

No.15/6/2006(SSR)-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES
UDYOG BHAVAN

.....

New Delhi, the 3rd March 2008

NOTIFICATION

Final Findings
(Sunset Review)

Subject: Anti-Dumping (Sunset Review) investigations concerning imports of Sodium Nitrite originating in or exported from European Union.

No.15/6/2006(SSR)-DGAD - Having regard to the Customs Tariff Act, 1975, (hereinafter referred to as Act.) as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules.);

A. BACKGROUND

2. Whereas, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Designated Authority (herein after referred to as Authority) recommended imposition of Anti Dumping Duty on imports of Sodium Nitrite (hereinafter referred to as subject goods) originating in or exported from European Union (hereinafter referred to as subject countries/territory). The preliminary findings, final findings and amendment notification of the Authority were published vide notifications No.54/1/2001-DGAD dated 1.2.2002, 28.10.2002 and on 24.3.2005 respectively. On the basis of findings and amendment, provisional duty, definitive anti dumping duties and amended definitive duties on the subject goods imported from subject countries/territory were imposed by the Department of Revenue vide notifications Nos. 34/2002-Customs dated 28.3.2002, 132/2002-Customs dated 29.11.2002 and notification No.51/2005-customs dated 27.5.2005 respectively.

3. The Designated Authority, in terms of section 9A (5) of said Act. received a substantiated application from M/s Deepak Nitrite Ltd, Pune and M/s Punjab Chemicals & Crop Protection Ltd., Chandigarh requesting for review and continuation of the anti-dumping duties levied on the subject goods, for another five years on the grounds that the dumping had continued in spite of imposition of anti-dumping duty on imports of subject goods from subject countries/territory and the domestic industry continued to suffer injury on account of dumping by the subject countries. It was also claimed that the anti-dumping duty was not sufficient to provide due relief to the

domestic industry and cessation of anti-dumping duty would result in intensified injury to the domestic industry. The Designated Authority issued a public notice No. 15/6/2006(SSR)-DGAD dated 6.3.2007, published in the Gazette of India, Extraordinary, initiating anti-dumping (Sunset Review) investigations, to examine whether the expiry of anti dumping duty would lead to continuation or recurrence of dumping, injury or both.

B. PROCEDURE

4. In these proceedings the procedure described below has been followed:

- i) After initiation of the review the Authority sent questionnaires, alongwith the initiation notification, to the known exporters/producers in the subject country/territory in accordance with the Rule 6(4), to elicit relevant information.
- ii) Notices were also sent to the domestic industry in India seeking relevant information in accordance with the Rules;
- iii) The Delegation of the European Commission in New Delhi was informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their countries to respond to the questionnaire within the prescribed time.
- iv) Questionnaires were sent to the known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4),
- v) Transaction-wise data of imports for the period of investigation and preceding three years were called from Directorate General of Commercial Intelligence and Statistics (DGCI&S) and have been relied upon in this investigation;
- vi) Copies of the initiation notification were also sent to FICCI, CII and ASSOCHAM for wider circulation.
- vii) No exporter/producer and importer responded to the questionnaires.
- viii) M/s. Deepak Nitrite Ltd, Vadodara and M/s.Punjab Chemicals & crop Protection Ltd, Chandigarh, being domestic industry, submitted the information/data;
- ix) The Authority verified the information furnished by the domestic industry to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to examine the injury suffered, to work out optimum cost of production, cost to make and sell the subject goods in India and so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- x) The Authority held a public hearing on 16th October,2007 to hear the interested parties orally, which was attended by representatives of the domestic industry. The written submissions received from interested parties have been considered by Designated Authority in this findings;
- xi) The Authority made available the public file as per Rule 6(7) to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request.
- xii) The views expressed by various interested parties in response to the initiation notification and subsequent to the public hearing are discussed in the relevant paragraphs to the extent these are relevant as per rules and

have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in relevant paragraphs.

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

B.1 PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. The product involved in the original investigation was Sodium Nitrite in all form. This being a Sunset review, therefore, the investigation covers the product covered in the original investigation.

6. Sodium Nitrite is an oxidizing and reducing agent. It is a white crystalline powder mostly used in Pharmaceuticals industries for production of Paracetamol, Analgin, Theophylline, Caffeine, Dye industries, Lubricants, Construction chemicals, Rubber blowing agent, Heat transfer salts, meat processing, Textiles, etc.

7. The product is classified under Customs Tariff heading 28.34.10 of the Customs Tariff Act. as per Indian Trade Classification. The Customs and ITC HS classification is, however, indicative only and in no way binding on the scope of the present investigation .

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

C. DOMESTIC INDUSTRY

9. In the original investigation the application for anti-dumping investigation was filed by M/s. Deepak Nitrite Ltd.,Vadodra on behalf of the domestic industry. In the present sunset review the information/data has been provided by M/s. Deepak Nitrite Ltd, Vadodara and M/s.Punjab Chemicals & crop Protection Ltd, Chandigarh

C.1 INITIATION OF THE REVIEW AND ARGUMENTS RAISED

Views of Applicant Domestic Industry

10. Domestic industry has submitted that despite anti-dumping duty on Sodium Nitrite, Producers/exporters from European Union have continued dumping subject goods in the Indian market. Present investigation is a review investigation and the Designated Authority is required to examine whether revocation of duty is likely to lead to continuation or recurrence of dumping. In this case, as there are continued dumped imports, Designated Authority is required to examine whether revocation of duty is likely to lead to continued dumping of the product. Exporters and producers from the subject country are exporting subject products to India for the past several years. Continued exports even after imposition of duty at significantly dumping levels

clearly shows that the export volumes would at best increase after revocation of duty. There is no reason to believe that exports would decline or the export price would increase after revocation of duty.

Examination by the Authority

11. The Authority takes note of arguments raised by the domestic industry regarding continued injury to the domestic industry. These arguments have been taken into account while analyzing the injury to the domestic industry, likelihood of recurrence of dumping and injury to the domestic industry.

D. METHODOLOGY FOR CALCULATION OF DUMPING MARGIN

Dumping Determination: Normal Value, Export Price and Dumping Margin

D.1 Submission made by domestic industry

Domestic industry has made the following submissions:-

12. Petitioner submitted that normal value in European Union imply price of Sodium Nitrite in the domestic market of European Union in ordinary course of trade. Efforts were made to get evidence of the price at which the material is being sold by the producers/traders in domestic market of the European Union. Efforts were also made to get copy of the price list of the exporters/traders, which may form reasonable, sufficient and accurate evidence of normal value in domestic market of European Union in the ordinary course of trade. However, the petitioner has not been able to get any evidence of normal value in European Union, which can constitute accurate and adequate assessment of normal value for the present purpose.

D.2 Examination by the Designated Authority

13. The Authority sent copies of the questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). None of the producers/exporters from European Union have filed any response to the questionnaire to the Designated Authority. In the absence of any data, the authority relied upon the facts available as per Rule 6(8).

D.3 Methodology for calculation of dumping margin

Normal Value

14. The authority has constructed the normal value by considering the raw material norms as per standard input output norms (SION) and raw material prices of Caustic Soda as per prevailing prices in Europe as published in internationally followed and widely circulated magazine ICSLOR, Ammonia prices are taken as per international price as per DGCI&S published data, for manufacture of Sodium Nitrite.

Based on above information available, the normal value has been calculated USD *** per MT. by considering the average exchange rate during POI of 1USD=Rs.45.57/-

Export Price

15. The export price has been determined on the basis of transaction-wise details provided by DGCI&S . During POI the CIF value of weighted average export price was Rs.***/MT (US\$***/MT). After making adjustments on account of inland freight ,ocean freight ,marine insurance, Commission, Port expenses, and Bank charges, the ex-factory export price has been calculated as US\$ ***/MT (1 US\$ = Rs.45.57/- during the POI).

Dumping Margin

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

Dumping Margin

Exporter/Producer	Normal Value USD/MT.	Export Price USD/MT.	Dumping Margin USD/MT.	Dumping Margin %
All exporters from European Union	***	***	***	60.70%

The dumping margin determined is significant and above de minimis.

E. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK

INJURY DETERMINATION

CONTINUATION OF INJURY

Views of the Domestic Industry

17. Performance of the domestic industry improved in terms of a number of parameters in 2003-04 with low volume import volumes. Performance however deteriorated once again with the increase in import volumes in 2004-05, 2005-06 and POI. Deterioration in performance with increasing imports clearly suggests that the changes in the performance of the domestic industry are due to dumped imports. Further the landed value from the subject country have been below the net sales realization of the domestic industry. The imports continued to cause price undercutting. Resultantly, the volume and market share of imports increased. As a direct consequence, market share of the domestic industry declined. Increase in imports and market share and consequent prices offered by the domestic industry directly resulted in further deterioration of profit/loss situation, ROI and cash flow

suggests that the situation of the domestic industry would remain adverse in the situation of continued subject imports. Further the final findings notified by the Designated Authority in the matter of sunset review investigations against China that the domestic industry suffered injury in 2003-04 and performance of the domestic industry severely deteriorated between 2003-04 and 2006-07. Thus, it may be concluded that whereas the domestic industry was already suffering injury, its injury got aggravated due to dumping from Europe. Performance of the domestic industry further deteriorated in terms of production, capacity utilization, market share, prices, profit/loss, return on investment, cash flow and growth. Evidently, situation of the domestic industry continued to remain adverse. Further, the performance would at best deteriorate further, should the anti dumping duty in force be revoked at this stage.

Examination by the Authority

18. The Authority has taken note of various arguments raised in regard to injury to the domestic industry. The Authority also notes that anti-dumping duty is in force against European Union . In its final determination in respect of EU, the Authority has determined that imports from subject country was at dumped prices. Therefore, for the purpose of injury and causal link analysis, the imports from subject country has been treated as dumped imports.

19. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

20. For the purpose of injury analysis the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

(A) VOLUME EFFECT: Volume effect of dumped imports and impact on domestic industry:

21. The effects of volume of dumped imports from subject country has been examined as follows:

i) Import volumes and share of the subject country:

Particulars	Unit	2003-04	2004-05	2005-06	POI
Market share					

In Imports					
EU	MT	798	2,706	3,458	2668
Trend	Indexed	100	339	433	334
China(Country attracting duty)	MT	2785	2,519	5,138	6065
Other Countries	MT	1964	699	358	0
Total Imports	MT	5547	5,924	8,954	8733
Trend	Indexed	100	107	161	157
Market share in Imports					
EU	%	14.39	45.69	38.62	30.55
China(Country attracting duty)	%	50.21	42.51	57.38	69.45
Other Countries	%	35.40	11.80	4.00	0.00

22. The DGCI&S has provided transaction-wise data on imports. The same has been relied upon for analysis. The data shows that the total imports has increased from 5547 MT in 2003-04 (base year) to 8733 MT during October 2005 to September 2006 (POI). It has also been noted that imports from subject country has increased by 224% from the base year in absolute terms. Share of subject country in total imports, which was only 14.39% in the base year has gone up to 30.55% during POI.

23. The Authority also notes that the imports from China PR (country already attracting anti-dumping duty) has also increased from 2785 MT to 6065 Mt i.e. 118% during POI as compared to base year. The share of China PR has increased from 50.21% to 69.45%. The share of other countries which was significant at 35.40% has become nil during POI. The data indicates that the subject country and China PR have increased their share in imports.

ii) Demand, Production and Market Shares

Particulars	Unit	2003-04	2004-05	2005-06	POI
Demand	MT	29994	30,806	33,808	33,225
Trend	Indexed	100	103	113	111
Domestic Industry	MT	20,557	20,711	20,936	20,804
Captive Consumption of DI	MT	1,078	1,358	1,105	876
Sales of other producer including captive consumption	MT	2,813	2,813	2,813	2,813
Total Imports	MT	5547	5,924	8,954	8,733
Market Share in demand					
Domestic Industry (merchant sales)	%	68.54	67.23	61.93	62.61
Captive consumption	%	3.59	4.41	3.27	2.64
Other Indian Producers	%	9.38	9.13	8.32	8.46
Imports from EU	%	2.66	8.79	10.23	8.03

Imports from China	%	9.29	8.18	15.20	18.26
Imports from other countries	%	6.55	2.27	1.06	0.00

24. The demand of the subject goods has been calculated by addition of domestic sales of all producers, captive consumption and all imports from all countries. The sales of other producers have been taken as estimate provided by the domestic industry. The above data indicates that the demand grew by 11% during POI as compared to base year. The market share in demand of the domestic industry has declined from 68.54% in base year to 62.61% during POI. It has also been noted that the share of the captive consumption has declined from 3.59% to 2.64% during the same period.

25. The demand of subject goods has been assessed as 33225 MT during POI, it has increased by 3231 MT during POI as compared to base year, however, the capacity of the domestic industry has not grown during the same period. It continued as 23500 MT during these years. During POI, the production was 23369 MT at 100% capacity utilization indicating gap in demand and supply within the country.

26. The share in demand of the subject country increased from 2.66% in base year to 8.03% in POI. During the same period, the share of imports from China PR (the country already attracting anti-dumping duty) also increased from 9.29% to 18.26%.

a) Capacity, Capacity Utilisation and Production of the Domestic Industry

Particulars	Unit	2003-04	2004-05	2005-06	POI
Capacity	MT	23500	23500	23500	23500
Capacity Utilization	%	102	105	105	100
Trends	Indexed	100	103	103	98
Production	MT	23,928	24,584	24,564	23,369
Trend	Indexed	100	103	103	98

27. The data shows that the capacity of the domestic industry remained same over the injury period. It remained at 23500 MT (for Sodium Nitrite only) during the entire period. It, however, also shows that the domestic industry can produce the goods above the stated installed capacity. The production was 5% higher than the stated capacity in 2004-05, the production, however, declined in 2005-06 and POI. It has also been noted that capacity of the domestic industry remained fully utilized during the injury period. The increase and decline in production indicates some linkage with the increase and decline in exports and captive consumption.

b) Sales of Domestic Industry

Particulars	Unit	2003-04	2004-05	2005-06	POI
Sales - Domestic	MT	20,557	20,711	20,936	20,804
Trend	Indexed	100	101	102	101
Sales - Exports	MT	2,246	2,769	1,558	1,672

Total Sales	MT	22,803	23,479	22,494	22,475
Captive Consumption	MT	1,078	1,358	1,105	876
Sales including captive	MT	23,881	24,838	23,599	23,351
Trends	indexed	100	104	99	98

28. The data shows that the domestic merchant sales has not shown much fluctuation during the entire injury period. It fluctuated within the range of plus-minus 1%. From the base year to POI, the sales increased by 1% i.e. by 247 MT. The exports sales shows declining trend. It declined from 2246 MT in the base year to 1672 MT in POI i.e. by 574 MT. Similarly, the captive consumption also shows declining trend. It declined from 1078 MT in base year to 876 MT during POI i.e. by 202 MT.

29. The average inventory of the domestic industry shows rising trend. It increased by 356 MT in 2005-06 as compared to 2004-05 and declined by 66 MT during POI as compared to immediate preceding year. The average inventory measured as number of sales days shows that it increased to 12 days in POI as compared to 8 days in base year.

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

30. The impact on the prices of the domestic industry on account of dumped imports from the subject country has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realisation (NSR) and the Non-Injurious Price (NIP) of the domestic industry (worked out on the basis of the costing information of the domestic industry) have been compared with landed value of imports from the subject country.

Price Undercutting

Particulars	Unit	2003-04	2004-05	2005-06	POI
Export Price	Rs./MT	14,030	13,890	15,336	16,584
Landed Value	Rs./MT	17,604	16,695	17,659	18,678
Net Sales Realisation	Rs./MT	***	***	***	***
Cost of Production	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (Range)	%				5 to 10

Price Underselling

(Value in Rs./MT)

Net Sales Realisation	***
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Non Injurious Price	***
Landed Value	18,678
Price Underselling	***
Price Underselling (%)	***
Price Underselling range	35-40%

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

32. The export price from the subject country has shown rising trend. The export price has increased by Rs.2554 PMT in POI as compared to base year. During the same period, the customs duty declined from 25% in base year to 12.5% in POI, consequently, the landed value of the subject goods increased by Rs.1105 PMT in POI as compared to base year. During this period, the net selling price of the domestic industry declined by 5%. The undercutting of the selling price of the domestic industry by the imports (without anti-dumping duty) from subject country continued during the entire injury period though it declined in POI as compared to base year. The undercutting was in the range of 5 to 10% during the POI. The Authority also notes that undercutting by imports (with anti-dumping duty) from subject country was negative during POI.

33. The data on cost of production shows that cost of production has been rising from base year to POI. It increased by 15% during POI as compared to base year. The data on selling price shows that selling price has been declining from base year to POI. In POI when the cost of production increased by 15% selling price declined by 5% as compared to base year, resulting to increase in losses and indicating that the prices remained suppressed.

34. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producer by appropriately considering the cost of production for the product under consideration during the POI. The analysis shows that the weighted average landed value of the subject goods from subject countries is less than the non injurious price determined for the domestic industry during the period of investigation. The underselling was in the range of 35-40% during the POI.

Examination of other Injury Parameters

35. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analysed hereunder as follows:

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

(Merchant sale)

Particulars	Unit	2003-04	2004-05	2005-06	POI
Profitability					
Cost of sales weighted	Rs./MT	***	***	***	***
Trend	Indexed	100	103	113	115
Selling Price	Rs./MT	***	***	***	***
Trend	Indexed	100	93	98	95
Profit/ Loss	Rs./MT	***	***	***	***
Trend	Indexed	(100)	(2,736)	(3,919)	(5,281)
Total Profit/ Loss-Domestic	Rs. Lacs	***	***	***	***
Trend	Indexed	(100)	(2,757)	(3,991)	(5,345)
PBIT	Rs. Lacs	***	***	***	***
Trend	Indexed	100	(180)	(272)	(448)
Cash Profit	Rs. Lacs	***	***	***	***
Trends	Indexed	100	(253)	(384)	(552)

36. The profitability of the merchant sales of the domestic industry has been analyzed from the records of the company:

37. The cost of production from base year increased by 3% in 2004-05, 13% in 2005-06 and 15% during POI. The net selling price from base year declined by 7% in 2004-05, 2% in 2005-06 and 5% during POI. Loss of the domestic industry has gone up in the POI. Industry was in cash profit in base year has turned of to cash loss in POI.

(ii) Employment and Wages

Particulars	Unit	2003-04	2004-05	2005-06	POI
Employment					
Employee	Nos.	***	***	***	***
Trend	Indexed	100	98	95	100
Wages paid to employees	Rs. Lacs	***	***	***	***
Trend	Indexed	100	150	137	127

38. The companies of the domestic industry are multi-product companies. It was not possible to segregate the number of employees for the subject goods, therefore, the employees of the companies as a whole have been used for analysis. Data shows that the Number of employees did not change in POI as compared to base

year, however, the wages paid to employees increased by 27% during the same period.

(iii) Productivity

Particulars	Unit	2003-04	2004-05	2005-06	POI
Productivity					
Production	MT	***	***	***	***
Productivity per Day	MT	***	***	***	***
Trend	Indexed	100	103	103	98

39. The production per day declined to 98% during POI as compared to base year.

(iv) Inventories

Particulars	Unit	2003-04	2004-05	2005-06	POI
Average inventories	MT	***	***	***	***
Trend	Indexed	100	78	153	139
No. of days sales	Days	8	7	13	12

40. The average inventory of the domestic industry shows rising trend. It has increased by 39% in POI as compared to base year. It increased by 356 MT in 2005-06 as compared to 2004-05 and declined by 66 MT during POI as compared to immediate preceding year. The average inventory measured as number of sales days shows that it increased to 12 days in POI as compared to 8 days in base year.

(v) Return on Investment and Ability to Raise Capital

Particulars	Unit	2003-04	2004-05	2005-06	POI
NFA	Rs. lacs	***	***	***	***
Working Capital	Rs. lacs	***	***	***	***
Capital Employed-NFA Basis	Rs. Lacs	***	***	***	***
Return on Capital Employed	%	***	***	***	***
Trends	Indexed	100	(168)	(190)	(303)

41. The capital employed during POI has increased by 51% both on account of net fixed assets and working capital. During the year 2005-06, domestic industry incurred capital expenditure for replacing certain items of plant and machinery with new ones without any capacity additions. Return on capital employed which was positive in the base year has become negative in 2004-05 and continued as negative thereafter. This shows a significant deterioration in the profitability on a continuing basis.

vi) Profits and actual and potential effects on the cash flow

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

vii) Factor affecting prices

43. Evaluation of export prices from subject country shows that it had been increasing from base year to POI by 18%. The customs duty has, however, been declining from base year to POI. From 25% in 2003-04 it declined to 12.5% during POI. Consequently, the landed value of the subject goods increased by 6% from base year to POI. The cost of sales of the domestic industry in the same period, however, increased by 15%.

CONCLUSION ON INJURY

44. The demand of subject goods grew by 13%, 11% in 2005-06 and POI respectively as compared to 2003-04 (base year). The capacity of the domestic industry, however, continued to be same during the entire injury period. The merchant sales of the domestic industry also continued to be at the same level with minor fluctuation of plus-minus 1%. The export sales and captive consumption shows declining trend during the entire injury period. The decline in production coincides with the decline in export sales and captive consumption. The average inventory, however, shows piling of stock and increased during POI by stock equivalent to 4 days of sales. The capacity utilization of the domestic industry continued to be fully utilized during the entire injury period.

45. As compared to base year, the cost of sales increased by 3% in 2004-05, 13% in 2005-06 and 15% in POI. The selling price, however, declined to 93% in 2004-05, 98% in 2005-06 and 95% in POI. The profitability (profit/loss per MT) shows deterioration from 2003-04 onwards because of rising cost of sales and declining selling prices. Profits (PBIT) and cash profits shows similar trend of deterioration. The return on capital employed follows similar trend and continues to deteriorate.

46. The above analysis shows that the domestic industry though fully utilized its capacity, however, it continued to make losses indicating continuing injury to the domestic industry.

OTHERS KNOWN FACTORS

Volume and prices of imports from other sources

47. It has been seen that Imports from China PR (country already attracting anti-dumping duty) had been completing with the imports from subject country. The imports from China PR has increased from 2785 MT in base year to 6065 MT in POI. The imports from other countries continued to decline from base year to POI. It was 2362 MT in base year, declined to 699 MT in 2004-05, 358 and .03 MT in POI, therefore, imports from other countries other than China PR cannot be reason for injury to the domestic industry.

Contraction in demand and / or change in pattern of consumption

48. Demand of the product under consideration has not registered any negative growth. Contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry.

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

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

Development of technology and export performance

50. Technology for production of the product has not undergone any change. Developments in technology is not a factor of injury. The domestic industry have some export activity, however, exports show declining trend and the volume during POI declined by 574 MT during POI as compared to base year.

Productivity of the Domestic Industry

51. Productivity of the domestic industry measured as production per day has shown that productivity has not changed during the entire injury period.

CAUSAL LINK

52. In view of the gap in supply and demand, the imports had been taking place. In rising demand the market share of domestic industry was bound to decline. Therefore, the rising imports cannot be reason for decline of market share of the domestic industry particularly when the domestic industry continued to utilize its capacity fully.

53. However, despite full utilization of its capacity, the domestic industry continued to suffer losses primarily because of its failure to increase the selling price despite rising cost of the production. The net selling price of the domestic industry shows similar trend as that of lowest landed value (the landed value with anti-dumping duty) except during POI when net selling price has not increased with the rise in landed value. The trend indicates that the selling price of the domestic industry was impacted by landed value of imports.

54. The dumping of subject goods have been taking place from two sources, i.e. European Union and China PR. The imports from two sources indicate competition. The rise and decline of imports from each source clearly indicate linkage with the fluctuation in their export prices. From EU, with decline in prices in 2004-05, the imports volume increased. (During 2004-05, the export price from China increased and imports volume declined.) In 2005-06, though the prices from EU increased, volume also increased, however, from China PR export price increased marginally and volume also increased. In POI, prices increased from EU and volume declined but from China PR prices declined and volume increased.

55. In view of the above, the Authority notes that decline in the performance of domestic industry and injury is attributable to dumped imports from European Union (and China PR).

LIKELIHOOD OF CONTINUANCE OF DUMPING

56. The Authority notes that in the original investigation concluded on 28.10.2002, the exporter (M/s BASF AKTIENGESSELLSCHAFT) from Germany had not cooperated with the Authority and have opined that "it is evident that due to the 41.3% regular duty there has to be dumping". In the present review, no exporter from European Union has cooperated and provided any information. The Authority further notes that anti-dumping duty have been imposed by US concerning imports of sodium Nitrite from European Union (Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Preliminary)). The domestic industry has pointed out that with the imposition of anti-dumping duty by US, the exporters from EU are likely to dump the goods in India in case duty is withdrawn.

57. In absence of any response from exporters of the European Union and positive determination of dumping margin in the earlier section of this findings, there is no material on the record, circumstances and reason to believe that after withdrawal of duty, dumping from the European Union would discontinue.

LIKELIHOOD OF CONTINUANCE OF INJURY

58. As analysed in the earlier section, the domestic industry continued to suffer injury because of decline in selling prices despite rising cost of production. It has also been noticed that during POI there was marginal negative undercutting of selling price of the domestic industry by imports from European Union. It has also been noticed that the selling price of the domestic industry followed trends of the lower landed value of dumped imports from different sources. In case, the duty is withdrawn, the landed value will become further lower by current amount of the anti-dumping duty and undercutting would be positive. This in turn would put pressure on the selling price of the domestic industry. The domestic industry is already suffering losses and decline in the selling price would result in further deterioration of the performance of the domestic industry. The Authority, therefore, holds that with the withdrawal of anti-dumping duty, the injury to the domestic industry may intensify.

I. FINAL FINDINGS

59. The Authority after considering the foregoing concludes that:

- a. Subject goods originating in or exported from subject countries/territory have been exported to India below their normal value, resulting in dumping;
- b. The domestic industry has suffered material injury due to dumped imports;

- c. And discontinuation of anti-dumping duties on the subject goods from subject countries/territory may result in continuance of dumping and continuance or intensification of injury to the domestic industry.

J. Indian industry's interest & other issues

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

61. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries/territory in any way, and, therefore, would not affect the availability of the products to the consumers.

K. Recommendations

62. In view of positive determination of likelihood of dumping and injury on account of imports from subject countries/territory the Authority is of the opinion that continuation of the measure is required against imports from subject countries/territory. However, considering the current level of dumping from subject countries/territory and injury suffered by the domestic industry, the Authority is of the opinion that the measure in force needs to be revised. Therefore, Authority considers it necessary and recommends anti-dumping duty on imports of subject goods from subject countries/territory in the form and manner described hereunder.

63. Having regard to the lesser duty rule followed by the authority, the Authority recommends continued imposition of definitive anti-dumping duty on imports of the subject goods originating in or exported from European Union, equal to lower of margin of dumping and the margin of injury, so as to offset dumping and remove the injury to the domestic industry. The Authority in this case considers it appropriate to impose the anti-dumping duty on reference price basis and accordingly, recommends imposition of definitive antidumping duty as difference between amount indicated in Col. 8 of the table below and the landed value, to be imposed from the

date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from European Union.

Sl. No.	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10
1.	2834.2901	Sodium Nitrite	European Union	European Union	Any	Any	25235	MT	Rs.
2.	-do-	Sodium Nitrite	European Union	Any other than European Union	Any	Any	25235	MT	Rs.
3.	-do-	Sodium Nitrite	Any other than subject country	European Union	Any	Any	25235	MT	Rs.

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

65. An appeal against this order shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(R. Gopalan)
Designated Authority