAUSAL LINK DETERMINATION

Views of the opposing interested parties

42. The views of the opposing interested parties with respect to injury and causal link are as follows:
- a) Domestic manufacturers are still importing final stage intermediate product 2-Ketogluconic Acid from China in order to manufacture the PUC. Due to the volatility in the prices of the raw material and in the exchange rates, the domestic manufacturers have suffered losses on account of import of this intermediate product. The Indian currency depreciated by about 20% during the period 2011-12 to 2012-13 and resulted in imports becoming expensive. This argument is supported by the reports of rating agencies for Reckon with respect to PUC.
 - b) Chinese exporters are more cost competitive as compared to Indian domestic manufacturers. This position is supported by the statement of Mr. Manish Doshi, Managing Director of Amoli Organics (2012): “In terms of engineering and chemistry, unfortunately the Chinese pharmaceutical industry fares better than the Indian pharmaceutical industry....Chinese pharmaceutical industry is quite cost competitive as they are quite efficient.”
 - c) The data provided by the applicant does not establish that it has suffered material injury nor does it establish that there is a case of recurrence of material injury upon revocation of the anti dumping duty.
 - i) There is no absolute increase in the volume of imports from the subject country.
 - ii) The demand increased by 8%, production of DI by 37%. On the other hand, import during the same period declined by 11%.
 - iii) There has been an increase in the installed capacity and production. There is no decline in capacity utilization of the applicant.
 - iv) The domestic sales volume and value of the applicant have also increased.
 - v) Market share of the applicant has also increased.
 - vi) The decline in selling price of the domestic industry is on account of reduction in the maximum selling price for the product under consideration by NPPA before May 2013.
 - vii) In the support letter Reckon has stated that it has discontinued production of Vitamin C due to cheap imports. However, as per publicly available data, Reckon’s revenue and earnings increased in 2011-12 as compared to 2008-09. As per the report, the negative aspects for Reckon were unfavorable changes

in regulatory pricing, volatility in the price of the raw material which is imported and high product concentration risk as it is only involved in the production of the PUC.

- viii) If Reckon, which is only producing the PUC, can increase its revenue growth and have a very healthy operating EBITDA, the applicant which is also operating in the same industry environment should not be incurring losses.
- ix) In view of the above, there is no causal link between the imports of PUC and the claim of material injury by the applicant.
- d) The injury data in the present investigation has been provided only for Bajaj Healthcare Ltd. The applicant should have provided injury related data for at least the domestic producers supporting the application, which it claims taken together, constitute 88% of total domestic production.
- e) There has been a decrease in the volume of imports from the subject country over the course of the injury investigation period and the POI in absolute terms as well as in relation to production and consumption.
- f) There is lack of injury based on economic parameters relating to the applicant as the applicant's performance has improved significantly in terms of capacity, production, capacity utilization, sales, market share, inventory, productivity, wages, salaries and employment.
- g) Further, as four of the domestic producers have refrained from providing cost and injury related data in the present investigation, we submit that the Authority is not in a position to assess whether domestic producers of the subject goods are suffering any injury as per the requirements of Article 3.1 of the WTO ADA.
- h) In the previous review, there were only two domestic producers of the subject goods. At present, there are five domestic producers of the subject goods. The domestic industry is most definitely showing a positive growth. New players would not enter a market that is suffering injury or is not considered profitable.
- i) The extent of injury caused by the significant increase in expenses of the applicant must be segregated from the any injurious effect caused by imports.
- j) No price suppression or depression has been caused by imports from the subject country as there has been a decrease in the selling price as well as the cost of production. The decrease in the cost of sales is as a result of the decrease in the price of 2 Keto L Gulonic Acid. Therefore, the imports have not depressed prices to a significant degree or prevented price increases, which otherwise would have occurred.
- k) The maximum selling price of Vitamin C has been regulated by the National Pharmaceutical Pricing Authority (NPPA) and any upward trend in prices of the domestic industry has been subject to a ceiling imposed by the NPPA.
- l) The selling price of the applicant has been above its cost of production and, therefore, the applicant should not be suffering any losses and is not facing any price suppression. Further, other domestic producers of the subject goods have increased their selling prices in the most recent period.
- m) The application itself shows clearly that certain expenses incurred by the applicant such as depreciation, wages and interest were responsible for any losses rather than imports of the subject goods. The decline in the profits and return on investment is linked to the increase in the aforesaid expenses of the applicant. The return on investment and profits turned negative in 2012-13 during the period when the depreciation increased by 98%, wages and salary by 58% and interest by 11% as compared to the base year. In addition, in the following year, the wages and salary as well as interest increased by a further 23% as compared to the previous year. An

increase of nearly 100% in the depreciation as well as wages and salaries of the Applicant was bound to impact the profits and return on investment.

- n) The figures cited by domestic industry with respect to volume of imports, price undercutting, domestic sales, profits, and market share in demand (including and excluding captive) among others, do not match with the figures cited in their petition or in the updated annexures provided to the other interested parties.
- o) The reason for the decrease in the cash profits of the applicant is due to an increase in investments. In particular, the applicant appears to be incurring a gross profit but as a result of the increase in its investments, there has been a decline in its cash profits.

Views of the Domestic Industry

43. The domestic industry, in its submissions has, inter-alia, argued as follows:
- a. Despite the presence of anti-dumping duties, significant volume of subject imports is entering India at dumped prices. This has been because of absorption of anti dumping duty by Chinese suppliers. Further, exports of the product from China as per China customs data in fact show significantly higher exports of the product to India.
 - b. Imports are significantly undercutting the prices of the domestic industry.
 - c. The landed price of imports is not only below the selling price of the domestic industry but also below the cost of production and non-injurious price of the domestic industry.
 - d. Both dumping margin and injury margin in the current POI are positive and significant.
 - e. Imports are depressing the prices of the domestic industry. There has been very significant decline in import prices, despite significant appreciation of US\$, which has forced the domestic industry to reduce the prices.
 - f. Increase in production and sales volumes is only because domestic industry tried to combat the low prices offered by the Chinese producers.
 - g. Performance of the domestic industry has deteriorated drastically in terms of profits, return on investments, cash flow. Profitability and return on investment has become negative since 2012-13, whereas cash profits have declined significantly over the injury period.
 - h. Growth of the domestic industry is adverse in terms of price parameters.
 - i. Production from 2-Ketogluconic Acid to Vitamin-C constitutes production of the product. Further, volatility of the raw material prices or exchange rates is expected to impact the price of both the raw materials and finished product. It is not established how these changes could selectively impact profitability of the product alone. In fact, given positive value addition from 2-Ketogluconic Acid to Vitamin-C, depreciation of Indian currency should have helped domestic industry in improving its profitability.
 - j. The statement of the Managing Director in Annual Report is with reference to the difference in performance of Indian industry vis-à-vis Chinese industry. The statements made in the Annual Report are not responsible for the claimed deterioration in performance of the domestic industry.

Examination by the Authority

44. The Authority has considered various arguments put forth by various interested parties in their submissions and issue of continuation of injury to the domestic industry has been examined in the light of these arguments made before the Authority. On the basis of data

and information available, the Authority concludes that the current dumping margins from the subject country are above *de minimis* level. The Authority, therefore, proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.

45. With regard to the various contentions of the interested parties, the Authority observes as follows:
- a) As regards the argument concerning imports of 2-Ketogluconic Acid, volatility of prices of raw materials and exchange rate, the Authority notes that production from 2-Ketogluconic Acid to Vitamin-C constitutes production of the product. Further, volatility of the raw material prices or exchange rates is expected to impact the price of both the raw materials and finished product. It is not established how these changes could selectively impact profitability of the product alone. In fact, given positive value addition from 2-Ketogluconic Acid to Vitamin-C, depreciation of Indian currency should have helped domestic industry in improving its profitability.
 - b) As regards relative competitiveness of Chinese and Indian producers, the Authority notes that the argument is not substantiated. It is not established how this relative competitiveness is responsible for deterioration in performance of the domestic industry over the injury period. The Authority for the purpose of analyzing injury is required to focus on improvement or deterioration in the performance of the domestic industry over the injury period. The Authority is not required to compare domestic industry with exporters while concluding on injury.
 - c) As regards injury data from other domestic producers, the Authority clarifies that no other domestic producer has provided information to the Authority for treatment of such producers as a domestic industry. However, since Bajaj Healthcare alone has major proportion of the total production of the subject goods and thus constitutes as the domestic industry, there is no need to examine the costing/injury data of the other producers. This practice has been followed by the Authority in past cases also.
 - d) As regards the argument that imports of the product declined in POI, the Authority notes that imports of the product are quite significant in absolute terms and in relation to production and consumption. Further, the Authority notes the argument of the domestic industry that exports of the product from China as per China customs data in fact shows significantly higher exports of the product to India. It is also noted that the import volumes considered in the petition based on secondary sources show lower volume imports as compared to imports reported in the DGCI&S.
 - e) As regards the argument that absence of data from supporting domestic producers has prevented the interested parties from offering comments, the Authority notes that the injury to the domestic industry is required to be seen for the defined domestic industry.
 - f) As regards argument that there is increase in number of domestic producers of the product, the Authority notes that the same does not imply that cessation of duty is unlikely to lead to dumping and consequent injury to the domestic industry.
 - g) As regards the argument that there is significant increase in expenses incurred by the domestic industry, the Authority has examined and verified the data before adopting the same for the present determination.

- h) As regards the argument that injury to the domestic industry is because of increase in depreciation, wages and interest, the Authority examined the data and found that the decline in profitability is not on account of increases in these parameters.
46. Rule 11 of Antidumping 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 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 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 article in India, or whether the effect of such imports is otherwise to suppress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
47. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with the rules supra.
48. The present investigation is a sunset review of anti dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutates mutandis basis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutates mutandis, the provisions of Rule 11 read with Annexure II. The Authority has examined whether existing measure is not sufficient to counteract the dumping which is causing injury.
49. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, in which case, the Central Govt. may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
50. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Bajaj Healthcare Ltd., constituting domestic industry under the Rules.
51. The Authority has considered the views of all the interested parties and addressed the same appropriately. The Authority has analyzed injury parameters in accordance with the rules. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted, and such information has been treated confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. Accordingly, the

volume and price effect of dumped imports have been examined as follows:

Volume Effect of dumped imports and Impact on domestic Industry

52. The effects of the volume of dumped imports from the subject country as well as imports from other countries have been examined by the Authority as follows:

Demand and Market Share

53. The Authority has considered the transaction-wise import data procured from DGCI&S for the assessment of total volume and value of imports from the subject country and other countries. The position with regard to demand and market share is as follows –

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualized)
Demand (excluding captive)	MT	2706	2903	3121	2807
Demand (including captive)	MT	2745	2945	3158	2893
Sales of Domestic industry (excluding captive)	MT	807	919	1087	1077
Sales of Domestic industry (including captive)	MT	846	962	1123	1163
Sales of other Indian producers	MT	1,143	1,173	1,256	1,056
Imports – China	MT	653	680	674	556
Imports – Other countries	MT	103	131	105	118
Market share in Demand (excluding captive)					
Domestic Industry	%	29.83%	31.66%	34.81%	38.36%
Other Indian Producers	%	42.23%	40.40%	40.23%	37.62%
Imports – China	%	24.13%	23.43%	21.60%	19.81%
Other countries	%	3.81%	4.51%	3.36%	4.21%
Market share in Demand (including captive)					
Domestic industry	%	30.82%	32.65%	35.56%	40.19%
Other Indian Producers	%	41.64%	39.81%	39.77%	36.50%
Imports – China	%	23.79%	23.09%	21.34%	19.22%
Other countries	%	3.75%	4.45%	3.33%	4.09%

54. It is seen that the demand for the product has increased upto 2012-13 and then declined in the POI. However, the demand shows slight increase in the POI when compared to the base year. Sales volumes of the domestic industry have increased over the injury period. Imports from the subject country increased up to 2012-13 in comparison to the base year and then declined in the POI. The Authority notes that imports from the subject country have remained significant in spite of anti dumping duty being in place.

Import volumes and share of subject country:

55. With regard to 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. Annexure II (ii) of the anti dumping 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”

56. The import volumes for the injury period, considering the transaction wise data provided by DGCI&S are as under:

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualized)
China PR	MT	653	680	674	556
Other countries	MT	103	131	105	118
Total imports	MT	756	811	779	674
Dumped imports in relation to:					
Total Imports	%	86.37%	83.82%	86.53%	82.44%
Production	%	32%	32%	28%	25%

57. The Authority notes that imports from China PR have remained significant in absolute terms as well as in relation to consumption and production in the country in spite of anti dumping duty being in place.

58. Since the present investigation is a sunset review investigation, the present volume of imports is required to be seen in the light of likelihood of injury to the domestic industry.

59. As regards the argument that the market share of the domestic industry has increased and that of China has declined, the Authority holds that the performance of the domestic industry has steeply deteriorated in respect of parameters such as profits, cash flow and return on investment. Further, since the present investigation is a sunset review investigation, the Authority is required to analyze not only continued injury but also likelihood of injury in the event of cessation of anti dumping duty.

Price Effect of the Dumped imports on the Domestic Industry

60. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

“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.”

61. The impact of dumped imports on the prices of the domestic industry has been examined by the Authority with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject country.

Price undercutting and underselling effects

62. With regard to the effect of the dumped imports on prices, it has been examined 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 or prevent price increases, which otherwise would have occurred, to a significant degree.

63. Price undercutting has been determined by comparing the landed value of dumped imports from the subject country over the entire period of investigation with the net sales realization of the domestic industry for the same period. For this purpose, landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the value reported in the DGCI&S data of import prices from the subject country. In determining the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been deducted.

64. For the purpose of price underselling determination, the landed price of imports from the subject country has been compared with the Non-injurious Price of the domestic industry determined for the POI.

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualized)
Landed Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>83</i>	<i>70</i>	<i>66</i>
Net Sales Realization	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>84</i>	<i>76</i>	<i>76</i>
Price Undercutting	Rs./Kg	***	***	***	***
Price Undercutting	%	***	***	***	***

Price Undercutting Range					30-60
Non-injurious Price	Rs./Kg				***
Price Underselling	Rs./Kg				***
Price Underselling	%				***
Price Underselling Range	%				100-120

65. In this regard, Authority notes as under:

- a. The landed value of imports from the subject country is materially below the selling price of domestic industry signifying significant positive price undercutting.
- b. A comparison has also been made between the landed price of imports and Non Injurious Price. It is noted that the landed price of imports from the subject country is far lower than the non injurious price in the POI.

66. The Authority thus concludes that the landed value of imports from the subject country caused significant price undercutting as well as price underselling.

Price suppression and depression effects of the dumped imports:

67. The price suppression effects of the dumped imports have also been examined with reference to the cost of production, net sales realization and the landed values from the subject country.

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualised)
Landed price of imports	Rs./Kg	***	***	***	***
Trend	Indexed	100	83	70	66
Cost of Sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	100	99	98
Selling Price	Rs./Kg	***	***	***	***
Trend	Indexed	100	84	76	76

68. It is noted that the landed price of imports is substantially below the cost of sales and selling price of the Domestic Industry in the POI. Whereas cost of sales has been more or less stable over the injury period, the NSR has substantially declined to keep pace with the landed price. The imports are, thus, depressing the prices in the market.

69. The petitioner has claimed that in the event of cessation of current anti-dumping duty and if Domestic Industry chooses to sell at import prices, the Domestic Industry would suffer significant financial losses. The return on investment and cash profit would also be significantly negative.

70. As regards the contention that there is no suppressing or depressing effect of the prices of

the domestic industry, the Authority holds that the selling price declined over the injury period, which cannot be considered insignificant. It is noted that whereas cost of sales remained more or less at the same level, the selling price and import price declined. It is, thus, clear that there was significant decline in selling price over the period, which was in response to decline in import prices.

Examination of Economic Parameters Relating to the Domestic Industry

71. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. However, the present investigations being a sunset review investigation, injury to the domestic industry is required to be assessed on mutates mutandis basis. Further, the Authority has examined whether existing measure has been sufficient to counteract the dumping which is causing injury. The various injury parameters relating to the domestic industry are discussed below.

Production, Capacity and Capacity Utilization, Sales of the Domestic Industry

72. Based on the verified data, the information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualised)
Capacity	MT	960	1,200	1,320	1,320
Production	MT	865	955	1,140	1,177
Capacity Utilization	%	90%	80%	86%	89%
Sales of DI (In. Captive)	MT	846	962	1123	1163
Sales of DI (Ex. Captive)	MT	807	919	1087	1077

73. Based upon the above data, the Authority notes that –

- a) The domestic industry has enhanced its capacity in anticipation of increased demand and sales.
- b) The sales volume of the domestic industry has increased over the injury period.
- c) Production and capacity utilization of the domestic industry has also increased in the

POI as compared to the base year.

- d) The domestic industry has not suffered injury in the form of sales volumes. However, the performance of the domestic industry has steeply deteriorated in respect of parameters such as profits, cash flow and return on investment as seen in the table below. Further, since the present investigation is a sunset review investigation, the Authority is required to analyze not only continued injury but also likelihood of injury in the event of cessation of anti dumping duty.

Profitability, return on investment and cash profits

74. Profits, return on investment and cash flow of the domestic industry has been examined as under:

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualized)
Cost of Sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	100	99	98
Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	84	76	76
Profit/loss	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	10	-31	-26
Profit/loss	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	11	-42	-34
Profit before interest	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	26	-12	-2
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	34	5	6
Return on Investment	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	16	-8	-2

75. The Authority notes that the profitability of the domestic industry in terms of PBIT, cash profit and ROI has declined significantly over the injury period.

Inventories

76. The Authority has examined the inventory level of the domestic industry, which is given in the following table:-

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualized)
Stock (Volume) Average	MT	***	***	***	***

77. It is seen from the above information that inventories with the domestic industry increased over the injury period.

Employment and wages

78. The Authority notes that the number of employees has increased over the injury period. It is noted that the wages paid by the domestic industry have also increased.

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualized)
Employment	Nos.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>105</i>	<i>108</i>	<i>110</i>
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>123</i>	<i>158</i>	<i>171</i>

Productivity

79. Productivity of the domestic industry has been measured in terms of its labour productivity and per day productivity of the output and the Authority concludes that the productivity has increased commensurate to increase in production.

Particulars	Unit	2010-11	2011-12	2012-13	POI (annualized)
Productivity Per Employee	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>105</i>	<i>123</i>	<i>124</i>
Productivity Per Day	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>110</i>	<i>132</i>	<i>136</i>

Factors affecting domestic prices

80. Consideration of the import prices from the subject country 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 country is significantly below the selling price of the domestic industry, causing severe price undercutting in the Indian market. There is no viable substitute to this product. It is also noted that demand for the subject goods has shown significant increase and this could not have been a factor affecting domestic prices. Thus, the major factors responsible for the domestic industry prices are the landed prices of the imports and the cost of production of the domestic industry.

Magnitude of Dumping Margin

81. The Authority notes that the dumping margin of the imports of the subject goods from the subject country is positive and substantial.

Growth

82. On examination of various economic parameters of the domestic industry, the Authority

notes that on a year by year basis the domestic industry has suffered adverse growth in terms of production, capacity utilization and sales; the profitability has declined as can be seen from parameters such as profits, cash profits and return on investments. Considering the prices at which the exporters in the subject country are dumping the material in the Indian market; revocation of anti dumping duty would only lead to surge in the volume of dumped imports causing further deterioration in growth.

Growth percent (year by year)	Unit	2010-11	2011-12	2012-13	POI (annualized)
Production	%	-	9%	16%	3%
Sales Volume	%	-	12%	15%	-1%
Selling Price	%	-	-20%	-11%	0%
Profit Rs.Laks	%	-	-89%	-476%	5%
Return on Investment	%	-	-83%	-151%	-25%
Capacity Utilization	%	-	-12%	8%	3%

Ability to raise Capital Investment

83. The Authority notes that the domestic industry has suffered financial losses in the POI. The petitioner has claimed that any fresh investment in such a situation is infeasible.

Overall assessment of Injury

84. The investigation has thus shown that the volume of dumped imports has remained significant, both in absolute terms and in relation to production and consumption in India. With regard to the effect of the dumped imports on prices, there has been significant price undercutting by the dumped imports as compared with the price of like product in India, and the effect of such imports was to depress prices to a significant degree. With regard to consequent impact of the dumped imports on the domestic industry, the investigation has shown that performance of the domestic industry has deteriorated significantly in terms of parameters such as profits, cash profits and return on investment. The investigation has thus shown that the domestic industry has suffered continued injury.

Causal Link

85. As per the AD Rules, the Designated Authority is, inter alia, required to examine any known factors other than dumped imports which at the same time are injuring the domestic industry, so that 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. It was examined whether these other parameters listed under the Rules could have contributed to injury to the domestic

industry.

a. **Imports from other countries and other Known Factors**

86. Imports of product under consideration from other countries are either below de minimis volume or at higher prices. Therefore, imports from other countries are not causing injury to the domestic industry.

b. **Contraction in demand**

87. The data shows demand of the product under consideration has increased up to 2012-13 and then declined in the POI. However, the demand in the POI has increased as compared to the base year. Therefore, decline in demand cannot be considered as the factor that could have impacted the performance of the domestic industry.

c. **Change in pattern of consumption**

88. No significant change in the pattern of consumption has come to the knowledge of the Authority, nor has any interested party made any submission in this regard.

d. **Trade restrictive practices of and competition between the foreign and domestic producers**

89. The subject goods are freely importable. No trade restrictive practices in the domestic market have been brought to the knowledge of the Authority. The domestic producers compete with each other and at the same time with the subject goods. The price of the domestic industry is influenced by the landed price of subject goods. The landed price of imports from subject country is below the selling price of the domestic industry. There is no evidence on record that the inter-se competition between the domestic producers increased/changed to such a significant extent that the injury to the domestic industry is on account of this inter-se competition.

e. **Development of technology**

90. The investigation has not shown any significant development in technology which could have caused injury to the domestic industry.

f. **Exports by the domestic industry**

91. The petitioner exports the product under consideration. However, exports form a very insignificant portion of total sales. Further, data relating to domestic sales only has been taken into consideration for assessment of injury to the extent possible.

g. **Productivity**

92. The Authority notes that productivity of the domestic industry has increased over the injury period. Therefore, decline in the productivity of the domestic industry could not be a cause of injury to the domestic industry.

93. The Authority, therefore, concludes that the other listed and known parameters have not

caused injury to the domestic industry.

H. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

Submissions by the Domestic Industry

94. The domestic industry submitted as under in support of its claim of likelihood of continuation or recurrence of dumping and injury.
- (a) The volume of imports from the subject country is significant and the dumping margin is also significantly high.
 - (b) The imports have increased significantly since inception. There has been significant increase in volume of imports between original investigation period and subsequent investigations periods.
 - (c) The imports from China would severely undercut the domestic prices in case anti dumping duty ceases.
 - (d) The volumes of imports from the subject country are likely to increase in the event of cessation of ADD for the following reasons –
 - i) Dumping margins in the previous sunset review investigation are illustrative of the fact that dumping has continued in spite of antidumping duty being in force.
 - ii) Chinese exporter cartels have established near monopoly in world markets for Vitamin C by fixing prices of Vitamin C intended for export.
 - iii) Chinese Vitamin C exports capturing the world markets because of low prices.
 - iv) Exporters in the subject country have capacities far in excess of domestic demand in home market and Indian demand.
 - v) The producers in the subject countries are exporting nearly 60-100% of the total production.
 - vi) The Indian market is highly price sensitive. Such being the case, availability of such low priced imports from subject country in the market is definitely causing an adverse impact on the domestic industry.
 - vii) Considering the export volumes from the subject country to third countries, exports to Indian market would increase in the event of revocation of anti dumping duty.
 - (e) Landed value of imports are at a price which is lower than the selling price of the Domestic Industry. The producers in the subject countries would, therefore, aggressively target Indian market in the event of cessation of anti dumping duty.
 - (f) The domestic industry is suffering injury in terms of price parameters. Further, aggravated injury cannot be ruled out if dumping continues and occurs in increased volumes in case present anti dumping duty is not extended.

Submissions by the opposing interested parties

95. The opposing interested parties have made the following submissions in this regard:
- i. The evidence provided by the applicant regarding huge surplus production capacities of Chinese producers does not specify whether the supply capacity is for exports or for domestic consumption. It also does not specify whether the supply capacity is aimed at India. In the absence of positive evidence, the claim of the applicant cannot be accepted.
 - ii. The applicant is not suffering any injury at present and further has failed to adduce 'positive evidence' to establish that there is a likelihood of recurrence of dumping or injury on expiry of the anti-dumping duty.
 - iii. The applicant has failed to provide any credible evidence to establish that the expiry of the duty would lead to a recurrence of injurious dumping. The applicant has submitted that there is a possibility of recurrence of injury based on the export orientation of Chinese exporters, the price attractiveness of the Indian market and the fact that producers in China have freely disposable capacities. It has been contended by the respondent that India is not a key market for exports from China. In particular, only 0.7% of the total exports of subject goods from China are exported to India.

Examination by the Authority

96. In order to determine whether the dumping is likely to continue or recur in the future if the duties are revoked; the trend in volume of sales of the exporter and its prices in the home market and third country export markets have been examined by the Authority. The submissions made by the domestic industry have also been considered.
97. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from China PR. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires examination whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In the present investigation, there are continued dumped imports. Cessation of duty is likely to lead to continued dumping of the product. Considering the fact that the dumping margin in the previous investigations as well as the present investigation is significant and that there are favourable market conditions in the Indian market as far as demand and price for the subject goods are concerned, the Authority has reason to believe that dumping may intensify if the duty is revoked. It is a matter of fact that despite the anti-dumping measures in force, the subject country could still dump the subject goods in the Indian market.
98. The volume of dumped imports from China PR has remained significant over the injury period in spite of the fact that anti dumping duty on the subject goods is in force. The current volume of imports from the subject country itself is significant enough to show the likelihood of dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duty.
99. As regards the argument concerning surplus capacities and potential exports to India, the Authority notes that the relevant consideration is existence of surplus capacities with the Chinese suppliers. These surplus capacities are required to be considered having regard to the domestic consumption of the product and any volumes committed by the Chinese producers in third countries markets. None of the Chinese producers has claimed that any of the exports made to third countries are under long term contract and capacities to this

extent are not available with the Chinese producers.

100. As regards the argument that exports of the product from China to India constitutes only 0.7% of total exports from China to various countries globally, the Authority notes that the same at the least establishes significant possibilities of increased imports post cessation of anti dumping duty.

101. As regards the argument that anti dumping duty is in force for quite a long period and yet the domestic industry has claimed injury, the Authority notes that the present determination is based on actual verified information which clearly shows that the performance of the domestic industry has deteriorated significantly.

102. The Authority has examined the aspect of dumping and injury as well and holds that dumping and consequent injury to the domestic industry is likely in the absence of anti dumping duty. The following analysis further shows the likelihood of continuation/intensification of dumping and injury to the domestic industry in the event of revocation of anti dumping duty:

(i) **Level of current and past dumping margin**

103. The level of dumping margin in the original, previous sunset reviews as well as present investigation is significant. Despite the domestic industry holding significant capacity to meet the demand, the import of the subject goods from the subject country still continue at dumped prices. Given the level of price undercutting and price underselling, the volume of dumped import is likely to increase further in the event of revocation of anti-dumping duty.

(ii) **Price attractiveness of Indian market**

104. The price at which the subject goods are being exported by China PR to India is an indicator of the likelihood of continuation and intensification of dumping. At the current landed price in India, there is positive price undercutting. Thus, with the cessation of anti dumping duty, the Indian prices would be too attractive for the Chinese producers to intensify their exports to India at dumped prices and there is strong likelihood that Indian consumers would resort to large scale imports of the subject goods from the subject country.

(iii) **Export orientation of producers in the subject country**

105. The domestic industry has contended that the Chinese producers/ exporters are highly export oriented. Considering the high demand and favourable market conditions for the subject goods in India and the high production capacity and export orientation of these producers, the Authority holds that in the event of revocation of anti dumping duties, these exporters are likely to increase their exports to India at dumped prices.

(iv) **Huge production capacity in the subject country**

106. The evidence provided by the domestic industry on the existing capacity in China shows that the capacities in China are far greater than the Indian demand for the subject goods. None of the Chinese producers has responded to the investigation. It is thus concluded that in the event of cessation of anti-dumping duty and considering the export orientation, the producers in China are capable of completely overtaking the Indian manufacturing sector engaged in the subject goods.

(v) **Dumping in third countries**

107. The evidence provided by the domestic industry shows existence of significant volume of exports to third countries at dumped prices. Cessation of anti dumping duty on imports of the subject goods would only lead to the likelihood of increased volume of dumped imports.

(vi) **Price undercutting, suppression, depression in the absence of measures**

108. The price at which the subject goods are being exported by China PR to India is an indicator of the likelihood of the price at which the goods are likely to be exported from China in the event of cessation of anti dumping duty. As can be seen from the table below at the landed price in India, there is significant undercutting without anti dumping duty. Thus, with the cessation of anti-dumping duties, the Indian prices would be too attractive to these exporters and there is strong likelihood that Indian consumers would import substantially due to demand. The exporters would also be encouraged to channelize their output in the Indian market as they have excessive capacities and are selling their products at excessively low prices.

Particulars	Unit	POI
Net Sales Realization	Rs./kg	***
Cost of production	Rs./kg	***
Non injurious price	Rs./kg	***
Landed value of imports	Rs./kg	***
Price Undercutting	Rs./kg	***
Price underselling	Rs./kg	***
Profit/loss at import price	Rs./kg	***
Interest per unit	Rs./kg	***
Depreciation per unit	Rs./kg	***
PBIT	Rs./kg	***
Capital employed per unit	Rs./kg	***
Cash profit	Rs./kg	***

109. It is thus seen that should the present anti dumping duty be allowed to cease, performance of the domestic industry would decline materially in respect of price parameters. Further, should the domestic industry sell the product at import prices in the event of cessation of ADD, the domestic industry would suffer financial losses, negative return on investment and cash losses.

(vii) **Significant increase in volume of imports between original period and subsequent periods**

110. An analysis of the volume of imports reported in the previous cases as well as in the current period shows that volume of imports from China PR has remained significant despite existing anti dumping duties. When the imports have remained significant even in the presence of anti dumping duty, there are all the probabilities that the volume would increase in the event of cessation of anti dumping duty. There is no reason to believe that the volume of dumped imports will decline in the event of cessation of anti dumping duty.

(viii) **Market Share held by the subject country in the Indian market**

111. The market share of imports from China PR is quite significant in spite of the existing

anti dumping duties. In the event of revocation of anti dumping duty, the volumes are bound to surge.

Conclusion on Likelihood of dumping and injury

112. Considering the current price of imports from the subject country, price difference between the domestic and imported product, price sensitiveness of the product, capacities with the responding exporter and other Chinese producers, dumping in third country markets, the Authority concludes that there exists clear likelihood of intensified dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duty.

Magnitude of Injury and injury margin

113. The non-injurious price of the subject goods was determined by the Authority for the domestic industry, taking into account the cost data of the domestic industry. Since the product was subject to Drug Price Control Order during part period of the POI, the DPCO price fixed by the Government of India has been compared with the landed value of imports from the subject country for determination of the injury margin, which works out as follows:

Injury Margin Table

Injury Margins	UOM	Amount (Injury Margin as per NIP)	Amount (Injury Margin as per DPCO)
Landed Value	Rs./Kg	***	***
DPCO Price	Rs./Kg	-	***
NIP	Rs./Kg	***	-
Injury Margin	Rs./Kg	***	***
Injury Margin	US\$/Kg	***	***
Injury Margin %	%	***	***
Injury Margin	Range%	105-115	90-100

114. It is seen that injury margin is not only above de-minimis but also significant.

I. POST DISCLOSURE STATEMENT COMMENTS

(A) Post Disclosure comments of the opposing interested parties

115. The Authority notes that post Disclosure Statement submissions made by the opposing interested parties are repetitive in nature and have already been dealt with in the Final Findings. The opposite interested parties have, in brief, filed the following post Disclosure Statement submissions:

- a. Anti dumping duty on imports of Vitamin C has been in existence for last 17 years and domestic producers are seeking an extension for further five years.
- b. Excessive confidentiality has been resorted to by the petitioner.
- c. There are serious quality related deficiencies in the coated grade of the product under consideration supplied by the Petitioner. The said grade of the product under consideration ought to be excluded from the scope of the investigation.

- d. There is a difference in the production process and technology adopted by the Chinese manufacturers and the domestic producers in India. Therefore, the methodology adopted for construction of normal value is flawed. Adjustments to the normal value to factor in higher input procurements costs incurred by Indian producers as a result of importing 2KGA rather than manufacturing it captively.
- e. There is lack of injury based on Economic Parameters relating to the Applicant as the Applicant's performance has improved significantly in terms of capacity, production, capacity utilization, sales, market share, inventory, productivity, wages, salaries and employment.
- f. There is clearly no price suppression or depression that can attributed to imports of the subject goods. 2KGA constitutes 50 percent of the cost of production of Vitamin C. This is one of the reasons why the landed value of the imports from China is showing a decline over the corresponding period.
- g. The production process adopted by the Petitioner is different from the Chinese producers and is not cost-effective, leading to self-inflicted injury.
- h. The Authority ought to consider and balance the larger interest of the premix manufacturers so that the interests of the larger addition to the economy can be protected. Imposition of anti-dumping duty on subject for pharmaceutical purposes is not in public interest. In 2010, as a result of the imposition of anti-dumping duties on Vitamin C and fluctuations in raw material costs, manufacturers were forced to cease production of Vitamin C tablets.
- i. The extension of the ADD would result in making production of Vitamin C unviable – Vitamin C formulations are included in the National List of Essential Medicines.
- j. The removal of the maximum retail price for bulk drug manufacturers pursuant to the new DPCO order 2013 has resulted in increase in prices of the PUC by the applicant in the range of 10%-45%.
- k. The vitamin C imported for pharmaceutical use can be easily distinguished from Vitamin C imported for non-pharmaceutical use, as the exporters of Vitamin C for pharmaceutical use need to be registered with the Drug Controller General of India (DGCI) in India. In addition, even the importers of Vitamin C for pharmaceutical purposes would need to procure an Import License. Therefore, such an exemption, in addition to being required on public health grounds, is also feasible to implement.
- l. The Applicant should have provided injury related data for at least the domestic producers supporting the Application, which it claims taken together, constitute 88% of total domestic production.
- m. There has been a decrease in the volume of imports from the subject country over the course of the injury investigation period and the POI in absolute terms as well as in relation to production and consumption.
- n. The maximum selling price of Vitamin C has been regulated by the National Pharmaceutical Pricing Authority (NPPA) and any upward trend in prices of the domestic industry has been subject to a ceiling imposed by the NPPA.
- o. The profitability of the Applicant shows a decline, however, the decline is clearly attributable to significant increase in certain expenses incurred by the Applicant such as depreciation, wages and interest rather than imports of the subject goods.

- p. The reason for the decrease in the cash profits of the Applicant is due to an increase in investments. In particular, the Applicant appears to be incurring a gross profit but as a result of the increase in its investments, there has been a decline in its cash profits.
- q. The Applicant has failed to provide any credible evidence to establish that the expiry of the duty would lead to a recurrence of injurious dumping.
- r. India is not a key market for exports from China. Export orientation of Chinese producers is directed towards the US and EU and not towards India. Also, it may be looked into that China has near monopoly on World Vitamin C production does not come within the ambit of anti dumping laws.
- s. In particular, only 0.7% of the total exports of subject goods from China are exported to India. Existence of surplus production capacity of Chinese manufacturers cannot be taken as posing a clearly foreseen and imminent threat of injury.
- t. The regulation of prices of finished formulations of Vitamin C in India by the NPPA makes India an unattractive market for exports of subject goods.
- u. There exists significant demand supply gap.
- v. Chinese manufacturers for the PUC are more competitive, a fact which has also been admitted by the Indian domestic manufacturers themselves.
- w. If the Chinese exporters wanted to capture the Indian market for Vitamin C by dumping the PUC, the Chinese exporters could have substantially increased the prices of the raw material 2KGA which would have resulted in bigger injury to the Indian bulk drug manufacturers of Vitamin C. It should be noted that in such circumstances, since there is no domestic manufacturer for 2 KGA in India, the option of initiating an AD investigation would also not be available.
- x. Grounds for using DGCI&S data instead of IBIS data as there no reasons to doubt the reliability of IBIS data.
- y. The veracity of the domestic industry's cost of production data which remained nearly the same despite a steep decline of 25% in 2KGA import prices as well as international corn prices. Data relating to the fall in 2KGA and corn prices.
- z. The impact of the NPPA price control on the like product which had a depressing effect on prices of the domestic industry.
- aa. Applicant is making gross profits, which has been exhibited by its data as well, and further is not facing any price suppression. Any fall in ROI and net profits is attributable to the increase in extraordinary expenses rather than allegedly dumped imports.
- bb. Normal value constructed based on cost of production in India is impermissible. The international raw material prices of 2 Keto L Gulonic Acid (2KGA), the main raw material, used in production of the subject goods should not form the basis of the Authority's normal value computation. Moreover, as 2KGA constitutes nearly 50% of the cost of production of the subject goods, the use of international prices of 2KGA would skew the normal value upwards.
- cc. The Authority must adjust the above input procurement costs and attendant costs relating to importation of 2KGA while constructing the normal value for China.
- dd. Level of past dumping margin is legally invalid.

(B) Post Disclosure Comments of the Domestic Industry

116. The Authority notes that most of the post Disclosure Statement submissions made by the domestic industry are repetitive in nature and have already been dealt with elsewhere in the Final Findings. Following are, in brief, the post Disclosure Statement submissions made by the domestic industry:

- a. The product under consideration in the present petition is Vitamin C. The scope of the product under consideration is the same as in the previous anti dumping investigations.
- b. The information on record clearly establishes that the production of the petitioner constitutes a major proportion in Indian production.
- c. The Authority has rightly proposed to treat all exporters in China as operating under non-market economy conditions as none of the exporters from China PR have responded or submitted Market Economy Treatment Questionnaire.
- d. Normal value has been determined considering constructed cost of production.
- e. The investigation has established existence of significant dumping.
- f. There have been significant imports of the product from the subject country in absolute terms in spite of anti dumping duty in force.
- g. Performance of the Domestic Industry in terms of production, capacity utilization, has improved in the current injury period. However, performance in terms of price parameters such as profits, return on investments, cash flow, etc. has deteriorated significantly and losses have been reported in 2012-13 and the POI.
- h. However, cessation of anti dumping duty shall have significant depressing effect on the prices of the domestic industry in the market.
- i. Both dumping margin and injury margin in the current POI are positive and significant.
- j. The price undercutting without prevailing anti dumping duties is positive and is quite significant.
- k. The import prices without anti-dumping duty are materially below selling price of the domestic industry. The consumers would, therefore, switch to imported product in the event of cessation of anti dumping duty which will lead to significant increase in imports of the product.
- l. There is likelihood of intensified imports in case existing anti dumping duty ceases.
- m. Non injurious price may be determined considering actual cost where fixed expenses are apportioned on the basis of production.
- n. The domestic industry is likely to suffer injury in the event of cessation of anti dumping duty.
- o. The anti dumping duty is required to be continued.
- p. Duty may be recommended on fixed amount basis in US\$ term.

(C) Examination by the Authority

117. The Authority notes that most of the post disclosure statement submissions made by the domestic industry and the opposing interested parties are repetitive in nature and have already been dealt with elsewhere in the Final Findings. Nonetheless, the Authority has addressed these issues to the extent considered relevant as under:

- a. As regards the argument that injury related data for all the domestic producers supporting the Application should have been provided, the Authority notes that the production of the petitioner alone constitutes 53% of the Indian production and in such a situation, there is no need to examine the data of the supporters for the purpose of determining standing of the petitioner as domestic industry.
- b. With regard to the contention raised by the anti dumping duty on Vitamin C has been

in force for 17 years and should not be extended; the Authority holds that the Act and the Rules do not prescribe any time limit beyond which the anti dumping duty should not be extended. The legal provision clearly states that the anti dumping duty can be extended further from time to time, if it is found that the dumping and consequent injury to the domestic industry is likely in the event of cessation of anti dumping duty. The investigation has shown that there is sufficient evidence of dumping and consequent injury and its likelihood.

- c. As regards the argument that the imposition of anti dumping duty shall be against public interest, the Authority notes that none of the interested parties has provided any information to establish that imposition of anti dumping duty shall have significant adverse effect on public at large. On the contrary, the domestic industry claimed that there has been no material adverse effect on the consumers because of anti dumping duty imposed in the past. The Authority also notes that the purpose of anti dumping duty is to address the unfair practice of dumping causing injury to the domestic industry.
- d. As regards the submissions of domestic industry and interested parties concerning low volume of imports and extension of anti dumping duty in such situations, the Authority considers that the issue is not relevant in the present case, as the volume of imports in the present case is quite significant.
- e. As regards applicability of DPCO, the Authority notes that the purpose of anti dumping duty is to provide level playing field to the producers of the product. It is also noted that the consumers have not established how continuation of anti dumping duty for another five years on Vitamin C would adversely prejudice the objective of making Vitamin C drug available at affordable prices and how manufacturing of drug formulations in India would become unviable. In any case, as per Price Drug Control Order of May, 2013, Vitamin C (bulk drug) is not covered under the DPCO order. It was covered before May, 2013.
- f. The petition was filed considering October 2012 to September 2013 as the investigation period. The Authority initiated the investigation considering October 2012 to December 2013 as the investigation period in order to allow the Authority to analyse and adopt data of most recent period. The petitioner has provided data for the POI fixed by the Authority and a copy of the same was placed in the public file, which was accessed by interested parties during the course of the proceedings.
- g. As regards confidentiality claims, the Authority has considered confidentiality claims made by parties and has allowed the same considering the confidentiality provisions under the law, the claims made by the domestic industry and past practices of the Authority. The Authority holds that the claims made by the domestic industry in this regard are consistent with the past practices of the Authority.
- h. As regards submissions concerning unacceptable quality and rejection of material, the Authority notes that the domestic industry has produced and supplied the product for all those applications where imported product has been used. The Authority also notes that preference of imported product over domestic product in view of alleged un-quantified quality differences could not establish that the goods produced and supplied by the domestic industry are not like articles to the product under

consideration.

- i. As regards the point that there is a difference in the production process and technology adopted by the Chinese manufacturers and the domestic producers in India and, therefore, the methodology adopted for construction of normal value is flawed, the Authority notes that the normal value has been constructed as per the practice adopted by the Authority in a large number of such investigations in the past.
- j. With regard to the effect of the dumped imports on prices, it is noted that there has been significant price undercutting by the dumped imports as compared with the price of like product in India, and the effect of such imports was to depress prices to a significant degree. With regard to consequent impact of the dumped imports on the domestic industry, the investigation has shown that performance of the domestic industry has deteriorated significantly in terms of parameters such as profits, cash profits and return on investment. The investigation has thus shown that the domestic industry has continued to suffer injury.
- k. As regards the argument that the extension of the ADD would make Vitamin C formulations expensive, the Authority concludes that the investigation relates to imports of bulk drug and not formulations. Since Vitamin C is being dumped and causing injury, the scope of the investigation has been limited to Vitamin C to bring about fair trade practices in the imports of Vitamin C.
- l. As regards the argument that Vitamin C imported for pharmaceutical use can be easily distinguished from Vitamin C imported for non-pharmaceutical use, the Authority again concludes that the investigation relates to imports of bulk drug in all its forms and grades and the Authority's mandate is just to bring about fair trade practices in the imports of Vitamin C.
- m. As regards the submission that there no reasons to doubt the reliability of IBIS data, the Authority notes that the Authority always adopts the best available information in the absence of any response of the producers/exporters of the subject countries. Further, DGCI&S data has been taken by the Authority in a large number of investigations in the past where IBIS is also made available.
- n. The Authority further notes that Vitamin C (bulk drug) was covered under the DPCO order before May, 2013. Therefore, the injury margin should be the average of injury margin with relation to NIP and injury margin as per DPCO.
- o. As regards price behavior of imported finished product vis-a-vis imported raw material, it is correct that the prices of both have declined during the injury period, but the decline was more profound in the case of finished product aggravating injury to the domestic industry.

I. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

118. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in 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, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way,

and therefore, would not affect the availability of the product to the end user. The end user could still maintain two or even more sources of supply.

119. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not affect the availability of the product to the consumers.

K. CONCLUSION

120. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this final finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/ recurrence of dumping and injury, the Authority concludes that:

- a. There is continued dumping of the subject goods from the subject country and the dumping margin is above de-minimis and significant. Dumped imports are causing injury to the domestic industry in the period of investigation.
- b. Should the present anti-dumping duties cease, dumping of the subject goods from the subject country is likely to get intensified causing consequent injury to the domestic industry.

L. RECOMMENDATIONS

121. Having concluded as above, the Authority is of the view that the antidumping measure is required to be recommended to offset dumping of the subject goods originating in or exported from the subject country and its consequential injury to the domestic industry.
122. 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 equal to the amount indicated in the table below is recommended to be imposed concerning all imports of the subject goods, originating in or exported from the subject country, by the Central Government.

DUTY TABLE

S. No	Heading/ Subheading	Description of goods	Forms/Grade (As per * Note below)	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
1	29362700	Vitamin-C	All Forms/Grades	China PR	China PR	Any	Any	3.74	Kg	US\$
2	29362700	Vitamin-C	All Forms/Grades	China PR	Any other than China PR	Any	Any	3.74	Kg	US\$
3	29362700	Vitamin-C	All Forms/Grades	Any Other than China PR	China PR	Any	Any	3.74	Kg	US\$

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

M. FURTHER PROCEDURE

123. 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.
124. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

J. K. Dadoo
Designated Authority