To be published in Part-I Section I of the Gazette of India Extraordinary

F. No. 6/12/2021-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
Jeevan Tara Building, 5, Parliament Street, New Delhi -110001

Dated 16th August,2022

NOTIFICATION

FINAL FINDINGS

Subject: Anti-dumping investigation concerning imports of Ofloxacin and its intermediates" originating in or exported from China PR

Having regards to the Customs Tariff Act 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time thereof:

A. BACKGROUND OF THE CASE

1. The Designated Authority (hereinafter referred to as the "Authority") received an application from M/s Aarti Drugs Limited (hereinafter referred to as the 'applicant' or 'domestic industry') in accordance with the Customs Tariff Act 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time requesting initiation of an anti-dumping investigation concerning imports of "Ofloxacin and its intermediates" (hereinafter referred to as 'subject goods' or 'product under consideration') originating in or exported from China PR (hereinafter referred to as 'subject country').

2. The Authority, on the basis of prima facie evidence submitted by the applicant, issued a notification No. 06/12/2021-DGTR, dated 17th September 2021, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of alleged dumping of the subject goods from China PR and to recommend an amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

3. The Authority had earlier recommended antidumping duties on imports of Ofloxacin originating in or exported from China PR vide notification No. 14/06/2016- DGAD dated 22nd December, 2017 for a period of three years and Ministry of Finance imposed the said

duties vide Notification No. 08/2018 dated 15th March, 2018. The duties were in force till 14th March 2021. Antidumping duties were also recommended on imports of O Acid from China PR vide Notification No. 14/31/2016- DGAD, dated 19th December, 2017. The Ministry of Finance imposed the said duties vide Notification No. 06/2018-Customs (ADD) dated 12th March 2018, for a period of three years.

4. Imposition of duties on O-Acid led to circumvention by the producers by way of imports of O-Ester, a penultimate stage product. Thus, the Authority undertook an anticircumvention investigation and recommended extension of duties to O Ester vide Notification No. 7/14/2018-DGAD dated 24th October, 2018 and the Ministry of Finance extended the duties vide Notification No. 55/2018-Cus (ADD) dated 15th November 2018.

B. PROCEDURE

5. The procedure described herein below has been followed with regards to the subject investigation:

   a. The Authority notified the Embassy of the subject country in India about the receipt of the anti-dumping application before proceeding to initiate the investigation.
   b. The Authority issued a public notice dated 17th September 2021, published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods from the subject country.
   c. The Authority sent a copy of the initiation notification to the Embassy of the subject country in India, the known producers/exporters from the subject country, known importers/users in India, other Indian producers, and the domestic industry as per the information made available by the applicant and requested them to make their views known in writing within the prescribed time limit, in accordance with Rule 6(2) and 6(4) of the Rules.
   d. 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.
   e. The Embassy of the subject country in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the foreign producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.
   f. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules to elicit relevant information:
      i. M/s Apeloa Kangyu
      ii. M/s Zhejiang Jingxin Pharmaceutical Co., Ltd.
      iii. M/s Zhejiang East Pharmaceutical Ltd.
      iv. M/s Yongning Pharma

v. M/s Jinagsu Guotai Int'l Group Huatai Imp. & Exp. Co Ltd.
vi. M/s Zhejiang Medicines & Health Products Import & Export Co. Ltd.
vii. M/s Zhejiang Chemicals Import & Export
viii. M/s China Sinopharm International Corporation

g. In response, the following producers/exporters from the subject country filed exporter's questionnaire in the prescribed format:
i. M/s Anhui Bio compounds Pharmaceutical Co., Ltd (Producer)
ii. M/s China Sinopharm International Corporation (Exporter)
iii. M/s Sinopharm Healthcare Technology (Henan) Corporation (Exporter)
iv. M/s Zhejiang East-Asia Pharmaceutical Co., Ltd (Producer)
v. M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd. (Producer)
vi. M/s Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd (Producer)
vii. M/s Zhejiang Medicines and Health Products Import and Export Co., Ltd (Exporter)

h. The Authority sent questionnaires to the following known importers/users of subject goods in India seeking necessary information, in accordance with Rule 6(4) of the Rules:
i. M/s Cipla Limited
ii. M/s. Macleods Pharmaceuticals Ltd.
iii. M/s. J.B. Chemicals & Pharmaceutical Ltd.
iv. M/s Aristo Pharmaceutical Pvt. Ltd.
v. M/s. Sun Pharmaceutical Ind. Ltd.
vi. M/s Medi Pharma Drug House
vii. M/s. FDC Ltd.
viii. M/s Medley Pharmaceuticals Ltd.
ix. M/s Merck (India) Ltd.
x. M/s. Cadila Healthcare Ltd.
xi. M/s. Alkem Laboratories Ltd.
xii. M/s Amneal Pharmaceuticals Pvt. Ltd.
xiii. M/s ANM Pharma Pvt. Ltd.
xiv. M/s Aquatic Remedies Limited
xv. M/s Biotavia Labs Pvt. Ltd.
xvi. M/s General Import Company (India) Pvt. Ltd.
xvii. M/s Gorang International
xviii. M/s Infinity Laboratories Pvt. Ltd.
xix. M/s Micro Labs Ltd.
xx. M/s Neuland Laboratories Ltd.
xxi. M/s Shah C J World LLP
xxii. M/s Srini Pharmaceuticals Pvt. Ltd.
xxiii. M/s Sun Rise Enterprises
xxiv. M/s Vyali International
xxv. M/s Wintac Limited

i. In response, one importer i.e., M/s Infinity Laboratories Pvt. Ltd. has filed user questionnaire response.

j. The Authority, upon request by different stake holders, granted extension first till 12th November, 2021 and thereafter till 17th November 2021 to file the questionnaire response.

k. The period of investigation for the present investigation is 01st April 2020 to 31st March 2021 (12 months) (hereinafter referred to as the 'Period of Investigation' or 'POI'). The injury analysis period includes 2017-18, 2018-19 and 2019-20 and the period of investigation.

l. Transaction wise import data for the period of investigation and the preceding three years was procured from the Directorate General of Commercial intelligence and Statistics (DGCI&S). The Authority has relied upon the DGCI&S data for calculation of the volume and value of imports of the subject goods in India.

m. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the information provided by the applicant domestic industry to the extent deemed necessary was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings.

n. The Authority directed the parties to share the non-confidential version of their response with other interested parties, whose list was displayed on the DGTR website. The interested parties exchanged the non- confidential version of the response amongst themselves through email.

o. The domestic industry has submitted financial data duly certified by their Chartered/Cost Accountant. The non-injurious price (NIP) has been determined based on the optimum cost of production and the cost to make and sell the subject goods in India as per the information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove the injury to the domestic industry.

p. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all the interested parties to present their submissions orally in the oral hearing held on 07th December 2021 which was attended by various parties. The interested parties who presented their views at the oral hearing were advised to file written submissions of their views expressed orally, followed by rejoinder submissions.

q. The submissions and arguments made by the interested parties and information provided by the various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in these final findings.

r. 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 the 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.

s. 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 these final findings on the basis of the facts available.

t. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 14th July,2022 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.

i. '***' in these final findings represents information furnished by an interested party/any other party on a confidential basis and so considered by the Authority under the Rules.

j. The exchange rate for the POI has been taken by the Authority as 1 US$ = Rs. 75.22

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

6. At the stage of initiation, the product under consideration was defined as follows:

> *"5. The product under consideration in the present petition is Ofloxacin and its intermediates, namely, O-Acid or Ofloxacin Acid and O-Ester or Ofloxacin Ester. O-Ester is the penultimate stage for the production of O-Acid. The process from the stage of O-Ester to O-Acid is an incremental process. O- Ester is hydrolysed in acidic water, which is then cooled and filtered to form fried cakes of O-Acid, which are then further processed to obtain Ofloxacin. Considering, the past practice of circumvention, the applicant has combined O-Acid and O-Ester also in the product scope.*
>
> *6. Ofloxacin is used to treat certain infections including bronchitis, pneumonia, and infection of the skin, bladder, urinary tract, reproductive organs, and prostate. Ofloxacin is in a class of antibiotics called fluoroquinolones and works by killing bacteria that cause infections. Ofloxacin-Acid has dedicated use in the production of Ofloxacin.*
>
> *7. O-Acid is dedicated to the production of Ofloxacin and has no other usage. The market remains the same for both O-Acid and Ofloxacin. Currently, no anti-dumping duties are in force on the subject goods originating in or exported from China PR.*
>
> *8. Product under consideration falls under Chapter 29 and 30 of the Customs Tariff Act, 1975. Ofloxacin comes under HS code 30042034 However, the PUC has been be imported also under various other HS Codes namely 29419030, 29419060, 29152990, 29163990, 29189900, 29411090, 29349900, 29419090, 29420090."*

C.1. Submissions made by the other interested parties

7. The other interested parties have made following submissions with regard to the scope of the product under consideration and like article:

a. Ofloxacin, O-Acid and O-Ester are not substitute for each other. There are more than 700 customers of Ofloxacin in India whereas Infinity is the sole major consumer of O-Acid. The injury calculations should be done separately.
b. The quality of O-Acid produced by Aarti Drugs is not comparable to Chinese O-Acid. The proper comparison requires the determination of specification for O-Acid. Unlike Ofloxacin there is no set parameters to test O-Acid. Aarti has not mentioned parameters like assay, impurity, loss on drying which helps determine the quality of O-acid.
c. The value addition from O-Acid to Ofloxacin excluding profit is 40%. The value addition from O-ester to O-Acid excluding profit is 20%. The value addition from O-Ester to Ofloxacin is more than 50%.
d. The name "Ofloxacin and its intermediates" is misleading as the there are various other intermediates such as (a) 2,3,4,5-TETRA FLUORO BENZOYL CHLORIDE - TFBC 4; (b) ETHYL 3-N,N-DIMETHYL AMINO ACRYLATE; and (c) DL-Alaninol that can be supplied only from China. The applicant has added intermediates as per their convenience. These intermediates can be supplied only from China.
e. The three PUCs are completely different products with different chemical and physical properties. They have different CAS (Chemical Abstracts Service) numbers and the customs classifications of Ofloxacin, and O-Acid are also different. Thus, these products are not like articles and are not substitutable and interchangeable.
f. The market for O-Acid and Ofloxacin is not same as O-Acid is purchased by Ofloxacin producers that do not produce O-Acid themselves. Ofloxacin producers who are producers of O-acid need not purchase O-acid.
g. The value addition is not insignificant from O-Ester to Ofloxacin even if it is considered insignificant from O-Ester to O-Acid. In pharmaceutical products, consideration of a simple value addition criteria is misleading. The production processes involved to produce next stage pharmaceutical products is driven by know-how and expertise.
h. Most PUCs in anti-dumping investigations will have a prior stage product. Input or raw materials cannot form part of the PUC only because they are prior stage products in the manufacture of the end product.
i. There were no imports of O-Ester into India during the POI. Even if O-Ester is not treated as a separate PUC, it is required to be excluded from the scope of the PUC as the product type not imported into India cannot be subject to anti-dumping duty.
j. The domestic industry's attempt to substantiate the inclusion of O-Acid, O-Ester and Ofloxacin based on USITC investigation is misplaced as US extended the scope of domestic 'like article' and not the scope of the PUC.
k. The reference to circumvention investigations involving other products is irrelevant. There cannot be presumption of circumvention and scope of the PUC cannot be enhanced pre-emptively because of threat of circumvention of anti-dumping duty in the future.
l. The manufacturing of O-Ester requires negligible investment to the extent of 20-25% as compared to Ofloxacin manufacturing.

m. Various companies (formulators) such as Sun Pharma, Cipla etc. have imported Ofloxacin because of USFDA, EDQM approval that these Chinese producers have. Since the domestic industry does not have similar approval, these companies have to import. This indicates that the imported O Acid is not similar to the domestically produced O Acid.

C.2. Submissions made by the Domestic Industry

8. The domestic industry has made following submissions with regard to the product under consideration and like article:
   a. The product under consideration is "Ofloxacin and its intermediates, including, O-acid or Ofloxacin Acid and O-Ester or Ofloxacin Ester.
   b. The DGTR SOP Manual in para 3.12 cautions against wide product scope, as well as narrow scope. It says "*Whereas if the description of the PUC is too narrow, it may fail to give relief or protection to the DI. It may also result in 'circumvention of the duties levied*".
   c. The process involved from O-ester to O Acid to Ofloxacin is not significant.

Ofloxacin Ester is manufactured by following Steps-

1. Acylation

2. Amination

3. Cyclization

Acylation- *2,3,4,5Tetrafluro benzoyl chloride reacts with N,N -Dimethyl Amino ethyl acrylate to form Ethyl(2Z)-3-(dimethyl amine)-2- (2,3,4,5-tetra fluro benzoyl) acrylate in presence of Triethylamine (TEA) & Toluene.*

Amination - *Ethyl(2Z)-3-(dimethyl amine)-2-(2,3,4,5-tetra fluro benzoyl) acrylate reacts with DL-2-amino-1-propanol to form Ethyl-2-(2,3,4,5-tetrafluro benzoyl)-3-(1-hydroxy prop-2-ylamino) acrylate.*

Cyclization- *Ethyl-2-(2,3,4,5-tetrafluro benzoyl)-3-(1-hydroxy prop-2-ylamino) acrylate is cyclised at higher temperature to form ethyl-9,10-difluro-3-methyl-7-oxo-2,3-dihydro-7H(1,4)oxazino(2,3,4-ij)quinoline-6-carboxylate* ***(Ofloxacin ester).***

Ofloxacin Acid is manufactured by Hydrolysis reaction.

Hydrolysis- Ofloxacin ester *hydrolyzed in presence of caustic flakes & precipitated with acetic acid forms 9,10-Difluro-2,3Dihydro-3-Methyl-7-oxo-7H-Pyrido-(1,2,3-de)-1,4-benzoxazine-6 Carboxylic Acid* ***(Ofloxacin Acid).***

Ofloxacin is manufactured by condensation reaction.

Condensation- Ofloxacin acid *condensed with N-methyl piperazine in presence water and* ***Ofloxacin*** *isolated in methanol.*

d. In the production process of Ofloxacin, major manufacturing activity and value addition takes place at O-Ester stage. The domestic industry's major investment is upto O-Ester, which accounts for almost 85% of its total investment. O-Ester to O-Acid, and O-acid to Ofloxacin require very minimal value addition as already determined by the Authority earlier in the anti-circumvention investigation. The interested parties also contended the same before the Authority in the earlier investigation.

e. Not only value addition from Ester to O Acid is low, value addition from Acid to Ofloxacin is also low. Even interested parties contended the same before the Authority in earlier investigation concerning imports of Ofloxacin from China PR wherein it was argued that the cost of O Acid accounts for almost 85 percent of total cost of Ofloxacin.

f. In the past, when the ADD was imposed on O Acid, Chinese producers circumvented the anti-dumping duties imposed on the imports of O-Acid from China PR, as was established by the Designated Authority in its final findings in Anti-Circumvention investigation concerning imports of O-Ester from China PR vide Notification No. 7/14/2018-DGAD.

g. The ability and practise of the exporters in China to circumvent duties by way of exporting O Ester is well established. Thus, non-inclusion of O Ester clearly can lead to circumvention of measures in the future.

h. US has a long history of precedents and practise on inclusion of semi-finished product analysis. The USITC anti-dumping and countervailing duty handbook summarises the factors to be considered (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) the significance and extent of the processes used to transform the upstream into the downstream articles.

i. USITC has included semi-finished products in several investigations such as Hydrofluorocarbon Blends and Components from China; Glycine from India, Japan, and Korea; Artists' Canvas from China; Live Swine from Canada; Certain Frozen Fish Fillets from Vietnam; Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom; Uranium from Kazakhstan.

j. The Authority in the past has included the products, which were earlier investigated separately, as one product in subsequent investigation. There is no legal mandate to investigate the product separately, if treated separately in earlier investigations.

k. The WTO Panel very recently in European Union – Safeguard Measures on Certain Steel Products (DS595) dated 29th April 2022 has re-affirmed the wide discretion with the investigating authority to define the PUC in an investigation.

l. The discretion available under the law is vast and the authorities around the globe have defined different product scope in different investigations for the same article. Further, the Authorities normally consider that they are not bound either by the product scope defined for the article by other WTO members or by the product scope defined by them in different earlier investigations concerning same article against different countries.

The references have been made to investigations by various authorities considering various products mentioned below:

a. Sodium Citrate
   (i) India: Sodium Citrate in the form of mono sodium citrate, di sodium citrate and tri sodium citrate
   (ii) EC: citric acid (including sodium citrate) includes citric acid monohydrate, citric acid anhydrous and trisodium citrate dihydrous
   (iii)USA: granulation sizes of citric acid, sodium citrate, and potassium citrate
b. Persulphate
   (i) India: ammonium persulphate, potassium persulphate and sodium persulphate
   (ii) USA: ammonium persulphate, potassium persulphate and sodium persulphate
   (iii)EC: ammonium persulphate, potassium persulphate, sodium persulphate and potassium monopersulphate
c. Pet film
   (i) USA: Only plain film, excluding metalised films
   (ii) EC, India: Included metalised films and base pet film
d. PTFE
   (i) India: PTFE in suspension and emulsion grades
   (ii) EC: PTFE containing not more than 3 % of other monomer unit than tetrafluoroethylene, without fillers, in the form of powder or pellets, with the exclusion of micronised material (i.e., powder form PTFE only)
e. Insulator
   (i) India: Electric Insulator
   (ii) USA: station post insulator (which is only a part of product under consideration considered by India)
f. Solar Cell
   (i) India: Crystalline modules and thin film
   (ii) USA: Crystalline modules
   (iii)EC: Crystalline modules
g. Acrylic Fibre
   (i) Italy: Below 1.5 denier
   (ii) Belarus: All denier
   (iii)Japan, Portugal, Spain and Italy: 1.5 denier to 8 denier
   (iv)Taiwan: All denier
   (v) Mexico: 1.5 denier to 8 denier
   (vi)Turkey, Hungary and European Union: 1.5 denier to 8 denier
   (vii) USA, Thailand and Korea RP: All deniers
   (viii) UK, Germany, Brazil, Bulgaria: All deniers
   (ix)Egypt: All deniers

m. The Indian Authority as well as other authorities have considered wide scope of product under consideration at various instances. The reference has been made to an investigation by the European Commission concerning Broad spectrum Antibiotics wherein the commission had considered certain broad-spectrum antibiotics, namely amoxicillin trihydrate, ampicillin trihydrate and cefalexin, presented in bulk within the PUC. Indian authority in a safeguard investigation concerning seamless pipes has

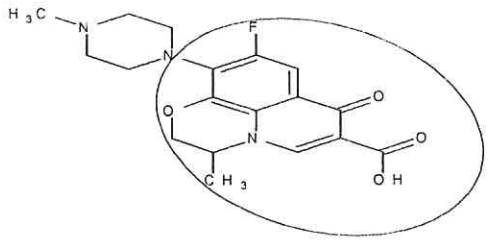
considered Tubes, Pipes and Hollow Profiles, seamless of iron, alloy or non-alloy steel (other than cast iron and stainless steel) whether hot finished or cold drawn or cold rolled, of external diameter not exceeding 273.1 mm (Outer Diameter) within the PUC. The European Commission has considered 28 products within the families of flat products, long products and tubes etc. of steel products in EC Safeguard steel investigation.

n. Even China has recently initiated investigations on Phthalocyanine Pigments from India, wherein the scope of the product under consideration is defined as "Phthalocyanine is an organic compound with four isoindoleline structural plane macrocyclic molecules, whether refined or not pigmented, after refining and/or pigmenting, Phthalocyanine has bright colour, strong colouring power, excellent weather resistance, heat resistance, solvent resistance, acid resistance and alkali resistance, and is insoluble in conventional organic solvents, thereby including both intermediate and processed product.

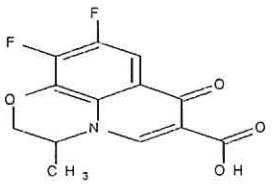
o. O Ester and O Acid is consumed only in the production of Ofloxacin. There is no other independent usage of O Acid and O Ester;

p. The market for O Acid and Ofloxacin is common and these are used in pharmaceutical products. O Ester, O Acid and Ofloxacin are part of a continuous chain of production, and their end-use markets are essentially the same.

q. Ofloxacin belongs to a class of drugs called quinolone antibiotics. The major part of Ofloxacin's structure is quinolone moiety. This chemical/structure moiety is majorly present Ofloxacin acid. Functionally & physically both the molecules are similar in nature.



Structure of Ofloxacin



Structure of Ofloxacin Q acid

r. The domestic industry has its own experience of earlier investigations concerning products produced by the applicant such as Metronidazole and 2-Methyl (5) Nitro Imidazole (2 MNI); Diclofenac Sodium (DFS) and Indolinone (1-(2,6-DICHLOROPHENYL)-2-INDOLINONE CRUDE); Ofloxacin, O-Acid and O-Ester, wherein narrow scope resulted in no protection at all.

s. The Designated Authority was faced with similar situation in the past and has considered products at different stages of production as one product. Some of the examples are (a) Anti-dumping investigation concerning imports of "Chlorinated Polyvinyl Chloride (CPVC) Resin- whether or not further processed into compound", originating in or exported from China PR and Korea RP; (b) Anti-Dumping Investigations concerning imports of Compact Fluorescent lamps originating in or

exported from China PR, Vietnam and Sri Lanka; (c) Anti-Dumping Investigation concerning imports of Solar Cells whether or not assembled partially or fully in Modules or Panels or on glass or some other suitable substrates, originating in or exported from Malaysia, China PR, Chinese Taipei and USA.

t. There are no known differences in the subject goods produced by the Indian industry and the subject goods exported from the subject country. The subject goods produced by the Indian industry and imported from the subject country are comparable in terms of technical characteristics, their similar end uses, their technical and commercial substitutability and tariff classification. The two are technically and commercially substitutable.

C.3. Examination by the Authority

9. The submissions made by the domestic industry and the other interested parties with regard to the product under consideration and like article related issues have been examined below.

10. The product under consideration for the purpose of present investigation is "Ofloxacin and its intermediates including O-Acid or Ofloxacin Acid and O-Ester or Ofloxacin Ester".

11. Ofloxacin falls under Chapter 29 and 30 of the Customs Tariff Act, 1975. Ofloxacin comes under HS code 30042034 However, the PUC has been imported also under various other HS Codes namely 29419030, 29419060, 29152990, 29163990, 29189900, 29411090, 29349900, 29419090, 29420090.

12. Ofloxacin is used to treat certain infections including bronchitis, pneumonia, and infection of the skin, bladder, urinary tract, reproductive organs, and prostate. Ofloxacin is in a class of antibiotics called fluoroquinolones and works by killing bacteria that cause infections.

13. The scope of the product under consideration includes O Acid and O Ester. Various interested parties have objected to the inclusion of intermediates with Ofloxacin. It is noted that the scope of the 'product concerned' determination can have a significant impact on the outcome of the case. A wide scope of the product under consideration can lead to the protection to the domestic industry which is uncalled for and may lead to complications in the conduct of the investigation. At the same time, a narrow scope of the product under consideration may fail to give requisite relief to the domestic industry and can also result in circumvention of the measures imposed/ duties levied. The Authority has thus carefully considered arguments raised by the various interested parties and has examined the scope of the product under consideration.

14. There is no specific provision in the WTO Anti-Dumping Agreement which provides for the parameters for determination of the product under consideration. The WTO case law jurisprudence also does not provide clear guidance for determining the delineation or the

parameters of the 'product under consideration'. The Indian authority as well as the authorities in other jurisdictions have considered physical, technical and chemical characteristics of the product, its main use and applications, degree of interchangeability, consumer perception, distribution channels, manufacturing process, cost of production etc as the parameters to define the scope of the product under consideration.

15. It is noted that O Acid is used as an intermediate for the manufacture of Ofloxacin and O-Ester is the penultimate stage product for the production of O-Acid. Duties earlier levied on O Acid was circumvented by imports of O ester which had not been a traded product until then.

16. The production process of Ofloxacin and its intermediates observed during the onsite visit and is provided below:

<table>
<tr><td colspan="4">Reaction Step I- Acylation</td></tr>
<tr><td>2,3,4,5 Tetra Fluro Benzoyl Chloride (TFBCl)</td><td>N,N -Dimethyl Amino Benzoyl Chloride Ethyl Acrylate</td><td>⟶ (Toluene/TEA)</td><td>Ethyl(2Z)-3-(dimethyl amine)-2-(2,3,4,5-tetra fluro benzoyl) acrylate

(Product A)</td></tr>
<tr><td colspan="4">2,3,4,5Tetrafluro benzoyl chloride reacts with N, N -Dimethyl Amino ethyl acrylate to form Ethyl(2Z)-3-(dimethyl amine)-2-(2,3,4,5-tetra fluro benzoyl) acrylate (Product A) in presence of Triethylamine (TEA) & Toluene.</td></tr>
<tr><td colspan="4">Reaction Step II – Amination</td></tr>
<tr><td>Ethyl(2Z)-3-(dimethyl amine)-2-(2,3,4,5-tetra fluro benzoyl) acrylate

(Product A)</td><td>DL-2-Amino-1-+ propanol (DL-Alaninol)</td><td>(Toluene/TEA) ⟶</td><td>Ethyl-2-(2,3,4,5-tetrafluro benzoyl)-3-(1-hydroxy prop-2-ylamino) acrylate

(Product B)</td></tr>
<tr><td colspan="4">Ethyl(2Z)-3-(dimethyl amine)-2-(2,3,4,5-tetra fluro benzoyl) acrylate (Product A) reacts with DL-2-amino-1-propanol to form Ethyl-2-(2,3,4,5-tetrafluro benzoyl)-3-(1-hydroxy prop-2-ylamino) acrylate (Product B).</td></tr>
<tr><td colspan="4">Reaction Step III – Cyclization</td></tr>
<tr><td>Ethyl-2-(2,3,4,5-tetrafluro benzoyl)-3-(1-hydroxy prop-2-ylamino) acrylate

(Product B)</td><td>+ KF</td><td>(DMF) ⟶</td><td>Ethyl- 9,10-Difluro-3-methyl-7-Oxo-2,3-dihydro-7H-(1,4)Oxazino (2,3,4ij)quinoline-6-carboxylate
(Ofloxacin Ester)</td></tr>
</table>

Product B is cyclised at higher temperature to form ethyl -9,10-difluro-3-methyl-7-oxo-2,3-dihydro-7H(1,4)oxazino(2,3,4-ij)quinoline-6-carboxylate **(Ofloxacin ester).**			
Reaction Step IV- Hydrolysis			
Ethyl- 9,10-Difluro-3-methyl-7-Oxo-2,3-dihydro-7H-(1,4)Oxazino (2,3,4ij)quinoline-6-carboxylate **(Ofloxacin Ester)**	+ Caustic Flake	(Acetic Acid) ⟶	9,10-Difluro-2,3Dihydro-3-Methyl-7-oxo-7H-Pyrido-(1,2,3-de)-1,4-benzoxazine-6-Carboxylic Acid **(Ofloxacin Acid)**
Ofloxacin ester is hydrolyzed in presence of caustic flakes & precipitated with acetic acid to form **Ofloxacin Acid.**			
Reaction Step V-Condensation			
9,10-Difluro-2,3Dihydro-3-Methyl-7-oxo-7H-Pyrido-(1,2,3-de)-1,4-benzoxazine-6-Carboxylic Acid **(Ofloxacin Acid)**	+ N-methyl Piperazine	Water/Methanol/Caustic flakes ⟶	Ofloxacin
Ofloxacin acid is condensed with N-methyl piperazine in presence of water and **Ofloxacin** isolated by using methanol.			

17. The Authority notes following from above description:
    a. The production process up to the stage of ofloxacin ester is the same for O Ester, O Acid and Ofloxacin.
    b. The production activity is quite elaborate up to the stage of O ester, which includes Reaction Steps (I) Acylation, (II) Amination (III) Cyclization and (IV) Hydrolysis.
    c. Manufacturing of O Acid from O ester is a single step hydrolysis reaction without addition of any raw material.
    d. Manufacturing of Ofloxacin from Ofloxacin acid is single step condensation reaction. Only two raw materials and one solvent, namely O- Acid, N –Methyl pipeazine & Solvent Methanol, is used during synthesis of Ofloxacin.
    e. Conversion of O Acid to Ofloxacin is a single pot reaction, i.e., all process operations /operational steps are carried out in single reactor such as condensation reaction, Distillation, Crystallization & feeding to centrifuge for product isolation.

18. The Authority has also examined the value addition at each stage in the manufacture of ofloxacin. It is seen that value addition, from O Ester to O Acid is less than 0-10 % and value addition from O Acid to Ofloxacin is around 10-20%. M/s Infinity Laboratories has argued that the value addition from O Acid to Ofloxacin is 35-45%. The Authority examined and verified the information provided by the domestic industry and Infinity Laboratory. It is noted that the process involved from O-Acid to Ofloxacin is a single step process. Conversion of O Acid to Ofloxacin is a single pot reaction, i.e., all process operations such as condensation reaction, distillation, crystallization & feeding to centrifuge for product isolation are carried out in single reactor. The value addition from O-Acid to Ofloxacin is not significant. Examination of information provided by M/s Infinity Laboratory in its Appendix 2 and 6 of the Importer Questionnaire Response also shows that the value addition from O Acid to Ofloxacin is only around 0-10%. Thus, information on record in respect to both, the applicant domestic producer and the importer shows that the value addition is in the range of 5-15%.

19. Thus, considering process and value addition described as above, it is noted that Ofloxacin is commercially manufactured without any substantial process activities after the stage of O ester.

20. In term of chemical properties, it is noted that Ofloxacin belongs to a class of drugs called quinolone antibiotics. Major part of Ofloxacin's structure is quinolone moiety. This chemical/structure moiety is present in Ofloxacin acid. Functionally & physically both the molecules are similar in nature.

21. The Authority further notes that Ofloxacin Acid ("O-Acid") is an intermediate product which eventually is to be converted into Ofloxacin and there is no other independent uses of O-Acid and O-Ester. O-Acid and O-Ester cannot be used as it is, and it has to be compulsorily processed into Ofloxacin for making it usable, a fact that has not been disputed by any parties. The market for Ofloxacin and its intermediates is the same i.e. pharmaceutical sector.

22. It is also noted from the submission on record that a lot of Ofloxacin manufacturers in India are importing O-Acid and converting the same into Ofloxacin. In view of this, exclusion of O-Acid from the purview of the levy of anti-dumping duty is likely to lead to export of intermediate from the subject country, thereby nullifying the very purpose of the entire exercise of anti-dumping investigation and subsequent imposition of anti-dumping duty on import of Ofloxacin.

23. There have been various past investigations, some of which are mentioned below, wherein an intermediate product was included within the scope of the product under investigation:

    a. Anti-Dumping investigation concerning imports of Flat Rolled Products of Stainless Steel originating in or exported from China PR, Korea RP, EU, Japan, Taiwan, Indonesia, USA, Thailand, South Africa, UAE, Hong Kong, Singapore, Mexico, Vietnam and Malaysia – Final Findings vide Notification No. 6/12/2019-DGTR dated

23rd December 2020. The Authority included hot rolled flat product and cold rolled flat product within the scope of product under consideration when cold rolled flat product is a further processed product of hot rolled flat product.

b. Anti-dumping investigation concerning imports of "Chlorinated Polyvinyl Chloride (CPVC) Resin- whether or not further processed into compound", originating in or exported from China PR and Korea RP. – Final Findings vide Notification No. 6/3/2019-DGTR dated 19th February 2020. The Authority had included both CPVC resin, which is a penultimate stage product, and CPVC compound, which is the finished product, within the scope of product under consideration.

c. Anti-Dumping Investigations concerning imports of Compact Fluorescent lamps originating in or exported from China PR, Vietnam and Sri Lanka. – Final Findings vide Notification No. 14/1/2007-DGAD dated 27th February 2009. The Authority included sealed glass tubular shells which were nothing but incomplete compact fluorescent lamps within the scope of product under consideration, i.e, compact fluorescent lamps.

d. Anti-dumping Investigation concerning import of Glass Fibre and articles thereof originating in or exported from China PR. - Final findings vide Notification No. 14/28/2009-DGAD dated 6th January 2011. The Authority included Roving, CS, CSM all within one scope of product under consideration, when roving is further processed to form CSM.

e. Anti-Dumping Investigation concerning imports of Solar Cells whether or not assembled partially or fully in Modules or Panels or on glass or some other suitable substrates, originating in or exported from Malaysia, China PR, Chinese Taipei and USA, Notification No. 14/5/2012-DGAD dated 22nd May 2014. The Authority included both cells and modules within the scope of product under consideration wherein module was a value added product

f. Countervailing Duty/Anti-subsidy investigation concerning imports of certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from the People's Republic of China. Final Findings vide Notification No 14/18/2015-DGAD dated 04th July 2017. The Authority included Hot rolled flat product and cold rolled flat product within the scope of product under consideration when cold rolled flat product is a further processed product of hot rolled flat product.

g. Anti-dumping investigations on imports of 'Peroxosulphates' (also known as 'Persulphates') originating in or exported from Taiwan, Turkey and USA. – Final findings vide Notification No. 14/9/2012-DGAD dated 04th March 2014. The Authority included potassium persulphate, sodium persulphate and ammonium persulphate within scope of product under consideration wherein ammonium

persulphate is further processed to form sodium persulphate and potassium persulphate.

24. Considering practices followed by the investigating authorities of other WTO member countries and the past investigations carried out in India it is noted that a product in its intermediate form, or a semi-finished form can be included within the scope of the product under consideration after due examination of following criterion among others:
    a. Whether there is no independent use of the intermediate product
    b. Whether significant proportion of investment is made upto the intermediate stage only.
    c. Whether manufacturing process involved from the stage of intermediate product to final product is incremental.
    d. Whether there exists possibility of circumvention of measures,
    e. Whether intermediate and end products have similar physical and chemical characteristics.

25. Thus, in view of the examination hereinabove, the Authority holds that the scope of the product under consideration in the present investigation includes Ofloxacin and its intermediates including O-Acid and O-Ester.

26. With regard to like article, Rule 2(d) of the Rules provides as under:

> *"Like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*

27. With regards to the submission made by the interested parties that certain parties have imported from specific companies in China as the domestic industry does not have similar approval, the Authority notes that the domestic industry has demonstrated that its product has been approved by various major pharmaceutical companies and it has been regularly supplying to them. There is nothing on record to prove that the imported product and the domestically produced product are different products.

28. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from the subject country and the subject goods produced by the Indian industry. The subject goods 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. The Authority thus holds that the subject goods produced by the applicant domestic industry is like article to the product under consideration, in accordance with the AD Rules.

D. DOMESTIC INDUSTRY AND STANDING

D.1. Submissions made by the other interested parties

29. Following submissions have been made by the other interested parties with regard to the scope and standing of the domestic industry:
    a. The applicant has given false declaration regarding no imports of O-Acid after July 2017. As per market intelligence, Aarti drugs has been importing O-Acid through other traders.
    b. There are no merchant sales of O-Acid by Aarti Drugs even after three years of imposition of anti-dumping duty, hence, Aarti Drugs cannot be considered as the domestic industry for O-Acid.
    c. Aarti drugs cannot be considered domestic industry for, O-Acid/ O-Ester as it has never sold these, and only produce for captive consumption.

D.2. Submissions made by the Domestic Industry

30. Following submissions have been made by the domestic industry with regard to the scope and standing of the domestic industry:
    a. The application has been filed by M/s Aarti Drugs Limited. The product under consideration is produced also by a number of other producers in India who merely transform O Acid into Ofloxacin. These companies source their O Acid from China PR. These companies who are importing O-Acid products cannot be treated as eligible domestic producers as they are importing one of the forms of the product under consideration. Imports of O Acid which goes into production of Ofloxacin is already covered under imports and consequently in the Indian consumption. Thus, inclusion of sale of ofloxacin produced from imported O Acid will lead to double counting and will consequently lead to inappropriate quantification of demand.
    b. Applicant did not include production of those producers who are producing Ofloxacin from imported O-Acid. Further, the applicant has considered production of Ofloxacin from TFBCL (2,3,4,5-Tetra Fluoro Benzoyl Chloride, the key raw material which is involved in production of the subject goods and does not have any other known use in India, for determination of the total Indian production.
    c. The applicant has not made any imports since July 2017 until the POI. Post cessation of duties import prices declined so significantly that captively consuming O Acid is becoming unviable. The domestic industry imported 40 tons post POI at price even below the level of cost of production of the applicant.
    d. The domestic industry has made significant efforts to sell O-Acid. In fact, even when there are only 5 consumers of the product, the domestic industry aggressively offered the product to these consumers through individual communication as well as series of advertisements. However, these consumers opted to look for ways out to circumvent duties.
    e. The applicant accounts for more than 50% of the total production of the subject goods in India. The production by the applicant companies constitutes "a major proportion" of the total Indian production and is thus eligible domestic industry

within the meaning of Rule 2(b) and that the application satisfies the requirement of standing under Rule 5(3) of the Rules.

D.3. Examination by the Authority

31. Rule 2(b) of the Anti-Dumping 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".*

32. The application has been filed by M/s Aarti Drugs Limited. The applicant is not related to any importer or exporter of the subject goods in the subject country, nor have they imported subject goods from the subject country during the POI. As regards the argument that the domestic industry has imported subject goods, the Authority notes that the domestic industry did not import the subject goods during the POI. As regards the argument that the applicant has imported the subject goods from subject country, the Authority notes that the imports were made post the period of investigation of the present case. The Authority further notes that it is the imports made during the POI that is relevant to consider the eligibility of the domestic producer in terms of Rule 2(b) as it is these imports that become relevant to examine nexus of such imports on the dumping and injury alleged. Thus, the Authority considers the applicant as an eligible domestic producer in terms of Rue 2(b).

33. There are various other producers of the subject goods as listed below:
    a. Infinity Laboratories Private Limited
    b. Srini Pharmaceuticals Private Limited
    c. Sreepathi Pharmaceuticals Limited
    d. Neuland Laboratories Limited
    e. Biotavia Labs Private Limited
    f. Om Pharmaceutical Industries

34. However, all the other producers are largely importing O Acid, i.e, a form of product under consideration. The Authority has determined standing after excluding Ofloxacin produced from imported O Acid.

35. The Authority notes that the production of those producers who are buying O-Acid either from the foreign or domestic suppliers for producing Ofloxacin is not required to be taken into account to determine total Indian production. The producers who are importing O-Acid and manufacturing Ofloxacin from imported O-Acid are in any case are importer of the product under consideration and hence such production cannot be treated as eligible

Indian production for determination of eligibility as domestic industry. Further, production of those producers who are buying O-Acid from the Indian suppliers and selling Ofloxacin in the market is already included in the production of O-Acid and hence it cannot be included to prevent double counting.

36. Thus, in view of the above, the total domestic production has been determined on the basis of consumption of O Acid produced captively and TFBCL (basic raw material) and its conversion factor to Ofloxacin. Based on the information on record, it is noted that the applicant accounts for around 85-95% of the total domestic production. Further, it is also noted that even if production of Ofloxacin produced out of imported O Acid is included, the production by the applicant will still constitute "a major proportion" of such total Indian production.

37. In view of the above, the Authority holds that M/s Aarti Drugs Limited constitutes domestic industry within the meaning of Rule 2(b) of the Rules and satisfies the criteria of standing in terms of Rule 5(3).

E. ISSUES OF CONFIDENTIALITY

E.1. Submissions made by the other interested parties

38. Following submissions have been made by the other interested parties with regard to issues of confidentiality:
    a. The non-confidential version of the petition does not allow for a reasonable understanding of the allegations contained therein.
    b. The domestic industry has claimed excessive confidentiality and filed an incomplete petition. In response to Section-VI (Costing Information) of the petition, the domestic industry has not furnished any information at all.
    c. The petitioner has claimed excessive confidentiality in respect of Annual Reports in contravention of the Trade Notice 01/2013 dated 9th December 2013 which mandates the petitioner to provide annual reports and balance sheets.
    d. All entities engaged in the production and export of subject goods to India have filed the questionnaire response. As a result, the value chain is complete and individual margins should be determined.
    e. All foreign producers/exporters have filed the response as per the Trade Notice No. 10/2018. The complete information has been filed concerning affiliation, sales, and export of subject goods to India.
    f. The parameters such as inventory, R&D expense, cost of sales, PBIT, interest finance cost etc. have not been provided as they are not required to be provided as per the new questionnaire format. The respondents have also clearly disclosed regarding engagement of related party in the production and sales of the PUC.

E.2. Submissions made by the Domestic Industry

39. Following submissions have been made by the domestic industry with regard to issues of confidentiality:

a. Excessive confidentiality has been claimed by all the producers/exporters in blatant contravention of the Trade Notice issued vide notification no. 10/2018 dated 7th September 2018.
b. The domestic industry is prevented from defending its interests before the Authority, in as much as the responding exporters have failed to disclose relevant information in the non-confidential version of the responses.
c. The various relevant information have been either claimed confidential or not given in a proper format to allow reasonable understanding. These are:
    i. Performance parameters
    ii. Name of related or unrelated producers
    iii. Exporters or traders forming channel of distribution
    iv. Adjustments to normal value and export price
    v. Raw material or utility purchased from related parties, details of supplies, fair market thereof, etc.
    vi. Corporate structure / list of companies engaged in production, sale or purchase of product under consideration
    vii. Financial or contractual links and joint ventures
    viii. Manufacturing process
    ix. Raw materials used
d. The Applicant has provided non-confidential summary of the requisite annexures and entire Section VI does not have single line reply. Further, requisite information has been shared with DGTR and annual reports are publicly available.

E.3. Examination by the Authority

40. Various submissions made by the applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined below.

41. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

> *"Confidential Information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and subrule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
>
> a. *The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is*

not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarisation is not possible.

b. *Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in a generalized or summary form, it may disregard such information."*

42. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. With regard to the other interested parties claim of excess confidentiality in respect of Annual reports by the domestic industry it is noted that the applicant has not claimed its annual report as confidential in its confidentiality reasoning statement. It was however noticed that the copy of the annual report claimed to have been enclosed in the non-confidential version of the application was not actually enclosed. But subsequently, on being pointed out, the relevant link was provided to all the interested parties for access to the annual report. In any case, the information contained in the annual report is available in the public domain.

43. The Authority has accepted the confidentiality claims wherever warranted and such information has been considered confidential and not disclosed to the 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.

44. A list of all interested parties was uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions made by the other interested parties

45. Following miscellaneous submissions have been made by the other interested parties:

a. The HSN codes for Levofloxacin O Acid, Ofloxacin O Acid, Ofloxacin, Levofloxacin, Levo O- Ester, O- Ester are similar and the import data may as well have included these. The material imported at high seas, by export-oriented units, special economic zones may as well be included in the import data.

b. The applicant cannot cater to the entire domestic demand in India. The applicant themselves bought Ofloxacin from Infinity.

c. The samples for O-Acid given by Aarti Drugs Limited has failed as per the specifications given by them.

d. The dependence on China will not reduce by imposition of duties on O-Acid/O-ester. There are number of raw materials which will still be imported from China such as Tetra Fluro Benzoyl Chloride (TFBC), Acrylatel, Di-Alanino, DMF etc.

e. The production of ofloxacin from imported O-Acid will require imports of only 4 raw materials whereas production of Ofloxacin through the process adopted by the applicant requires import of 9 raw materials from China.

f. Inner Mongolia Yuan Hong Fine Chemical Co. Ltd. is not only the largest producer of O-acid currently but also the largest manufacturer of Tetra Fluro Benzoyl Chloride (TFBC). The loss from O-acid will result in the substantial increase in the prices of Tetra Fluro Benzoyl Chloride (TFBC). Another manufacturer in China has also increased TFBC prices. The Tetra Fluro Benzoyl Chloride (TFBC) prices have increased almost 20% since the news of initiation of anti-dumping investigation.

g. Despite giving so many benefits the PLI for Ofloxacin failed on account of major reason being no current availability of raw materials in India. No applicant has received approval for PLI scheme for Ofloxacin as they are unable to fulfill the requirement of 70% cost price to be indigenous in India.

F.2. Submissions made by the Domestic Industry

46. Following miscellaneous submissions have been made by the domestic industry:

a. The arguments on value addition is false and misleading. The Authority has earlier determined that the cost of O-Acid account for 85% of total cost of Ofloxacin, further, the value addition is in the range of 0-10%.

b. The DGCI&S import data has been segregated based on chemical names such as "Ofloxacin; Ofloxacin Q-Acid; Ofloxacin IP; Ofloxacin IP/USP; Ofloxacin Ester".

c. The applicant has sufficient capacity to cater the demand. The applicant has not purchased Ofloxacin from any party. M/s. Pinnacle Life Science Pvt Ltd, a wholly owned subsidiary of the applicant, which operates independently in all aspects of running its business, has purchased *** tons of Ofloxacin from Infinity.

d. Analysis of control samples shows that they were as per the specifications and in line with ones submitted for approval. Impurities known & un-known in Ofloxacin acid are within limits and comply with end product pharmacopeia specifications.

e. The dependence on China will reduce after imposition of antidumping duty as the applicant has the technology for manufacturing TFBC and have plans to manufacture it in-house, NMP is now available locally, DL-Alaninol is being imported from Germany. Thus, the only material for which the Indian producers will have to depend on China is Acrylate.

f. The Authority should emphasise on the value addition as against the number of items. The total raw material cost was Rs. ***lacs during the POI, whereas the value on account of other raw materials was only Rs. *** lacs.

g. Indiscriminate increase in TBFC prices on account of anti-dumping investigation on O-Acid is the biggest justification for imposition of antidumping duty. Not only it

shows monopolistic approach, but also a threat, and a fact that the Chinese producers' prices are not cost driven, but opportunity driven.

h. M/s. Sreepathi Pharmaceuticals Limited and M/s. Global Pharma Healthcare Private Limited has applied for benefit under PLI scheme and the same has been considered and accepted.

i. The applicant produces over 80 products but have sought relief through trade remedial measures for only 3 products.

F.3. Examination by the Authority

47. The Authority has noted all the miscellaneous submissions by all the interested parties and has examined the submissions as follows:

a. With regard to the submission that import data may have included products other than the PUC due to similar HSN codes, the Authority notes that transaction wise import data from DGCI&S has been segregated based on product description and such segregated import data of product under consideration have been considered for the purpose of present investigation.

b. With regard to the submission that the applicant cannot cater to the Indian demand, the Authority has examined the capacity available with the applicant and it is noted that the applicant has sufficient capacity to cater the entire Indian demand. Besides, there is another producer also which has started production of the subject goods. In any case, demand supply gap does not justify dumping. Imposition of anti-dumping duty is only to ensure imports at fair prices and not prevent import per se.

c. With regards to the submission made by some interested parties that none of the Indian Industry have received approval under PLI scheme due to non-fulfilment of local content requirement implying thereby that the producers in India are dependent on imported raw material from China, the Authority notes that the antidumping investigation is to prevent dumping of the subject goods and it is immaterial to the investigation whether or not the applicant is dependent on China for some of the raw materials. In any case, it should be endeavoured to curb dumping of the raw materials to make the country more self-reliant, especially in pharmaceutical sector.

G. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

48. As per Section 9A(1)(c) of the Act, normal value in relation to an article means:

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

ii when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the

exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either

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

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

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

G.1. Submissions made by the other interested parties

49. The interested parties have submitted as follows with regard to normal value, export price and dumping margin:
    a. The average normal value, export price and non-injurious price for the 3 PUCs are imprecise and unrepresentative. Different review investigations would have allowed objective examination and a representative finding of each product separately.
    b. The export price of O-Acid cannot be compared with the normal value and NIP of Ofloxacin as the cost of O-Acid is lower than Ofloxacin.
    c. China should not be treated as NME after 11th December 2016 as per Section 15 of China's accession protocol. The normal value should be calculated in accordance with Article 2 of Anti-dumping agreement. The Authority at the very least should apply the data on costs and prices provided by the company in their respective responses, for the determination of the normal value.
    d. The domestic industry has failed to provide any evidence concerning the deductions in the export price.

G.2. Submissions made by the domestic industry

50. The domestic industry has submitted as follows with regard to normal value, export price and dumping margin:
    a. The Authority should follow para 1 to 6 of Annexure I to the rules for determination of normal value only if the responding Chinese are able to demonstrate that their costs and prices can be adopted. The Authority should follow para 7 of Annexure I to the rules for determination of normal value for Chinese producers.
    b. The domestic industry has not been able to gather information on prices of subject goods in market economy third country or prices from such a third country to any

other country, including India as there is no other country apart from India and China PR which produces the subject goods.

c. Normal value has been calculated based on price actually payable in India with due adjustments.
d. The dumping margin of the imports from the subject country is substantial.
e. In view of difference in cost and price of Ofloxacin and its intermediates, the normal value, export price and dumping margins can be determined separately. However, thereafter, the Authority should determine weighted average dumping margin for the product under consideration, considering the law and past established practice.

G.3. Examination by the Authority

51. The Authority had sent questionnaire to the known producer/exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in the investigation by filing the prescribed questionnaire responses:

a. M/s Anhui Bio compounds Pharmaceutical Co., Ltd (Producer)
b. M/s China Sinopharm International Corporation (Exporter)
c. M/s Sinopharm Healthcare Technology (Henan) Corporation (Exporter)
d. M/s Zhejiang East-Asia Pharmaceutical Co., Ltd (Producer)
e. M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd. (Producer)
f. M/s Zhejiang Medicines and Health Products Import and Export Co., Ltd (Exporter)
g. M/s Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd (Producer)

Determination of Normal Value

52. Article 15 of China's Accession Protocol in WTO 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.

d) 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."

53. It is noted that while, the provisions contained in Article 15(a)(ii) have expired on 11.12.2016, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since neither of the responding producer and the exporter from China PR have submitted supplementary questionnaire response, the normal value computation is required to be done as per provision of para 7 of Annexure I of the Rules.

54. The Authority also notes the existing jurisprudence on constructing the normal value in case of a non-market economy contained in the Supreme Court judgement in Shenyang Mastsushita S. Battery Co. Ltd. vs M/s Exide Industries Ltd. (Civil Appeal No. 617112003 dated 2312/2005), Guwahati High Court in M/s Century Plyboards (I) Ltd & Anr.-vs-Union of India & tur. (W.P No. 6568/2017 dated 4ll0l2018) and CESTAT, Principal Bench, New Delhi in Apollo Tyres Ltd, vs Union of India (Appeal No.

C1768,600,601,773,769/2005-AD-dated91912005), Kuitun Jinjiang Chemical Industry Co. Ltd. vs Union of India (Appeal no. 52291 of 2019 dated 5th August 2020). These judgements provide directions regarding implementation of para 7 of annexure 1 to AD Rules with respect to the choice of an appropriate option, and associated obligations thereof.

55. As none of the producers from China PR have filed the Supplementary Questionnaire response, the normal value has been determined in accordance with Para 7 of Annexure I of the Rules. Para 7 lays down hierarchy for determination of normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to any other country, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin.

56. During the course of investigation, the Authority considered submissions by interested parties to determine an appropriate methodology for determination of normal value. The domestic industry has submitted that it was not able to gather information on prices of subject goods in market economy third country or prices from such a third country to any other country, including India as there is hardly any country apart from India and China PR which produces the subject goods.

57. The Authority is, therefore, constrained to construct the normal value for China PR on the basis of the cost of production of domestic industry, selling, general and administrative expenses based on experience of domestic industry and reasonable profit margin. The constructed normal value so determined for Chinese producers/exporters is mentioned in the dumping margin table.

Determination of export price

i. M/s. Anhui Bio compounds Pharmaceutical Co., Ltd, M/s. China Sinopharm International Corporation, and M/s. Sinopharm Healthcare Technology (Henan) Corporation

58. M/s Anhui Bio compounds Pharmaceutical Co., Ltd ("Anhui Bio Compounds") is the producer and have exported the subject goods to India through M/s. China Sinopharm International Corporation, and M/s. Sinopharm Healthcare Technology (Henan) Corporation. M/s. China Sinopharm International Corporation has also exported through M/s. Sinopharm Healthcare Technology (Henan) Corporation. All the three companies, namely, M/s. Anhui Bio compounds Pharmaceutical Co., Ltd, M/s. China Sinopharm International Corporation, and M/s. Sinopharm Healthcare Technology (Henan) Corporation have provided the relevant information in the prescribed exporters questionnaire format.

59. It is noted that during the POI, M/s Anhui Bio compounds Pharmaceutical Co., Ltd has produced and exported *** MT of subject goods (O-Acid) to unrelated customers in India. Adjustment towards inland freight, ocean freight, handling and customs charges, insurance, credit cost, and bank charges have been claimed by the producer and exporters and the same have been allowed by the Authority. Accordingly, the export price has been determined at ex-factory level is shown in the Dumping Margin Table below.

ii. M/s. Zhejiang East-Asia Pharmaceutical Co., Ltd.

60. M/s Zhejiang East-Asia Pharmaceutical Co., Ltd. is the producer and have exported the Ofloxacin to India directly during POI. It is noted that the exporter has sent only one consignment of ***MT during POI. Further, the unit price of Ofloxacin exported by M/s Zhejiang East-Asia Pharmaceutical Co., Ltd is found to be much higher as compared to the export price of the Ofloxacin exported by other producer(s) during the relevant period. The exporter has made no submission either with regard to the volume or price, or appropriateness of the same for determination of dumping margin. The Authority notes that the exporter is under obligation to establish the appropriateness of the export price, particularly in situations involving such low volumes and high invoice price. Considering these factors, the Authority considers that it would not be appropriate to grant individual dumping margin to the producer.

iii. M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd., and M/s. Zhejiang Medicines and Health Products Import and Export Co., Ltd

61. M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd. is the producer and have exported the subject goods to India through M/s. Zhejiang Medicines and Health Products Import and Export Co., Ltd. Both companies, namely, M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd., and M/s. Zhejiang Medicines and Health Products Import and Export Co., Ltd have provided the relevant information in the prescribed exporters questionnaire format.

62. It is noted that during the POI, M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd. has produced and exported *** MT of subject goods (O-Acid) to unrelated customers in India. All these exports were made to unrelated customers in India. Adjustment towards inland freight, ocean freight, handling and customs charges, insurance, credit cost, and bank charges have been claimed by the producer and exporters and the same have been allowed by the Authority, wherever applicable. Accordingly, the export price has been determined at ex-factory level is shown in the Dumping Margin Table below.

iv. M/s Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd

63. M/s Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd is the producer and have exported the subject goods (Ofloxacin) made out of purchased O-Acid to India directly. M/s. Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd has provided the relevant information in the prescribed exporters questionnaire format.

64. The response was not accepted at the stage of disclosure of essential facts. However, the exporter provided relevant documents and information, post issuance of disclosure statement. The Authority has therefore evaluated the information provided by the exporter in its questionnaire response and also the information submitted after issuance of disclosure statement, and has accepted the same after making appropriate adjustments. It is noted that the company purchases O-Acid from market, produces Ofloxacin and sells the same in the market. Further, adjustment towards inland freight, ocean freight, handling and customs charges, insurance, credit cost, and bank charges have been claimed by the producer/exporter and the same have been allowed by the Authority, wherever applicable. Accordingly, the export price has been determined at ex-factory level is shown in the Dumping Margin Table below:

Dumping Margin Table

S.No	Producer	NEP USD/kg	NV USD/kg	DM	DM%	Range
1.	M/s Anhui Biocompounds Pharmaceutical Co., Ltd.	***	***	***	***	25-35
2.	M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd.	***	***	***	***	20-30
3.	M/s Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd	***	***	***	***	0-10
4.	All Others	***	***	***	***	30-40

H. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions made by the other interested parties

65. The following submissions were made by the other interested parties with regard to injury and causal link:
    a. The injury calculations should be done separately as Ofloxacin, O-Acid and O-Ester are not substitute for each other.
    b. O-Acid produced by Aarti Drugs is not comparable to Chinese O-Acid. Further, unlike Ofloxacin there is no set parameters to test O-Acid. The proper comparison requires the determination of specification for O-Acid.
    c. The applicant has made profits of Rs. 175 crores in FY 2019-20 and Rs. 338 crores in FY 2020-21 as per their balance sheets. The profits increased by 93% whereas increase in revenue is just 15%.
    d. The price of O-Acid is relatively lower than the price of Ofloxacin. The comparison of the import price of O-Acid with Net Sales Realization and NIP of Ofloxacin will show positive price undercutting and price underselling. However, such comparison is not fair.

e. The domestic industry cannot seek duties on O Acid and cannot claim material injury due to imports of O-Acid as the domestic industry has not made any merchant sales of O-Acid.
f. There are significant imports of O-Acid as the domestic industry is producing the same solely for captive consumption. The volume of Ofloxacin imported into India are insignificant and cannot cause any alleged injury to the domestic industry.
g. The import volume from the subject country declined significantly in the POI. The performance of the domestic industry in sales volume, market share, capacity, and production of domestic industry indicate that they are not suffering from any injury due to imports from China PR.
h. Rising inventories cannot be considered as indicative of injury as it is only an expected outcome of the increase in sales of the domestic industry.
i. Price undercutting was the lowest in the injury period and landed price was highest during the POI.
j. There is no volume effect of the subject imports.
k. Negative price undercutting shows that the domestic industry is selling their goods at a price lower than the import price.
l. The domestic industry is not selling O-Acid/Ester in the market. Transfer pricing for captive consumption must have been taken, which can be manipulated to invent injury. There is no price injury.
m. There is a need to examine non-attributive factors to ascertain causal link.
n. The imports were necessary to meet the Indian demand as the domestic industry was not selling O-Acid in open market to kill the competition in the downstream product namely Ofloxacin.
o. The claim that if anti-dumping duty is imposed on Ofloxacin and not on O Acid or Ester then Ofloxacin will become unviable is wrong as Infinity is manufacturing Ofloxacin after importing O Acid and still earning and competing with all manufacturers over the world and is facing no issues and has even reduced the Chinese Ofloxacin dependence in India by providing it at competitive price.
p. The Authority has not even found prima facie evidence regarding threat of material injury after examining the petition filed by the domestic industry. Therefore, claim of domestic industry regarding threat of material injury is redundant.

H.2.Submissions made by the Domestic Industry

66. The following submissions were made by the domestic industry with regard to the injury and causal link:
a. The injury examination should be undertaken in the light of the fact of existence of duties in place for major part of the injury period. While duty on Acid (and Ester) was applicable till July 2020, duty on Ofloxacin was applicable till March 2021. Material injury and further threat of material injury is visible if comparison is made between POI and preceding year when there were no duties in force on O Acid.
b. The anti-dumping duty was on imports of the O-Acid from the subject country since July 2017 and since March 2018 on Ofloxacin. The duty was in force till July 2020

on O Acid and duties on Ofloxacin was present for the complete POI. Immediately after expiry of duty on O-Acid, the subject imports have increased by 20% in 2019-20 in comparison to the previous year and further increased by another 80% in the POI since 2019-20.

c. The month wise import summary clearly shows the significant increase in imports of O-Acid immediately after expiry of the anti-dumping duty on O-Acid. Imports have increased in both absolute as well as in relation to production and consumption.

d. The landed price of imports of O Acid is not only below the selling price of the domestic industry but also below the level of cost of production of the domestic industry. Import price of Ofloxacin is also below the selling price of the domestic industry. Imports are, thus, significantly undercutting the domestic prices.

e. The undercutting was negative with duties in force, as soon as duties lapsed on O Acid, the price undercutting became positive. Major imports in the POI are of O Acid. The cost of sales increased throughout the injury period whereas the selling price increased till 2019-20 and then declined in the POI. With imposition of anti-dumping duty earlier, the domestic industry was able to increase the selling price. However, with cessation of duties on O Acid, in the POI, imports increased at dumped prices and the domestic industry was unable to increase its prices to the level of increase in cost of sales.

f. The monthly selling price of O-Acid declined and in the same time period, the price of Ofloxacin also declined. The decline in import price of O Acid has had to a direct bearing on the prices of Ofloxacin, leading to decline in the selling price of Ofloxacin in the domestic market. Since the domestic industry had to compete with these lower selling price of Ofloxacin, it was forced to reduce the prices during the POI.

g. Production, sales, capacity utilization, market share in demand have declined in the POI as compared to the previous year.

h. The domestic industry has lost significant sale volume in the POI just after expiry of duty on O-Acid. The sales volume went down from *** MT in 2019-20 to *** MT in the POI. Thus, increase in inventory is a factor of injury to the domestic industry.

i. The decline in import price of O Acid led to decline in the selling price of Ofloxacin in the domestic market. Since the domestic industry had to compete with these lower selling price of Ofloxacin, it was forced to reduce the prices during the POI.

j. The captive sales price has been taken into account for calculating selling price of the domestic industry. The applicant transfers the O Acid on costs. Further, the applicant has also made some sales of O Acid and information on such sales has also been provided.

k. There are no imports of the subject goods from other countries. Further, the demand has also not undergone substantial change.

l. The cost of sales increased throughout the injury period whereas the selling price increased till 2019-20 and then declined in the POI. The decline in import price of O Acid has had a direct bearing on the prices of Ofloxacin.

m. Production, capacity utilization and sales have increased till 2019-20 and significantly declined thereafter in the POI.

n. The market share of the domestic industry increased from the base year to 2019-20, however, declined significantly in the POI. The market share of the subject country increased significantly in the POI, by almost 70% in comparison to 2019-20.

o. The performance of the domestic industry improved with the imposition of duties. However, with cessation of duties on O Acid in the POI, profitability, cash profit, PBIT and ROI of the domestic industry, which improved till 2019-20 declined drastically in the POI.

p. The inventories increased throughout the injury period and increased by more than 800% in the POI when compared with the base year.

q. Growth in most parameters such as production, sales, profits and inventories of the domestic industry was negative in the POI.

r. The domestic industry has added capacity during the injury period and now they are not able to fully utilize the same. This would affect its ability to raise any further capital investments.

s. There is significant difference between the prices offered by the domestic industry and the foreign producers. The domestic industry lost sales opportunity despite sufficient demand in India, which is a direct consequence of dumped imports from the subject country.

t. Increase in losses, negative return on capital employed and cash losses are directly a result of dumped imports;

u. Production and sales have declined despite increase in demand and unutilized capacity due to presence of dumped imports.

v. The opposing interested parties have given mere statements without evidence to claim inferior quality of product. The domestic industry is the major producer of Ofloxacin and the O Acid for the same has been produced in-house. This in itself guarantees the quality of the product.

w. There is no direct correlation between revenue and profitability. Profit figures have been quoted on gross level from the annual reports and is not based on the performance of the subject goods alone.

x. The comparison for the purpose of price undercutting, underselling and dumping margin is being done separately having regard to the cost of the product types.

y. O-Acid is being substantially imported into India as the antidumping duty ceased to exist on O Acid since July 2020. The volume of Ofloxacin imported into India is low because of existence of anti-dumping duty till March 2021.

z. Injury to the domestic industry is very clear when seen with background of anti-dumping duties earlier imposed and also persistent presence of Chinese dumped products at various stages.

aa. With imposition of duty on O Acid, the exporters started circumventing by dumping O Ester. Thereafter, as soon as the duties ceased, O Acid imports started coming at low price depressing the prices of the domestic industry. This movement of imports without duty and the corresponding effect on the domestic industry clearly shows the injurious effect of imports on the domestic industry.

bb. China accounts for 68% of India's imports of active pharmaceutical ingredients (API) and close to 100% of inputs for certain drugs. This overdependence became a big

problem earlier this year, when many Chinese drug factories were closed due to the Covid19 pandemic. Prices shot up and India had to temporarily restrict exports of dozens of ingredients and drugs that use them, including some common antibiotics.

H.3.Examination by the Authority

67. The Authority has examined the arguments and counterarguments of the interested parties with regard to the injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the submissions made by the interested parties.

68. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve an 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 to prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.

69. The Authority has taken note of various submissions made by the domestic industry and other interested parties on injury and causal link and has analyzed the same considering the facts on record and the applicable laws. The injury analysis made below *ipso facto* addresses submissions made by the domestic industry and the other interested parties.

70. Definitive antidumping duties were imposed on Ofloxacin through Notification dated 15th March 2018 and on O Acid through Notification No. 12th March 2018, and the duties were in place only for 3 years. Imposition of duties on O-Acid led to circumvention by the producers by way of imports of O-Ester, a penultimate stage product. Thus, antidumping duties imposed on O Acid was also extended to O Ester. The duties on O Acid and O Ester lapsed in July 2020. The injury examination hereinunder has been undertaken by taking this background into consideration.

71. It is also noted that the despite the POI covering Apr-Jun 20 quarter affected by COVID19 pandemic, the domestic industry, unlike other industries, did not get adversely impacted on account of the pandemic due to the applicant domestic industry coming under the "essential industry" category and consequently not having to undergo shut down during the COVID period. It is thus noted that there was no material effect of COVID 19 pandemic on the performance of the domestic industry.

I. Assessment of Demand/Apparent consumption

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

Demand in India	Unit	2017-18	2018-19	2019-20	POI
Sales of Domestic Industry	MT	***	***	***	***
Trend	*Indexed*	*100*	*118*	*165*	*137*
Sales of other Indian producer(s)	MT	-	-	-	***
Trend	*Indexed*	-	-	-	*100*
Imports from Subject Country China	MT	***	***	***	***
Trend	*Indexed*	*100*	*29*	*21*	*37*
Imports from other Countries	MT	-	-	-	***
Trend	*Indexed*	-	-	-	-
Total Indian Demand	MT	***	***	***	***
Trend	*Indexed*	100	66	81	88

73. It is noted that the demand for the product under consideration has declined in 2018-19 but has increased consistently thereafter throughout the injury period. However, demand during the POI was still below that in the base year.

II. Volume effect of dumped imports

74. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The import volumes of the subject goods from subject country and share of the dumped import during the injury investigation period are as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Imports from Subject Country	MT	***	***	***	***
Trend	*Indexed*	*100*	*28*	*20*	*37*
Imports of					
a. Ofloxacin	MT	***	***	***	***
b. O Acid	MT	***	***	***	***
c. O Acid Ester	MT	***	***	-	-
Other Imports	MT	-	-	-	***
Trend	*Indexed*	-	-	-	*100*

Particulars	Unit	2017-18	2018-19	2019-20	POI
Subject Imports in relation to					
Indian Production	%	***	***	***	***
Trend	*Indexed*	*100*	*24*	*12*	*23*
Consumption	%	***	***	***	***
Trend	*Indexed*	*100*	*43*	*25*	*42*

75. It is seen that imports from subject country, in absolute terms, has seen a declining trend till 2019-20 and then increased significantly in the POI. Imports in relation to production and consumption also declined till 2019-20 and then increased significantly in the POI. It is noted that antidumping duties were earlier in force on subject goods from the subject country since March 2018. While the antidumping duties on intermediates, O Acid and O-ester lapsed in July 2020, the duty on Ofloxacin was in force till March 2021.

76. Subject imports in both absolute terms and relative terms have declined with imposition of duties, however, with expiry of the duty on O Acid, the imports have once again increased significantly. Quarterly movement in the import data of O Acid in the POI can be seen below:

Imports from China (MT)		
Quarter	Volume in MT	Trend
Q1 April-June 2020	***	100
Q2 July-Sept 2020	***	3100
Q3 Oct-Dec 2020	***	4800
Q4 Jan-Mar 2021	***	7200

III. Price Effect of the Dumped Imports

77. In terms of Annexure II (ii) of the Rules, 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 price of imports from the subject countries with the net sales realization of the domestic industry for the subject goods.

a) Price Undercutting

78. To determine price undercutting, 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.

Particulars	Units	2017-18	2018-19	2019-20	POI
Selling price	₹/Kg	***	***	***	***
Trend	*Indexed*	100	129	137	136
Landed price	₹/Kg	***	***	***	***
Trend	*Indexed*	100	114	131	147
Price undercutting	₹/Kg	***	***	***	***
Trend	*Indexed*	100	216	170	73
Price undercutting	%	***	***	***	***
Price undercutting	Range	0-20	20-40	20-40	0-20

79. It is seen that landed price of imports is below selling price of the domestic industry throughout the injury period and are thus undercutting the prices of the domestic industry.

80. Further, considering that the imports are largely of O Acid, the Authority has also determined undercutting after adding the value addition from O Acid to Ofloxacin to the landed price of imports of O Acid and comparing it with the selling price of Ofloxacin.

Particulars	UOM	2017-18	2018-19	2019-20	POI
Constructed Landed Price of Ofloxacin	Rs/Kg	***	-	***	***
Indexed		100	0	117	138
Selling Price of Ofloxacin	Rs/Kg	***	***	***	***
Indexed		100	129	137	136
Price Undercutting	Rs/Kg	***	***	***	***
Indexed		100	0	1,258	6
Price Undercutting	%	***	-	***	***
Price Undercutting Range		0-10	-	10-20	0-10

81. It is seen that the imports are undercutting the prices of the domestic industry

b) Price Suppression and Depression

82. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the information given by the domestic industry for the changes in the costs and prices over the injury period has been compared with the landed value.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of Sales	₹/Kg	***	***	***	***
Trend	*Indexed*	100	123	130	141
Selling Price	₹/Kg	***	***	***	***
Trend	*Indexed*	100	129	137	136
Landed price	₹/kg	***	***	***	***

(Weighted average of all forms of PUC)					
Trend	*Indexed*	100	114	131	147

83. It is seen that both, cost of sales and selling price both increased initially from 2017-18 to 2019-20. The cost of sales increased in POI as well, however, selling price of the domestic industry declined. It is noted that the landed price of the imports has been below the level of even cost of sales of the domestic industry.

84. The domestic industry has submitted that domestic selling price of Ofloxacin is linked to the import price of O Acid. They further submitted that post cessation of duty on O-Acid, the imports of O-Acid increased at dumped price and that the increase in imports of O-Acid at dumped prices also had its effect on the price of Ofloxacin in the domestic market as is noted from the table below. For the purpose, the Authority has considered the value addition from O-Acid to Ofloxacin:

Imports-O Acid	Landed price of O Acid (Rs/kg)	Constructed Ofloxacin price	Selling price of Ofloxacin (Rs/kg)
Apr-20	-	-	***
May-20	***	***	***
Jun-20	-	-	***
Jul-20	-	-	***
Aug-20	***	***	***
Sep-20	***	***	***
Oct-20	***	***	***
Nov-20	***	***	***
Dec-20	***	***	***
Jan-21	***	***	***
Feb-21	***	***	***
Mar-21	-		-

85. Thus, it is seen that the landed prices of O Acid have adversely affected the prices of Ofloxacin in the domestic market.

IV. Economic Parameters of the Domestic Industry

86. Annexure II to the Rules 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. Various injury parameters relating to the domestic industry are discussed below.

a) Capacity, production, capacity utilization and sales

87. The performance of the domestic industry with regards to capacity, production, capacity utilization and sales is as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	***	***	***	***
Trend	*Indexed*	*100*	*100*	*100*	*100*
Production	MT	***	***	***	***
Trend	*Indexed*	*100*	*117*	*165*	*137*
Capacity utilization	%	***	***	***	***
Trend	*Indexed*	*100*	*117*	*165*	*137*
Domestic sales	MT	***	***	***	***
Trend	*Indexed*	*100*	*118*	*165*	*137*

88. It is noted that production, sales and capacity utilisation have also increased till 2019-20, however, immediately with expiry of duty on O acid, these parameters declined despite increase in demand.

89. Various interested parties have contended that the applicant industry does not have sufficient capacity to cater the demand in the country. However, it is noted that the domestic industry has not been able to utilise its capacities to the optimum level and significant share of the capacity with the domestic industry is still lying unutilised.

b) Market Share

90. Market share of the domestic industry and other Indian producers is as below:

Particulars	Units	2017-18	2018-19	2019-20	POI
Domestic industry	%	***	***	***	***
Trend	*Indexed*	100	178	202	155
Indian producers as a whole	%	***	***	***	***
Trend	*Indexed*	100	178	202	180
Subject country imports	%	***	***	***	***
Trend	*Indexed*	100	43	25	42

91. It is seen that the market share of the domestic industry and that of Indian domestic industry as a whole, increased after the imposition of anti-dumping duty till 2019-20,

however, the same declined significantly soon after the expiry of the duty on one form of the product under consideration, i.e., O-Acid. The market share of China which had declined to ***% in 2019-20 has increased to ***% in the POI.

c) Inventories

92. Inventory with the domestic industry over the injury period are as below:

Particulars	Units	2017-18	2018-19	2019-20	POI
Average inventory	MT	***	***	***	***
Trend	*Indexed*	100	260	541	871

93. The average inventory level with the domestic industry has increased significantly throughout the injury period.

d) Profitability, cash profits and return on capital employed

94. Profitability, return on capital employed and cash profits of the domestic industry over the injury period is as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of Sales	₹/Kg	***	***	***	***
Trend	*Indexed*	100	123	130	141
Selling Price	₹/Kg	***	***	***	***
Trend	*Indexed*	*100*	*129*	137	*136*
Profit/Loss	₹/Kg	***	***	***	***
Trend	*Indexed*	100	370	400	-45
PBIT	₹ Lacs	***	***	***	***
Trend	*Indexed*	*100*	*278*	*395*	*10*
Cash Profit	₹ Lacs	***	***	***	***
Trend	*Indexed*	100	307	459	8
ROI	%	***	***	***	***
Trend	*Indexed*	*100*	*227*	*268*	*7*

95. It is seen that:
    i. The cost of sales and selling price increased initially till 2019-20. However, in POI, selling price has declined despite increase in cost of sales.
    ii. The profit/Loss, profit before interest and tax, cash profit and ROI also increased till 2019-20, however, all factors declined significantly in the POI corresponding to increase in imports once again in the POI.

96. It is noted that the domestic industry was materially injured by the dumped imports and anti-dumping duties on ADD got imposed in 2018. The performance of the domestic

industry improved with the imposition of duties. However, with cessation of duties on O Acid, all parameters have shown significant decline.

e) Employment, Wages and Productivity

97. The Authority has examined the information relating to employment, wages and productivity, as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
No. of employees	No.	***	***	***	***
Trend	*Indexed*	*100*	*101*	*102*	*102*
Productivity per day	MT/Day	***	***	***	***
Trend	*Indexed*	*100*	*117*	*165*	*137*
Productivity per employee	MT/No	***	***	***	***
Trend	*Indexed*	100	116	162	134
Wages	₹ Lakhs	***	***	***	***
Trend	*Indexed*	*100*	*119*	*243*	*401*

98. It is seen that the level of employment has remained almost the same despite increase in capacity. Productivity per day has increased consistently but again declined in the POI. Wages paid has increased throughout the injury period.

f) Growth

99. The trend of volume and profit parameters of the domestic industry are as under:

Growth	Units	2017-18	2018-19	2019-20	POI
Production	%	-	17	41	-17
Domestic Sales	%	-	18	40	-17
Profits	%	-	335	52	(109)
Cash Profit - Rs. Lacs	%	-	207	49	-98
Return on Capital Employed	%	-	125	18	-97

100. It is noted that the growth of the domestic industry has been positive and has also increased in respect of volume parameters till 2019-20, however, the same declined significantly in the POI. The price parameters have also registered negative growth in the POI.

g) Ability to Raise Capital Investments

101. The Authority notes that domestic industry is incurring significant losses in the POI.

h) Magnitude of Dumping Margin

102. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant.

I. MAGNITUDE OF INJURY MARGIN

103. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Rules read with Annexure III. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The NIP has been considered for comparing the landed price from the subject countries for calculating injury margin. For determining the NIP, the best utilisation of the raw materials, utilities and capacities by the domestic industry over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the PUC was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.

104. Based on the landed price and NIP determined as above, the injury margin for producers and exporters as determined by the Authority and the same is provided in the table below:

Injury Margin Table

S.No	Producer	LV USD/kg	NIP USD/kg	IM	IM%	Range
1.	M/s Anhui Biocompounds Pharmaceutical Co., Ltd.	***	***	***	***	10-20
2.	M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd.	***	***	***	***	10-20
3.	M/s Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd.	***	***	***	***	0-10
4.	All others	***	***	***	***	20-30

J. NON-ATTRIBUTION ANALYSIS

105. As per the Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which at the same time are causing injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, development in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry:

a. Volume and value of imports not sold at dumping prices

106. Imports of product under consideration are only from the subject country.

b. Contraction in demand or changes in the pattern of consumption

107. There is increase in demand in the POI.

c. Pattern of change in consumption

108. The pattern of consumption for the product under consideration has not undergone any change.

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

109. There is no trade restrictive practice.

e. Developments in Technology

110. Technology for production of the product under consideration has not undergone any change.

f. Export Performance of the domestic industry

111. Injury examination has been conducted for the domestic operations of the domestic industry.

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

Submissions made by the other interested parties

112. Following submissions have been made by the other interested parties with regard to the Indian industry's interest:

a. The applicant cannot cater to the entire domestic demand in India. The applicant themselves bought Ofloxacin from Infinity.
b. The dependence on China will not reduce by imposition of duties on O-Acid/O-ester. There are number of raw materials which will still be imported from China such as TFBC, Acrylatel, Di-Alanino, DMF etc.
c. In absence of imports, sole producer would monopolize the market, however, it will not be able to meet the demand of the domestic market. As a result, the petitioner could manipulate the price of the product.
d. The generic medicine business will suffer the most due to increase in prices of API as even marginal increase can cause direct impact on cost of final strip. For example,

Ofloxacin Table 200mg sold by Jan Aushadhi centre costs Rs. 13 and with discount the price charged to end consumer is Rs. 11.5. Any increase will have to be paid by the end consumer only. Further, increase of 10-15% at manufacturer level will lead to 25-30% increase for MSME companies.

e. After imposition of anti-dumping duties on Ciprofloxacin on an application by Aarti Drugs and Godavari Drugs, the prices increased by 25%. This increase was in light of increase in the prices of other raw material imported from China, as producers in China tried to compensate ADD on ciprofloxacin. In the current case, there will be only one player and the situation will be severe.

f. The application of duty will not be in public interest.

Submissions made by the domestic industry

113. The following submissions have been made by the domestic industry with regard to the Indian industry's interest:

a. The domestic industry submits that Ofloxacin acid is produced only in India and China. Thus, if the domestic industry is not protected the consumers will be completely dependent on just one source, i.e., China.

b. The Domestic Industry has created huge capacity and has been consistently manufacturing the product under consideration for more than two decades.

c. The effect of anti-dumping measures on public interest must be studied from the perspective of interests of different set of parties. The impact of anti-dumping duty on end consumers for end product -Toflox 200mg Tablet is a meagre Rs. 1.41 per strip.

d. The increase in prices of Ciprofloxacin was due to increase of raw material prices in China. This highlights the issue regarding overdependence on China PR for crucial raw materials.

e. The product under consideration is a class of antibiotics that is crucial in the treatment of various diseases. The country cannot depend upon Chinese imports solely for the requirements of the subject goods.

f. China has been exporting the subject goods to India at dumped prices causing injury to the domestic industry. Thus, it is important to impose anti-dumping duty in order to discourage the dumped import of the subject goods.

g. With no demand-supply gap and no reliance on imports, the Indian industry is a totally Atmanirbhar Industry.

h. There are several producers of subject goods in the country. Hence, the product will be available at competitive market price and there is no scope of exploitation of users or creation of a monopolistic situation in the industry.

i. India is heavily relying on China for imports of APIs medicines. If there will be any breakdown of supplies from China, India will find it difficult to find an alternate source of APIs. Therefore, Indian pharmaceutical market should reduce dependence on China and focus on domestic manufacturing.

j. The domestic industry also noted that Government of India is also promoting domestic manufacturing of critical Key Starting Materials (KSMs)/Drug Intermediates (DIs) and Active Pharmaceutical Ingredients (APIs) in order to reduce import dependence in critical APIs and thus promote self-reliance.

k. The Chinese government is heavily promoting API industry in China by providing them various subsidies, incentives and have also established special R&D parks to encourage the development of new products and processes in the pharmaceutical sector. Therefore, duties need to imposed in order to provide level playing field to the Indian industry.

l. In case of Penicillin G, there were many producers in India. Earlier it was noticed that there were huge imports of Penicillin G from China. The domestic industry requested anti-dumping duties but duties were not imposed. Thus, this led to a situation where there is no producer of Penicillin G in the country.

m. M/s. Infinity Laboratories in the oral hearing claimed that their performance gets impacted because of duties in force and ofloxacin covers more than half of the firms' operation. However, publicly available information indicates that ROI for the said company was significant when the duties were in force.

Examination by the Authority

114. The Authority examined whether the imposition of the anti-dumping duty on imports of the product under investigation would be against the larger public interest. This determination is based on consideration of information on record and interests of various parties, including domestic industry, importers and consumers of the product.

115. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to the present investigation, including possible effect of ADD on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD etc. The Authority notes that only M/s Infinity Laboratories Pvt. Ltd filed questionnaire response. The Authority notes that none of the interested parties including the said importer/consumer have shown with quantified information that the imposition of ADD shall have significant adverse effect either on the consumers or the public at large. On the contrary, the applicant has provided quantified information of the impact of duty on the subject goods. Based on the calculations provided by the domestic industry, it is seen that the impact of average duties on the end product would be minimal.

116. It had been contended that there is a demand and supply gap which necessitates the imports. From the information on record, it was seen that there exists no demand and supply gap and thus the imposition of duty will not impact the availability of the product to the end users.

117. The presence of healthy domestic industry is ultimately in the interest of the users. The recent experience in the Covid-19 period has also shown that the public at large is likely to suffer, if indigenous producers of API are not sufficiently available in the domestic market.

118. The Authority notes that the purpose of anti-dumping duty, 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.

119. Fair competition in the Indian market will in no case be reduced by the anti-dumping measure, 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 antidumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

L. POST DISCLOSURE COMMENTS

Submissions made by other interested parties

120. Following submissions have been made by the other interested parties:

a. The rejection of Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd EQR on this ground is completely incorrect because the company has filed complete and accurate information within the timeline stipulated by the DGTR. There is no misreporting of data by Apeloa.
b. The Authority cannot reject East Asia response outrightly merely because of selling at higher prices. Factors determining high price by East Asia includes the quality of the product, which is good and stable, sales volume is relatively small. Further, East-Asia is exporting their goods at a high price consistently to the third countries as well.
c. O-Acid & O-Ester shall be excluded from the scope of product under consideration. However, in case, the Authority still decides to take the same into consideration, the Authority is requested to do separate injury analysis for the three products i.e., Ofloxacin, O-Acid and O-Ester as O Acid and Ester are not sold by domestic industry in the domestic market.

d. The name of the producer Anhui Biocompounds Pharmaceutical Co., Ltd. has not been recorded correctly in the disclosure statement.
e. The Authority has not provided trend/indexed figures for volume and landed price Ofloxacin, O-Acid and O-Ester separately.
f. The Authority has erroneously clubbed 3 product types, Ofloxacin, O-Acid and O-Ester as one PUC. If the Authority would have conducted separate examination to examine the effects of import of Ofloxacin, O-Acid and O-Ester, it would have been clear that there cannot be any recommendation for imposition of anti-dumping duty on O-Ester and Ofloxacin.
g. Ofloxacin is imported into India in low volumes in 2019-20 and in the POI. Import price of Ofloxacin into India is much higher than import price of O-Acid into India.
h. Standalone producers of Ofloxacin should not be excluded from the scope of domestic industry. The Authority has observed that these other producers are largely importing O Acid, i.e., a form of product under consideration. Consequently, the Authority has determined standing of the domestic industry after excluding these other producers, who are mainly producers of Ofloxacin
i. There is consistent improvement in performance of the domestic industry even after combining Ofloxacin, O-Acid and O-Ester for the purpose of injury examination. Thus, based on the objective examination of economic parameters of the domestic industry, it can be reasonably concluded that the domestic industry is not suffering material injury
j. The sales of the domestic industry solely constitute sales of final product, Ofloxacin. The imports from the subject country primarily constitute imports of O-Acid. The price of intermediate product O-Acid imported from China PR will certainly be lower than the domestic selling price of the final product Ofloxacin by the domestic industry.
k. The Authority has information of actual import price of Ofloxacin imported from China PR. Examination of actual import price of Ofloxacin from China PR will indicate that it is in fact higher than Non-Injurious Price and Net Selling Price of the domestic industry and accordingly there is no price effect on the domestic industry due to imports of Ofloxacin.
l. The Authority cannot assess existence of material injury to the domestic industry qua O-Acid. Instead, the Authority should assess whether qua O-Acid, there is material retardation to the establishment of domestic industry.
m. For the remaining product type/s not exported by the producer/exporter in China PR, the Authority should specifically note that such producer/exporter will be entitled for new shipper review in accordance with Rule 22 of the Anti-dumping Rules.
n. The Authority should exclude quarter of April 2020-June 2020 affected by complete lockdown. Exclusion of quarter of April 2020-June 2020 will show further improvement in performance of the domestic industry in the POI.

Submissions made by the Domestic Industry

121. Following submissions have been made by the domestic industry:

a. The non-injurious price determined is too low resulting into insufficient injury margin.
b. The volume and value for O-Acid considered for production of Ofloxacin is unduly low. The petitioner apprehends that the Authority has applied consumption factor for production of a O-Acid for Ofloxacin which is unnecessary for the reason that the consumption volume reported is for the quantity of Ofloxacin produced.
c. The Authority should impose anti-dumping duties on imports of the subject goods from the subject country, in the form of fixed quantum of duties.

Examination by the Authority

122. The Authority has examined the post disclosure submissions made by the interested parties and notes that most of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the final findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.

a. As regards the argument that response filed by Zhejiang East-Asia Pharmaceutical Co., Ltd should not be rejected on account of low volume, the Authority notes that the quantity exported by the said producer is extremely low and their volume of sales can by no means be treated as commercial quantity. Further, the questionnaire response filed by other producers and information provided by the domestic industry shows that the price at which the subject goods have been sold by Zhejiang East-Asia is materially higher than that of other exporters. The producer has contended that it has exported the subject goods to third countries also at a higher and comparable price. However, in support of their contention they have selectively furnished details only in respect of export quantity of ***MT as against their total exports of *** MT to third countries. The details provided for third country exports are thus extremely insufficient and cannot be taken as a reliable evidence.

b. The response of Zhejiang Apeloa Kangyu Pharmaceutical Co was not accepted at the stage of disclosure of essential facts. However, the exporter provided relevant documents and information, post issuance of disclosure statement. The Authority has therefore evaluated the information provided by the exporter in its questionnaire response and also the information submitted after issuance of disclosure statement, and has accepted the same after making appropriate adjustments.

c. As regards the argument that stand alone producers of Ofloxacin should be considered while determining standing, the Authority considers that standing is required to be determined in respect of product under consideration as a whole. Further, those domestic producers who are importer of the product in any of its form cannot be treated as eligible domestic industry unless these interested parties participate and establish their eligibility. In the instant case, none of these Ofloxacin producers, barring M/s

Infinity Laboratories Ltd have filed response. The questionnaire response filed by M/s Infinity Laboratories Ltd has been examined and it is seen that the company has produced Ofloxacin from imported O-Acid. Thus, the company is de-facto importer of the product for the entirety of its production of Ofloxacin. Other domestic producers of Ofloxacin have preferred non-cooperation. In any case, even if production by such other producers is included in domestic production, the production by the applicant still constitutes "a major proportion" in Indian production and the petitioner constitutes the domestic industry for the present purposes.

d. As regards the argument that the Authority should have undertaken separate analysis of the product types, it is noted the Authority has already determined that the product under consideration is Ofloxacin and its intermediates, O Acid and O Ester. Having determined the scope of the product under consideration, the injury is examined for such product under consideration. In so far as apple-to-apple comparison is concerned, the Authority has ensured the same by determining margins separately for Ofloxacin and O Acid imported from the subject country.

e. As regards the argument that comparison of Ofloxacin prices would show no injury, it is seen that the injury margin and dumping margin determined for ofloxacin separately is positive and significant from the subject country. The volume of import of Ofloxacin is low in view of the duties in force during the relevant period. The Authority has found change in import pattern between O Acid, O Acid Ester and Ofloxacin with changing anti-dumping duty position.

f. As regards the argument that the non-injurious price determined is low, it is noted that the NIP has been determined as per Annexure III of the AD rules and the consistent practice of the Authority.

M. CONCLUSIONS

123. Having regard to the contentions raised, the information provided, and the submissions made by the interested parties and the available before the Authority, as recorded in the above findings, the Authority concludes that:

a. The product under consideration is Ofloxacin and its intermediates O Acid and O Ester. Ofloxacin and its intermediates constitute one product under consideration. O Ester is a prior stage product of O Acid and the duties on O Acid were circumvented by import of O Ester. Thus, despite no imports of O ester from China, it is necessary to include the same within the scope of the product under consideration.

b. The product produced by the domestic industry is like article to the product under consideration imported from the subject country.

c. The applicant constitutes "domestic industry" within the meaning of the Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5.

Response filed by M/s Zhejiang East-Asia Pharmaceutical Co., Ltd was found insufficient for determination of individual dumping margin, and accordingly the Authority has not determined individual dumping margin for this producer.

d. Dumping margin has been determined for all other responding producers/exporters based on the questionnaire response filed by them, after making appropriate adjustments.

e. Based on information on record, the normal value, export price and the dumping margin for the subject goods have been determined which is found to be positive and significant.

f. The domestic industry has suffered material injury as established by increase in subject imports in absolute and relative terms in the POI as compared to the previous year with cessation of duties on O Acid. It is noted that the imports have increased with the cessation of duties on O Acid. It is also seen that the volume of imports has switched between O Acid, O Acid ester and Ofloxacin depending on the presence or absence of ADD. The subject imports are undercutting the prices of the domestic industry. The price undercutting has caused price depression in the POI. While production, sales, capacity utilization and market share have declined, inventories have increased in the POI. Market share of the domestic industry declined in the POI with market share of the subject imports increasing. Performance of the domestic industry was improving in respect of profit/loss, profit before interest, cash profit and ROI till 2019-20. However, the performance declined significantly in the POI in respect of these parameters with the increase in imports once again in the POI. The injury margin determined is positive and significant. Having regard to the information on record, analysis hereinabove and the AD rules, the Authority concludes that the domestic industry has suffered material injury.

g. The investigation has shown that other possible factors of injury have not caused material injury to the domestic industry. Further, the investigation has not shown existence of any other factor that could have caused injury to the domestic industry. Nor the interested parties have established with relevant information and evidence that injury to the domestic industry is due to some other factors.

h. Changes in the import pattern between the three forms of the product, price undercutting leading to suppressing/depressing effect on the prices in the domestic market, and consequent adverse impact of the same on various economic parameters relating to the domestic industry demonstrates that subject imports have caused injury to the domestic industry.

i. Despite issuing questionnaires for users for quantification of the impact of ADD and to ascertain on how imposition of ADD will adversely impact them, none of the users have provided relevant information. The interested parties have not established possible adverse impact of ADD on the user industry with verifiable information. Non-imposition of antidumping duty will adversely impact the indigenous production of the product concerned. The impact of antidumping duty on the end users is miniscule. Despite ADD on the product in the past, there is no evidence on record to show any adverse effect of duty either on immediate

consumers or public at large. The Authority thus considers that imposition of proposed anti-dumping duty will be in the public interest.

N. Recommendations

124. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of Anti-Dumping is required to offset dumping and injury. Therefore, the Authority recommends imposition of anti-dumping duty on imports of subject goods from the subject country.

125. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. The Authority, therefore, considers it necessary and recommends imposition of anti-dumping duty for a period of five (5) years equal to the amount indicated in Column 7 of the table below is recommended to be imposed by the Central Government on the imports of the subject goods originating in or exported from China PR.

Duty Table

SN	Heading/ Sub-heading	Description of Goods	Country of Origin	Country of Export	Producer/exporter	Amount (US$/kg)
1	2	3	4	5	6	7
1	30042034 29419030 29419060 29152990 29163990 29189900 29349900 29411090 29419090 29420090	O-Acid or Ofloxacin Acid, O-Ester, Ofloxacin or any of its synonym.	China PR	Any country including China PR	M/s Anhui Biocompounds Pharmaceutical Co., Ltd	5.02
2	-do-	- do -	China PR	Any country including China PR	M/s Inner Mongolia Yuanhong Fine Chemical Co., Ltd.	4.55
3	-do-	- do -	China PR	Any country including China PR	M/s Zhejiang Apeloa Kangyu Pharmaceutical Co., Ltd	0.53

4	-do-	- do -	China PR	Any country including China PR	Any producer other than specified at serial number 1 to 3 above.	7.03
5	-do-	- do -	Any country other than China PR	China PR	Any company	7.03

** Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC.*

O. FURTHER PROCEDURE

126. An appeal against these findings 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 as amended in 1995 and Customs Tariff Rules, 1995.

(Anant Swarup)
Designated Authority