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**F. No. 15/01/2016-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Anti- Dumping & Allied Duties  
Jeevan Tara Building, New Delhi-110001**

Dated: 12<sup>th</sup> May 2017

**NOTIFICATION**

**(Final Findings)**

**Subject: Final Findings in the Sunset Review of Anti-dumping duty imposed on the imports of Pentaerythritol originating in or exported from China PR.**

F. No. 15/01/2016-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**

1. Whereas, having regard to the above Act and the Rules, the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation concerning imports of the subject goods from China PR and Sweden, vide notification No. 14/16/2004-DGAD dated February 4, 2005. The Preliminary Findings were notified on August 5, 2005. The Authority notified final findings on February 2, 2006 recommending definitive antidumping duty on the imports of Pentaerythritol originating in or exported from China and Sweden. The definitive anti dumping duties on the subject goods imported from subject countries were imposed by the Department of Revenue vide notification No. 37/2006 dated 20.04.2006.
2. The Authority initiated sunset review investigations vide Notification No. 15/3/2010-DGAD dated 26th March 2010. The Authority recommended continued imposition of definitive anti dumping duties on imports from China PR vide notification No.15/3/2010-DGAD, dated the 25th March, 2011 and Ministry of Finance extended definitive anti-dumping duty vide notification No. 47/2011-Customs, dated the 14th June, 2011 on all imports of subject goods originating in or exported from China PR.

However, anti dumping duties on imports from Sweden were revoked by the Authority in the sunset review.

3. 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.
4. And whereas, M/s Kanoria Chemicals and Industries Limited (hereinafter also referred to as "*Petitioner*" or "Applicant") filed an application in the present case before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules for initiation of sunset review anti-dumping investigations concerning imports of Pentaerythritol (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country) and requested for extension of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country.
5. And whereas, the Authority on the basis of sufficient evidence submitted by the applicant to justify initiation of sunset review investigation issued a public notice vide Notification No. 15/01/2016 – DGAD dated 7th June, 2016. The validity of the antidumping duty on the imports of the subject goods from the subject country was extended by the Central Government up to 13th June 2017 vide Notification No. 26/2016-Customs (ADD) dated 13th June, 2016.
6. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from China PR.

**B. PROCEDURE**

7. Procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority.
  - i. The Authority notified the Embassy/Representatives of the subject country in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
  - ii. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.

- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
- iv. The Embassy of the subject country in India was also requested to advise the exporters/producers from China to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from China PR.
- v. The Authority sent Exporter's Questionnaire and Market Economy Questionnaire to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
  - a. M/s. Hubei Yihua Group Limited Liability Company
  - b. M/s. Guizhou Crystal Chemical Co. Ltd.
  - c. M/s. China National Chemicals Construction Corporation
  - d. M/s Sinochem Jiangsu Import & Export Corporation
  - e. M/s Shanxi Sanwei Group Company Ltd.
- vi. In response to the above notification, none of the exporters/ producers has responded or submitted questionnaire responses.
- vii. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
  - a. Addison Paints & Chemical Ltd.
  - b. Berger Paints India Limited
  - c. Century Enka Limited
  - d. Ciba Specialty Chemicals (India) LT
  - e. Coates Of India Ltd
  - f. Decro Paints
  - g. Dujodwala Paper Chemicals Ltd.
  - h. Gargi Industries Prop.
  - i. Goodlass Nerolac Paints Ltd
  - j. Hardcastle & Waud Mfg Co Limited
  - k. Hero Dye Chem Industries
  - l. Hindustan Inks & Resins Ltd.
  - m. IVP Ltd.
  - n. Jenson & Nicholson (I) Ltd.
  - o. Mitsu Inds.Limited
  - p. Paras Dyes & Chemicals
  - q. Resin & Pigments

- r. Perstorp Chemicals India Pvt Ltd
  - s. A.V.M. Sales Pvt. Ltd.
  - t. Alcon Enterprises
  - u. Chemi Colour Agency
  - v. Eastcorp International
  - w. Garware Polyester Ltd.
  - x. H. R. Trading Co. Pvt. Ltd
  - y. Leo Chemoplast Pvt. Ltd.
  - z. Samir Dye Chem
  - aa. Sanman Trade Impex Pvt. Ltd.
  - bb. Saraf Chemicals Ltd.
  - cc. Vibgyor Paints Pvt. Ltd.
  - dd. Shalimar Paints Ltd.
- viii. None of the importers has filed submissions or response to the Importer's questionnaire.
- ix. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigations, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions; The transaction wise import data was placed in the public file.
- xi. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xii. The Authority held an oral hearing on 19<sup>th</sup> September 2016 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry only. The representatives of domestic industry who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally.
- xiii. Due to change in the incumbency of the Designated Authority and in line with the judgment of the Hon'ble Supreme Court in the ATMA case, another oral hearing was conducted by the new Designated Authority on 6<sup>th</sup> February 2016, which was attended

by the representatives of domestic industry only. The representatives of domestic industry who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally.

- xiv. On the spot verification of the data of the domestic industry was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of this finding.
- xv. The Period of Investigation (POI) for the purpose of the present review is April, 2015-March, 2016 (12 months). The examination in the context of injury analysis covers the periods April 2012-March 2013, April 2013-March 2014, April 2014-March 2015 and the POI.
- xvi. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this finding.
- 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 considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xix. In accordance with Rule 16 of the Rules Supra, the essential facts were disclosed by the Authority on 14th March, 2017 to the concerned interested parties. Comments were requested by 20th March, 2017. Comments received on the disclosure statement to the extent considered relevant by the Authority have been considered in this final finding.
- xx. ‘\*\*\*’ in this final findings represents information furnished by an interested party 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.65.91 = 1 US\$.

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

### **C.1 Views of the Domestic industry**

8. The views of the domestic industry are as follows:
- i. The present review investigation is a sunset investigation. The product involved in the original investigation and in the present sunset review investigation is Pentaerythritol. The product under consideration in the present sunset review is the same as has been held by the Designated Authority in the original investigation. Pentaerythritol is an organic chemical classified under Chapter 29 of the Customs Tariff Act. However, scope of the investigation excludes di-pentaerythritol. It is produced and marketed in two grades - technical and nitration. However, there is no material difference found between these two grades and both the grades are produced out of same process. During the production process less than 2% of entire production of Pentaerythritol results into the production of nitration grade whereas more than 97% constitutes as technical grade.
  - ii. Pentaerythritol is used in the manufacture of Alkyd Resin, Resin Esters, Plasticizers, Printing Inks, Synthetic Rubber, Stabilizers for Plastics, Modified drying oils, Detonators, Explosives, Pharmaceuticals, Core oils and Synthetic Lubricants. The subject goods fall under Chapter 29 of the Act under subheading no. 2905.42. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.
  - iii. There is no difference in the technology employed and the quality of the domestic and imported product. Present investigation is a review investigation. The Designated Authority has examined the issue of product under consideration and like article in the original investigation, which is relied upon.

**C.2. Views of the other interested parties**

9. None of the importers, consumers, exporters and any other interested party has filed any comment or submissions with regard to product under consideration, and like articles.

**C.3. Examination by the Authority**

10. The product under consideration is Pentaerythritol, an organic compound which finds application in manufacture of Alkyd Resin, Rosin Esters, Plasticizers, Printing Inks, Synthetic Rubber, and Stabilizers for Plastics, Modified Drying Oils, Detonators, Explosives, Pharmaceuticals, Core Oils and Synthetic Lubricants. Pentaerythritol can be of technical grade or nitration grade and both grades are included within the scope of product under consideration and present investigation. Pentaerythritol is classified under Customs sub heading No 2905.42 under chapter 29 of the Customs Tariff Act, 1975.
11. The present investigation being a sunset review investigation and anti-dumping duties, as earlier recommended by the Authority, being in force on the imports of the subject

goods from the subject country, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigations, as per Rule 2(d) of Anti-Dumping Rules.

12. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject product produced by the domestic industry is comparable to the Product under consideration in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
13. Thus, the Authority holds that the subject product produced by the applicant domestic industry is like article to the Product under consideration, in accordance with the AD Rules.

#### **D. SCOPE OF DOMESTIC INDUSTRY & STANDING**

##### **D.1. Views of the Domestic industry**

14. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
  - i. The petition was filed by M/s. Kanoria Chemicals and Industries Limited as a domestic producer of the product under consideration. There are two producers of Pentaerythritol in the Country. Apart from petitioner, the subject goods are being produced by Asian Paints (India) Ltd. While Asian Paints produces the goods primarily for captive consumption, it has also undertaken some sales in the Indian Market in the relevant period. Further, the production of Asian Paints to the extent of captive consumption should not be included in the eligible production, as this production does not compete with the dumped material supplied by the Foreign Producers or sales made by the Indian Producers.
  - ii. Perstorp Chemicals India Pvt. Ltd., named as a producer of the subject goods in previous investigations, (hereinafter referred to as 'Perstorp India') has no domestic production from 2009-10 onwards and is no longer considered an Indian producer of the product under consideration. It has been established in the previously concluded anti-dumping investigations on imports of the product under consideration from other sources that Perstorp India is an importer of the subject goods and procures shipments from its related companies abroad.
  - iii. Therefore, M/s. Kanoria Chemicals and Industries Limited is the only eligible domestic producer of the subject goods in India and constitute domestic industry under Rule 2(b) of the Rules, 1995.

- iv. Production of petitioner constitutes a major proportion in Indian Production (both after including and excluding captive consumption by Asian Paints) and therefore, the petitioner should be treated as “domestic industry” within the meaning of the Rules.
- v. The petitioner has not imported the subject goods during the period of investigation, and further, is not related to any exporter or producer of the subject goods in China or any importer or user of the product under consideration in India within the meaning of Rule 2(b).

**D.2. Views of the other interested parties**

- 15. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

**D.3. Examination of the Authority**

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

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

- 17. The application has been filed by M/s. Kanoria Chemicals and Industries Limited. Other known producer, Asian Paints (India) Ltd. produces the subject goods for captive consumption also.
- 18. As per the Anti-dumping Rules, the Authority is required to examine whether (a) domestic producers expressly supporting the application account for more than twenty five percent of the total production of the like article by the domestic industry; and (b) the application is supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition to the application. The applicant constitutes 69% of the total domestic production excluding production for captive consumption by Asian Paints; and the applicant constitutes 52% of the total Indian production including production for captive consumption by Asian Paints. Further, the petitioner has not imported the subject goods during the period of investigation, and, is not related to any exporter or producer of the subject goods in subject country or any importer or user of the product under consideration in India within the meaning of Rule 2(b).

**Production excluding captive consumption**

	<b>Particulars</b>	<b>UOM</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
1	Petitioner	MT	6,648	6,831	6,814	7,284
a	Kanoria Chemicals	MT	6,648	6,831	6,814	7,284
2	Other Indian Producer	MT	2,614	2,620	3,257	3,261
3	Total Indian Production	MT	9,262	9,451	10,072	10,546
	<b>Share</b>	<b>UOM</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
1	Petitioner	%	71.78	72.28	67.66	69.08
2	Kanoria Chemicals	%	71.78	72.28	67.66	69.08
3	Other Indian Producer	%	28.22	27.72	32.34	30.92
4	Total Indian Production	%	100.00	100.00	100.00	100.00

**POI: April 15 to March16**

**Statement of Indian Production including captive**

	<b>Particulars</b>	<b>UOM</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
1	Petitioner	MT	6,648	6,831	6,814	7,284
2	Other Indian Producer	MT	2,592	2,592	3,293	3,293
3	Captive (Petitioner +Other)	MT	2,853	2,866	3,493	3,501
4	Total Indian Production	MT	12093	12,347	13,666	14,152
	<b>Share</b>	<b>UOM</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
1	Petitioner	%	54.97	55.59	50.11	51.74
2	Other Indian Producer	%	21.44	21.09	24.21	23.39
3	Captive	%	23.59	23.32	25.68	24.87
4	Total Indian Production	%	100	100	100	100

**POI: April 15 to March16**

19. In view of the above and after due examination, the Authority holds that the applicant satisfies the standing requirements and constitute domestic industry under Rule 2(b) and Rule 5(3) of the AD Rules.

**E. Market Economy Treatment (MET), Normal Value, Export Price and Determination of Dumping Margin**

20. 'Normal Value' under the Rules -

According to Section 9A (1) (c) of the Customs Tariff Act, 1975 'Normal Value' in relation to an article means: -

*comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*

*when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

*the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

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

## **E.1 Views of the Domestic industry**

21. The domestic industry inter alia submitted as follows:

- a. One of the provisions of Accession protocol has expired on 11<sup>th</sup> December, 2016. The Designated Authority should proceed with present investigation considering Chinese producers as producers operating in non-market economy conditions due to reasons given below.
- b. The investigation period considered by the Authority in the present case is April 2015 to March 2016 (12 months). The injury investigation period has been considered as the period 2012-13, 2013-14, 2014-15 and POI.
- c. The purpose of fixation of POI is to consider a period when the existence of dumping causing injury is claimed and established. The date of determination is not relevant to the moot question of dumping causing injury to the domestic industry. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone should be considered relevant, appropriate and necessary for the purpose.
- d. The Chinese producers are required to be treated as non-market economy companies

for the reason that the costs and prices in China do not reasonably reflect the market forces. Para 8 to Annexure-I specifies the parameters which should be considered for grant of market economy status. This also implies that unless these conditions are not fulfilled/ satisfied, the Chinese costs and prices cannot be adopted.

- e. The consideration of market economy status is based on parameters prevailing during investigation period. Since the reason for rejection of Chinese costs and prices is distortion in the costs and prices in China due to the factors listed in Para 8 to Annexure-I, petitioner submits that it is the investigation period that is relevant to decide consideration of Chinese producers as market economy companies.
- f. Since Chinese companies have been denied market economy status for the reasons mentioned in Para 8 of Annexure-I till December, 2016, petitioner submits that the Chinese producers are required to be treated as non-market economy companies till such time the investigation period includes the period specified in Accession Treaty protocol.
- g. In the context of rule 2(b), it is well established legal position that the imports by a domestic producer or its relationship with an exporter or importer are examined with reference to the investigation period. If POI alone is relevant for standing purposes, POI alone should be relevant for normal value determination.
- h. Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- i. 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 publicly available. The petitioner has claimed consideration of normal value on the basis of cost of production in India duly adjusted.
- j. The dumping margin from China is not only significant, but also substantial, thus establishing existence of significant dumping of the product under consideration in India. The import volume of China has remained significant throughout the present injury period, despite anti dumping duty in force.
- k. Considering the production capacities available with Chinese producers and their high export orientation, dumping would continue and even intensify in the event of cessation of anti dumping duty.

## **E.2. Views of the interested parties**

- 22. None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to dumping margin.

## **E.3. Examination by the Authority- China as non-market economy**

- 23. Article 15 of China's Accession Protocol provides as follows:

*“Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:*

*(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*

*(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*

*(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

*(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*

*(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*

*Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy*

*conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”*

24. Article 15 implies that provisions of one of the subparagraph shall expire 15 years from date of China’s Accession. The provisions of this paragraph expired in 11<sup>th</sup> Dec., 2016. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone is relevant, appropriate and necessary for the purpose of present investigation. The Period of Investigation (POI) for the purpose of the present review is April 2015 – March 2016. Since the subparagraph of Article 15 was in existence during the period of investigation, the Authority may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.
25. The Authority notes that in the past three years, China PR has been treated as 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 Rules.

#### **Examination of Market economy claims**

26. As per Paragraph 8, Annexure I to the Anti-Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provides information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People’s Republic of China PR are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether: -
- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
  - b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
  - c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and

d. The exchange rate conversions are carried out at the market rate

27. None of the exporter/producers have responded and filed questionnaire response. In view of the above position and in the absence of rebuttal of non-market economy presumption by any Chinese exporting company, the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and proceeds with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.

### **Normal value determination for China PR**

28. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. Normal value has been constructed by adopting best achieved consumption norms of raw material and utilities. International rate of key raw material namely methanol and caustic soda lye have been adopted while other elements of cost have been adopted as per domestic industry's cost structure. As there was no finance cost in this case, a margin of 5% on cost of production has been provided as per DGAD practice.

### **F. Determination of Export Price**

29. None of the exporter from the subject country has provided any information giving details of export price. Therefore, the Authority has determined the export price for producers/exporters of China PR on the basis of the DGCI&S transaction wise data. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from China PR has been determined after making the due adjustments for Ocean Freight, Marine Insurance, FOB Price, Port Expenses, and Inland Freight on the basis of best available information as mentioned in the dumping margin table.

### **G. Determination of Dumping Margin**

30. The export price to India (net of all the adjustments accepted by the Authority) has been compared with the normal value to determine dumping margin. The dumping margin during the POI for all exporters/producers from subject country has been determined as provided in the table below:

<b>SN</b>	<b>Particulars</b>	<b>UOM</b>	<b>Value</b>
1	Normal Value	US\$/MT	****
2	Export Price	US\$/MT	****
3	Dumping Margin	US\$/MT	****
4	Dumping Margin %	Range	20%-30%

## **H. INJURY AND CAUSAL LINK**

### **H.1. Views of other interested parties**

None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to injury and causal link.

## **H.2. Views of Domestic Industry**

1. The domestic industry has submitted as follows with regard to injury and causal link:
  - i. The imports are still continuing and are being reported at low and dumped prices.
  - ii. Imports from China have increased in the period of investigation as compared to base year, 2012-13 as well as immediately preceding year, 2014-15.
  - iii. Dumped imports are significantly undercutting the prices of the domestic industry.
  - iv. The landed price of imports is not only below selling price of the domestic industry but also below cost of sales and non-injurious price of the domestic industry.
  - v. Both dumping margin and injury margin in the POI are positive and significant.
  - vi. Continued dumped imports from the subject country as well as other sources would suppress the prices of the domestic industry and prevent the price increases.
  - vii. Performance of the domestic industry has shown improvement in terms of production and capacity utilization. Further, the domestic industry has been able to make some profits.
  - viii. Growth of the domestic industry is positive in terms of some of the parameters such as production, capacity utilization, profits, cash profits and return on investments. However, sales and market share have not shown expected improvement despite increase in demand.
  - ix. The circumstances, which were prevalent at the time of previous investigations, are very much in existence even till date. There has been no change in the circumstance, which could suggest that the dumping would not recur at the aggravated level at which it was at the time of original investigation.

## **H.3. Examination by the Authority**

31. The injury analysis made by the Authority here under addresses the various submissions made by the interested parties.
32. 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 depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

33. Article 3.1 of the WTO Agreement 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 Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

34. As regards the impact of the dumped imports on the domestic industry, Para (iv) of Annexure-II of the Anti-dumping Rules states as follows.

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

35. 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, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

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

37. In consideration of the various submissions made by the interested parties in this regard, the Authority 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.

**i. Assessment of Demand**

38. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed is given in the table below:

*Demand in the country*

Particulars	UOM	2012-13	2013-14	2014-15	POI*
<b>Demand - excluding captive</b>					
Subject Country – China	MT	906	2,170	532	2,013
Countries attracting ADD	MT	3,997	3,046	4,069	2,270
Other Countries	MT	9,626	10,084	8,944	15,103
Sales of Domestic industry	MT	6,150	6,848	7,172	7,161
Other Indian Producers	MT	2,592	2,592	3,293	3,293
Total Demand	MT	23,271	24,740	24,010	29,840
<b>Demand - including captive</b>	UOM				
Subject Country – China	MT	906	2,170	532	2,013
Countries attracting ADD	MT	3,997	3,046	4,069	2,270
Other Countries	MT	9,626	10,084	8,944	15,103
Sales of Domestic industry	MT	6,195	6,905	7,238	7,235
Other Indian Producers	MT	5,400	5,400	6,720	6,720
Total	MT	26,124	27,605	27,503	33,340
Trend	Indexed	100	106	105	128

39. The Authority notes that the demand for the product under consideration has increased over the injury period, both including and excluding captive consumption by Asian Paints.

**ii. Volume Effect of Dumped Imports and Impact on Domestic Industry**

**Import volume and market share**

40. 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. The volume of imports of the subject good from the subject country have been analyzed as under:

Particulars	UOM	2012-13	2013-14	2014-15	POI*
Imports Volume					
Subject Country – China	MT	906	2,170	532	2,013

Countries attracting ADD	MT	3,997	3,046	4,069	2,270
Other Countries	MT	9,626	10,084	8,944	15,103
Total Imports	MT	14,529	15,300	13,545	19,386
Consumption (incl. captive)	MT	26,124	27,605	27,503	33,340
Consumption (excl. captive)	MT	23,271	24,740	24,010	29,840
Production DI (incl. captive)	MT	7,196	6,889	6,880	7,358
Subject imports in relation to					
Total Imports	%	6%	14%	4%	10%
Consumption (incl. captive)	%	3%	8%	2%	6%
Consumption (excl. captive)	%	4%	9%	2%	7%
Production (incl. captive)	%	13%	32%	8%	27%
Production (excl. captive)	%	13%	32%	8%	28%

41. It is noted that imports of the product under consideration from subject country have increased over the injury period and are still significant and at dumped prices in absolute terms. Further, subject imports in relation to production and consumption have also increased over the injury period, despite existence of anti-dumping duty. The Authority also notes that the DI has operated at full capacity which shows that imports are inevitable in view of demand and supply gap. But such imports are at dumped process causing injury to the domestic industry.

**iii. Price Effect of the Dumped imports on the Domestic Industry**

**a. Price Undercutting**

42. With regard to the effect of the dumped imports on prices, the Authority is required to consider 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. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level.

43. Price undercutting has been assessed by comparing the landed price of imports with the domestic selling price in India of the subject goods during the period of investigation. It would be seen that the landed price of imports without anti dumping duty is lower than the selling price of the domestic industry and would result in significant price undercutting should the present anti dumping duty be allowed to expire, as shown in the following table:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Net Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100.00</i>	<i>108</i>	<i>109</i>	<i>118</i>

Landed Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100.00</i>	<i>103</i>	<i>113</i>	<i>112</i>
Price Undercutting without ADD	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100.00</i>	<i>150</i>	<i>72</i>	<i>162</i>
Price Undercutting	%	***	***	***	***
<i>Range</i>		<i>5-15%</i>	<i>10-20%</i>	<i>5-15%</i>	<i>10-20%</i>

**b. Price Underselling**

44. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in POI in accordance with Annexure III of the Anti-dumping Rules.

Particulars	\$USD /MT
Non injurious price	*****
Landed value	*****
Injury margin	*****
Injury margin % Range	10-20

45. It is seen that the landed price of the subject goods from China was significantly lower than the NIP determined for the domestic industry.

**c. Price suppression/depression**

46. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

Particulars	Unit	2012-13	2013-14	2014-15	POI*
Cost of Sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>110</i>	<i>113</i>	<i>100</i>
Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>108</i>	<i>109</i>	<i>118</i>
Landed Price	Rs./Kg	***	***	***	***

<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>103</i>	<i>113</i>	<i>112</i>
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47. It is noted that whereas the cost of sales have declined over the injury period, the selling price of the domestic industry has increased. Thus, there is no price suppression and depression in the domestic market. However, the landed price of imports without anti-dumping duty is significantly below the selling price as well as the cost of sales of the domestic industry, which is likely to lead to price suppression/depression in case of cessation of anti-dumping duties.

**iv. ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY**

48. Annexure II to the AD Rules requires that the 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 AD 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.

49. Accordingly, various economic parameters of the Domestic Industry are analyzed herein below.

**a. Production, Capacity, Capacity Utilization & Sale Volume**

50. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization was as follows:

Particulars	UOM	2012-13	2013-14	2014-15	POI*
Capacity	MT	7,000	7,000	7,000	7,000
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
Production	MT	6648	6,889	6,880	7,358
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>104</i>	<i>103</i>	<i>111</i>
Capacity Utilization	%	95%	98%	98%	105%
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>104</i>	<i>103</i>	<i>111</i>
Domestic sales	MT	6,150	6,848	7,172	7,161
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>111</i>	<i>117</i>	<i>116</i>

51. It is noted that capacity of the domestic industry has remained constant during the entire injury period. Performance of the domestic industry in terms of production and sales has improved as a result of anti-dumping duty on dumped imports in force.

**b. Market Share in Demand**

52. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Market Share (incl. captive)	UOM	2012-13	2013-14	2014-15	POI
Subject Country - China	%	3%	8%	2%	6%
Countries attracting ADD	%	15%	11%	15%	7%
Other Countries	%	37%	37%	33%	45%
Domestic industry	%	24%	25%	26%	22%
Other Indian Producers	%	21%	20%	24%	20%
Total	%	100%	100%	100%	100%
Market Share (excl. captive)					
Subject Country - China	%	4%	9%	2%	7%
Countries attracting ADD	%	17%	12%	17%	8%
Other Countries	%	42%	41%	37%	50%
Domestic industry	%	26%	28%	30%	24%
Other Indian Producers	%	11%	10%	14%	11%
Total	%	100%	100%	100%	100%

53. It is noted that market share of the domestic industry has decreased in the POI as compared to the base year whereas market share of the subject country has increased over the injury period. Market share of other Indian producers has remained at the same level over the injury period. Further, market share of other countries attracting ADD has also decreased over the injury period; whereas market share of other countries (not attracting ADD) has increased. Considering the positive price undercutting and increase in market share of China, it is concluded that the market share of the domestic industry has declined as a direct result of dumped imports from China PR.

**c. Profit/Loss, Cash Flow, Return of Investment**

54. Performance of the domestic industry with regard to profits, return on investment and cash flow is as follows:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Cost of sales	Rs/KG	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>110</i>	<i>113</i>	<i>100</i>
Selling price	Rs/KG	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>108</i>	<i>109</i>	<i>118</i>

Particulars	UOM	2012-13	2013-14	2014-15	POI
Profit/( Loss)	Rs/KG	(***)	(***)	(***)	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-128</i>	<i>-159</i>	<i>90</i>
Profit/( Loss)	Rs. Lacs	(***)	(***)	(***)	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-143</i>	<i>-186</i>	<i>105</i>
Cash Profit	Rs. Lacs	(***)	(***)	(***)	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-153</i>	<i>-204</i>	<i>147</i>
Profit before Interest and Tax	Rs. Lacs	(***)	(***)	(***)	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-141</i>	<i>-182</i>	<i>103</i>
Return on Capital Employed	%	(***)	(***)	(***)	***
<i>Range</i>		<i>-(10-20%)</i>	<i>-(20-30%)</i>	<i>-(30-40%)</i>	<i>10-20%</i>

55. It is noted that the domestic industry were incurring losses upto 2014-15 on account of presence of dumped imports in the domestic market. The domestic industry made some profits in the POI. Similarly, profit before interest, cash profit and return on investment have become positive in the POI after continuous losses up to 2014-15 but the return on capital employed is below the benchmark return of 22%.

d. **Inventories**

56. Inventories with the domestic industry is as follows:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Average stock	MT	226	478	257	53
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>203</i>	<i>109</i>	<i>22</i>

57. Inventories with the domestic industry increased significantly in 2013-14, declined in 2014-15 and then increased again in the POI.

e. **Productivity**

58. From the information given below, the Authority notes that Productivity in terms of productivity per day as well as per employee has increased in the POI, which is commensurate with the movement of production.

Particulars	UOM	2012-13	2013-14	2014-15	POI
Productivity	Per Day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>104</i>	<i>103</i>	<i>111</i>
Productivity	Per Emp	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>104</i>	<i>102</i>	<i>109</i>

f. **Employment and Wages**

59. It is noted from the table below that the level of employment has remained at similar level during the entire injury period. However, wages paid have increased up to 2013-14 and then declined in the POI:

Particulars	UOM	2012-13	2013-14	2014-15	POI
No of Employees	Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>102</i>	<i>102</i>
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>101</i>	<i>98</i>	<i>94</i>
Wages	Rs/KG	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>103</i>	<i>86</i>

g. **Magnitude of Dumping**

60. The dumping margin determined in respect of the producers/exporters from the subject country is significant.

h. **Growth**

61. The Authority notes from the table below that the domestic industry has shown positive growth in terms of both, volume and price parameters in the Period of Investigation, as an effect of anti dumping duty being in place.

Growth	UOM	2012-13	2013-14	2014-15	POI
Production	%	--	4%	0%	7%
Domestic Sales Volume	%	--	11%	5%	-
Capacity Utilization	%	--	3%	0%	7%
Selling price domestic	%	--	***	***%	***%
Profit Before Tax	%	--	(***)	(***)	***
Cash Profit	%	--	(***)	(***)	***
Return on capital employed (NFA basis)	%Range	--	-5 to -15%	-5 to -15%	35-45%

i. **Ability to raise capital investment**

62. The Authority notes that the performance of the domestic industry has improved. However, dumping has continued and would affect the domestic industry's ability to raise capital.

**j. Level of dumping& dumping margin**

63. It is noted that subject country imports are entering the country at dumped prices and that the margin of dumping is significant.

**k. Factors Affecting Domestic Prices**

64. The examination of the import prices from the subject country, 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, etc. shows that the landed value of imported material from the subject country is below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling in the Indian market. The benchmark for the Indian producers' prices is the import prices from various sources, including the subject countries. There is no viable substitute to this product. Thus, the principal factor affecting the domestic prices is the landed value of the imports of subject goods from subject country.

**v. Conclusion on injury**

65. After examining and analyzing the facts and figures concerning injury to the domestic industry, the Authority concludes that despite the presence of anti-dumping duties, imports from China are entering at dumped prices. Dumped imports are significantly undercutting the prices of the domestic industry. The landed price of imports is not only below selling price of the domestic industry but also below cost of production and non-injurious price of the domestic industry. Both dumping margin and injury margin in the POI are positive and significant. Performance of the domestic industry has shown improvement in terms of production and sales volumes. Performance of the domestic industry has also shown improvement in terms of price parameters as the domestic industry has made some profits in the POI.

**I. Other Known Factors & Causal Link**

66. The Authority examined whether other known factors could have caused injury to the domestic industry as follows:

(1) **Volume and value of imports not sold at dumped prices:** - Imports of product under consideration from Chinese Taipei, Russia and European Union (excluding Sweden) are attracting anti dumping duties. Imports of product under consideration from all other countries are either low in volume or at high prices and are not causing injury to the domestic industry, except Saudi Arabia and Sweden. The Authority had earlier initiated investigations against Saudi Arabia and terminated the said investigations as the dumping margin was found to be

below de-minimus. Anti dumping duty on imports from Sweden were revoked in 2011.

- (2) **Contraction in demand:** The demand of the product under consideration has shown positive growth. Possible decline in demand could not have caused injury to the domestic industry.
- (3) **Changes in the pattern of consumption:** - The pattern of consumption with regard to the product under consideration has not undergone material change against the product under consideration. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the Domestic Industry.
- (4) **Trade restrictive practices of and competition between the foreign and domestic producers:** - The Authority notes that there is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- (5) **Developments in technology:** - The Authority also notes that technology for production of the product has not undergone any change.
- (6) **Export performance:** The performance of the domestic industry and injury thereto has been examined with respect to the domestic performance to the extent possible. Possible deterioration in the export performance of the domestic industry is, therefore, not a possible cause of injury to the domestic industry.
- (7) **Performance of other products being produced and sold by the domestic industry:** The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.
- (8) **Productivity of the domestic industry:** The Authority notes that the productivity of the domestic industry has followed the same trend as production and increased. Deterioration in productivity is not a cause of injury to the domestic industry.

67. The Authority concludes that while the known other factors listed above do not appear to have caused the injury determined. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has improved as a result of imposition of anti dumping duty. However, significant volumes of imports from the subject country at dumped prices continue to enter the country. The Authority is of the view that material injury would be caused to the domestic industry by dumped imports in case of cessation of anti dumping duty.

## **J. Conclusion on injury and Causation**

68. The Authority notes that the volume of dumped imports from the subject country in absolute terms and relative to apparent consumption and production in India has been significant despite the fact that anti dumping duty is in force. It is noted that growth of the domestic industry in terms of all economic parameters like production, capacity utilization, domestic sales and market share, has been positive. The domestic industry has also started making profits in the POI. However, imports continue to enter at dumped prices and would cause significant price undercutting and underselling in the absence of anti dumping duty. It is noted that dumping of the subject goods has continued, however, there is no current injury to the domestic industry. Therefore, the Authority has conducted analysis of likelihood of continuation of dumping and its consequent effect on the performance of the domestic industry as detailed in the subsequent paragraphs.

#### **K. Likelihood of continuation or recurrence of dumping and injury**

69. The Authority observed that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if the anti dumping duties were to be allowed to expire even if there is no current injury. It is noted that the subject imports are still entering into the domestic market at dumped and injurious price.

##### **K.1 Submissions by the domestic industry**

70. Following are the submissions made by the domestic industry with regard to likelihood of continuation of dumping and consequent recurrence of injury –

- i. Dumping Margins determined in previous investigation and present petition are positive and significant. This clearly shows likelihood of dumping and consequent injury in the event of cessation of anti-dumping duty. In the previous investigation the Authority attributed a dumping margin ranging from 50-60% for both cooperating and non-cooperating exporters. In the current investigation also, the dumping margin is significant.
- ii. Producers of subject goods in the subject country maintain huge capacities. The production of Pentaerythritol in China is nearly 3.4 lac MT per annum. The largest producer, Hubei Yihua Group LLC produces 1.2 lac MT. Hubei Yihua Group LLC occupies 70% of Chinese domestic sales.
- iii. The foreign producers are intensely focused on exports. Dumping to third countries is significant. In the event of cessation of anti dumping duty, these exporters are likely to increase their exports to India at dumped prices.
- iv. Petitioner has analyzed the exports from China to third countries as per China customs and has determined third country dumping margin and injury margin on

country-wise basis. It would be seen that significant volume of exports from China to various destinations are at dumping and injurious prices.

- v. The Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Such being the case, availability of such low priced imports from the subject country in the market would definitely cause an adverse impact on the Domestic Industry. This is further established by the long term dumping practice by the subject country.
- vi. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, exporters would further channelize their output in the Indian market as they are already holding excessive capacities and are in fact selling subject goods to third countries at substantially lower prices.

## **K.2 Submissions by producers/exporters/importers/other interested parties**

71. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

## **K.3 Examination by the Authority**

72. The Authority has examined the contention of the domestic industry and other interested parties to examine likelihood of continuation or recurrence of dumping and injury. The following analysis shows that there is likelihood of continuation of dumping and consequent injury to the domestic industry in the event of cessation of antidumping duties:

### **i. Level of current and past dumping margin:**

73. Considering the dumping margin determined by the Authority in the previous investigation and the dumping margin now assessed, it is quite evident that the exports were continued to be made at dumped prices and are likely to continue with cessation of anti dumping duties. Volume of dumped imports has increased even after imposition of anti-dumping duties. Further, the volume of imports is likely to increase further in the event of cessation of anti dumping duties, given the significant price undercutting and underselling during the injury period.

### **ii. Price attractiveness of Indian market**

74. The price, at which the subject goods are being exported by China PR to India, is an indicator of the likelihood of continuation/intensification of dumping. At the current landed price in India, there is price undercutting during POI, both with and without anti dumping duty. 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 China.

iii. **Export orientation of Chinese producers**

75. Information on exports from China to various countries provided by the petitioner has been analyzed. It is noted that significant volume of exports from China to various destinations are at dumping and injurious prices. In the event of cessation of duty, the exporters from subject country are likely to increase their exports to India at dumped prices.

iv. **Vulnerability of Domestic Industry in terms of price sensitivity of the product and the Indian market**

76. The Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Such being the case, availability of such low priced imports from the subject country in the market would cause an adverse impact on the Domestic Industry. This is further established by the long term dumping practice by the subject country. Thus, dumping and consequent injury to the Domestic Industry is likely to recur in the event of cessation of anti dumping duty.

v. **Huge Production Capacity in China**

77. Considering the information available on record, it is noted that the producers of the subject goods in subject country hold significant production capacity which is far more than Indian demand. Thus, cessation of anti-dumping duty is likely to lead to surge in dumped imports from subject country.

vi. **Conclusion on Likelihood of dumping and injury**

78. Considering the current level of imports from the subject country, despite continued imposition of anti dumping duty, the Authority concludes that there exists likelihood of intensified dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duty. It is further noted that the import prices would undercut the domestic prices and would also have a significant suppressing effect on the domestic prices.

**L. Magnitude of Injury and injury margin**

79. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the exports from the subject country for

determination of injury margin during the POI and the injury margin so worked out is as under:

Particulars	Unit	POI
Non injurious Price	\$USD/MT	***
Landed Value	\$USD/MT	***
Injury margin	\$USD/MT	***
Injury margin	%	***
Injury margin	Range	10-20

### **M. Post Disclosure Comments**

80. Following comments have been made by the Domestic Industry in response to the Disclosure Statement:

#### **M.1. Submissions by the Domestic Industry**

81. The domestic industry inter alia submitted as follows

- i. Authority may provide the documents such as break up of non injurious price, verification reports of exporters (non confidential version) and communications sent by the Authority to all the interested parties and their replies.
- ii. Anti dumping duty may be imposed as a fixed quantum (fixed form of duty) on the subject goods. Reason being, the product under consideration is attracting fixed quantum of ADD and therefore the same may be continued.
- iii. The duty should be levied in US\$

#### **M.2. Submissions of other interested parties**

82. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

#### **M.3. Examination by the Authority**

83. The Authority notes that post-disclosure comments/submission made by the domestic industry are mostly reiterations of earlier submissions, which have already been examined suitably and adequately and properly addressed in the disclosure statement or relevant paras of the present finding. The authority further considers as follows with regard to fresh issues raised by the domestic industry.

- i. As regards the submissions of the domestic industry concerning determination of non-injurious price (NIP), the Authority notes that the detailed guidelines for

computation of NIP is laid down under Annexure III of the Anti-dumping Rules and the same has been adopted while determining NIP in the present investigation.

- ii. As regards the submission of the domestic industry concerning form of duty, the Authority notes that as per the Anti-dumping Rules, the mandate of the Designated Authority is to determine the existence, degree and effect of the alleged dumping and to recommend the adequate quantum of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry. Accordingly, suitability of the form of the anti-dumping measures is decided by taking in to consideration the facts of a case.

#### **N. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:**

84. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.
85. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

#### **O. CONCLUSIONS**

86. 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 finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/ recurrence/ intensification of dumping and injury, the Authority concludes that:
  - i. There is continued dumping of the product concerned from China PR, causing injury to the domestic industry.
  - ii. Imports are significantly undercutting and underselling the prices of the domestic industry.

iii. Cessation of antidumping duty is likely to lead to continuation and recurrence of dumping and injury to the domestic industry.

**P. RECOMMENDATIONS**

87. Accordingly, the Authority recommends that the revised and continuation of anti dumping duties be imposed from the date of issue of notification by the Central Government on all imports of Pentaerythritol falling under chapter 29 of Custom Tariff Classification Act 1975, originating in or exported from China PR. The anti dumping duty shall be the amount mentioned in Column No. 9 of the following table.

Sl. No	Sub-heading	Description of goods	Specific ation	Country of origin	Country of Export	Producer	Exporter	Amount	Unit of Measur ement	Currenc y
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	2905	Pentaerythritol	Any	China	China	Any	Any	185.15	MT	US\$
2	2905	Pentaerythritol	Any	China	Any	Any	Any	185.15	MT	US\$
3	2905	Pentaerythritol	Any	Any	China	Any	Any	185.15	MT	US\$

**Q. Further Procedures**

88. An appeal against this notification, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

(Dr. Inder Jit Singh)

Additional Secretary & Designated Authority