TO BE PUBLISHED IN PART 1 SECTION-1OF GAZATTE OF INDIA

F. No. 7/16/2018-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

Dated 15th October, 2019

FINAL FINDINGS

Subject: 3rd Sunset Review Investigation (SSR) concerning imports of Paracetamol originating in or exported from China PR.

1. F. No. 7/16/2018-DGAD: Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter also referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred as the Rules), the Designated Authority (hereinafter also referred to as the Authority) had recommended imposition of anti-dumping duty on imports of “Paracetamol” (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter referred to as the subject country).

2. Whereas, the original investigation concerning imports of the subject goods from the subject country was initiated by the Authority vide Notification No. 60/1/2000 – DGAD dated 30th January, 2001. The Preliminary Findings were issued by the Authority vide Notification No. 60/1/2000-DGAD dated 16th April, 2001 and the provisional antidumping duty was imposed by the Department of Revenue vide Notification No. 89/2001 Customs dated 6th September, 2001. The Final Findings Notification was issued by the Authority vide notification No. 60/1/2000-DGAD dated 22nd January 2002, recommending imposition of definitive duty. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Department of Revenue vide Notifications No. 29/2002 Customs dated 27th March, 2002 on the imports of the subject goods, originating in or exported from the subject country. 1st Sunset Review was concluded and Authority had issued the Final Findings in the Sunset Review vide Notification No. 15/20/2006-DGAD dated 23rd July 2007 and fixed duty was imposed by the Central Government vide Notification No. 99/2007 -Customs dated 3rd Sept, 2007. 2nd Sunset Review was concluded and Authority had issued the Final Findings in the Sunset Review vide Notification No. 14/1009/2012-DGAD –dated 26th August 2013 and fixed duty was imposed by the Central Government vide Notification No 26/2013-Customs dated 28 October, 2013. A 3rd Sun set review investigation was initiated on 24th

May 2018 and Final Findings was issued by the designated authority vide Notification No 7/16/2018-DGAD dated 29.01.2019 wherein the authority recommended not to continue the existing anti-dumping duty imposed upon the imports of Paracetamol from China PR. Thereafter, Special Civil Application No 5278 OF 2019 was filed in the High Court of Gujarat challenging the impugned Final Findings and disclosure statement issued by the designated authority on 29.01.2019 and 15.01.2019 respectively in the 3rd Sunset Review Investigation. The Hon'ble High Court of Gujarat in its judgment dated 3rd July, 2019 ordered to remand back the case for reconsideration by the Designated Authority.

3. Whereas, in terms of Section 9A(5) the Customs Tariff Act, 1995, read with Rule 23 of the Rules, the anti-dumping duty imposed under the said Act shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, unless in a review, initiated before the expiry of the duty, the Designated Authority concludes that the cessation of the duties is likely to lead to continuation or recurrence of dumping and injury.

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

5. Whereas, the petition was filed by M/s Farmson Pharmaceuticals Gujarat Private Limited and M/s Sri Krishna Pharmaceuticals Limited (hereinafter referred to as Petitioners) and was supported by M/s Bharat Chemicals, M/s Granules India Ltd., and M/s Meghmani Unichem LLP in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter referred to as the AD Rules) for initiation of sunset review investigation of the Anti-Dumping Duty concerning imports of Paracetamol originating in and exported from China PR.

6. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the Domestic Industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority issued a Notification. No. 07/16/2018-DGAD dated 24th May, 2018, published in the Gazette of India, initiating a Sunset Review investigation to review the need for continued imposition of the duties in respect of the subject goods, originating in or exported from the subject country, and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The validity of the anti-dumping duty on the imports of the subject goods from the subject country was extended by the Central Government up to 24th May 2019 vide Notification No. 39/2018-Customs (ADD) dated 20th August, 2018 which

was later extended up to 27th October, 2019 vide notification No. 27/2019-Customs (ADD) dated12th July, 2019.

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

A. GENERAL PROCEDURE

8. The procedure described herein below has been followed with regard to the subject investigation:

i. 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 in accordance with sub-rule (5) of Rule 5 supra.

ii. The Authority issued a public notice dated 24th May, 2018 published in the Gazette of India Extraordinary, initiating Sunset Review investigation of anti-dumping duty investigation concerning imports of Paracetamol originating in and exported from China PR

iii. The Authority sent a copy of the initiation notification to the embassy of China PR in India, known producers/exporters from China PR, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days from the date of communication in accordance with the Rules 6(2) & 6(4).

iv. The Authority provided copy of the non-confidential version of the application to the known exporters/producers and the embassy of the subject country in accordance with Rules 6(3) supra. A copy of the non- confidential version of the application was also made available in the form of a public file and provided to other interested parties, wherever requested.

v. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China PR, (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules:

a) Anhui Bayi Chemical Industry Co. Ltd.
b) Anhui Fubore Pharmaceutical
c) Zhejiang Kangle Pharmaceutical Co.
d) M/s Wenzhou Pharamaceuticals factory
e) Changshu Huagang Pharmaceutical Co. Ltd.
f) Hebai Jiheng Group Co. Ltd.
g) Jiangsu World Kindly Pharmaceuticals Ltd
h) Jiangsu Guoheng Pharma Chemical Co. Ltd.
i) Shanghai Bailion Chemicals Co. Ltd.
j) Lianoyuan City Baikang Pharmaceutical
k) Runqi Trading Co. Ltd.
l) AnqiuLu'an Pharamaceutical Co Ltd

vi. The following producers/exporters have filed the Exporter questionnaire response.

a) M/s Anqiu Lu An Pharmaceutical Co., Ltd.
b) M/s A.H.A International Co., Ltd.
c) China Sinopharm International Corporation
d) Zhejiang Chemcials Import and Export Corporation
e) Lianyungang Kangle Pharmaceutical Co., Ltd.
f) Zhejiang Kangle Pharmaceutical Co., Ltd.
g) Hebei Jiheng (group) Pharmaceutical Co. Ltd.

vii. Supplementary questionnaire was also forwarded to the known producers/exporters in China PR and the embassy of China PR in India with the request to provide relevant information to the authority within the prescribed time limits.

viii. However, none of the exporters have filed the Supplementary questionnaire.

ix. The Authority sent a copy of the Initiation Notification along with Importer's Questionnaires to the following known importers/users/user associations (whose names and addresses were made available to the Authority) of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4).:

a) Aura Pharmaceuticals Pvt. Ltd.
b) Shalina Laboratories Pvt. Ltd.
c) Medicamen Biotech Ltd.
d) Adcock Ingram Ltd.
e) Sanofi India Ltd.
f) Fourrts (India) Laboratories Pvt Ltd.
g) Indoco Remedies Ltd.
h) Astra Lifecare (India) Pvt. Ltd.
i) J.B Chemicals & Pharmaceuticals Ltd.
j) Unilink Pharma Pvt. Ltd.
k) Medopharm
l) Milan Laboratories (India) Pvt. Ltd.
m) Agog Pharma Ltd.
n) Combitic Global Caplet Pvt. Ltd.

x. However, no questionnaire response has been received from any importer of the subject goods.

xi. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).

xii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis and the same were kept in the public file maintained by the Authority as per the Rules

xiii. The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the Non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

xiv. Period of Investigation in the present investigation is 01st April 2017- 31st March 2018. The injury investigation period is April 2014-March15, April 2015-March16 and April 2016-March17 and the Period of Investigation (POI).

xv. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the Domestic Industry was conducted to the extent considered necessary for the purpose of the investigation.

xvi. Transaction wise data was called from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) & DG Systems. The Authority has relied on DGCI&S data and the data of co-operative exporters for calculating volume and value of imports of the subject goods in India.

xvii. The Authority held oral hearing on 6th August 2018 to provide an opportunity to all the interested parties to present relevant information orally in accordance to Rule 6 (6). The interested parties who had presented their views in the oral hearing were advised to file written submissions of the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the views expressed by the opposing interested parties. The Authority has considered submissions received from all the interested parties appropriately. Post remand back oral hearing was held on 19th August 2019 and accordingly the interested parties filed their written submissions and rejoinders which were duly considered by the Authority.

xviii. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.

xix. *** in this disclosure statement represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xx. The exchange rate adopted by the Authority for the subject investigation is 1 US $ = Rs. 65.33

B. PRODUCT UNDER CONSIDERATION

B.1 Submissions by the Domestic Industry

9. The following are the submissions made by the domestic industry with regard to product under consideration and like article:-

   i. The scope of the product under consideration under the present investigation is "Paracetamol also known as acetaminophen" as determined by the Authority in previous investigations. Paracetamol is an organic chemical and is classified under Custom sub-heading 2922.2933 of the Customs Tariff Act, 1975. The customs classification is, however, indicative only and is in no way binding on the scope of the present investigation.

   ii. Paracetamol is a white powder. Its chemical formula is C8H9N02. Paracetamol is a common analgesic and antipyretic drug that is used for the relief of fever, headache and other minor aches and pains. It is a major ingredient in numerous cold and flu medications and many prescription analgesics.

   iii. The present investigation being a Sunset Review investigation and antidumping duties, as earlier recommended by the Authority, being in force on the imports of the subject goods from the subject country, the Authority should consider that the scope of the PUC in the present investigation remains the same as that of the earlier investigations.

B.2 Submissions by the exporters/importers/other interested parties

10. None of the other interested parties have raised any issues with regard to the product under consideration.

B.3 Examination by Authority

11. The product under consideration in the present Sunset Review investigation is Paracetamol. Paracetamol is classified under Customs sub heading No 2922.2933 under chapter 29 of the Customs Tariff Act, 1975. However, customs classification is indicative in nature and not binding on the scope of the investigation.

12. The Product under consideration as defined in the previous investigations is as follows :-

    "The product under consideration, in the original as well as the 1st SSR investigation and the present sunset review investigation, is "Paracetamol also known as acetaminophen", originating in or exported from China PR. The present investigation being a sunset review, the investigation covers the product covered in the original investigation as well as the 1st SSR investigation".

13. The present investigation being a Sunset Review investigation and antidumping duties, as earlier recommended by the Authority, being in force on the imports

of the subject goods from the subject country, the Authority considers that the scope of the PUC in the present investigation remains the same as that of the earlier investigations. Moreover, none of the interested parties have made any submission in this regard.

14. Therefore the authority has considered PUC as under :-

The product under consideration, in the previous investigations as well as the present sunset review investigation, is "Paracetamol also known as acetaminophen", originating in or exported from China PR. The present investigation being a sunset review, the investigation covers the product covered in the original investigation.

"*Paracetamol is an odourless white crystalline powder. Its chemical formula is C8H9NO2. Paracetamol is a bulk pharmaceutical active ingredient, displaying analgesic and antipyretic properties. It is used in a number of Rx and OTC drug formulations in the form of powders, granules, injectibles and tablets. Paracetamol is an organic chemical and is classified under Custom sub-heading 2922.2933 of the Customs Tariff Act, 1975. The customs classification is, however, indicative only and is in no way binding on the scope of the present investigation.*"

C. <u>LIKE ARTICLE</u>

C.1 Submissions by the Domestic Industry

15. The domestic industry has claimed that there is no known difference in subject goods exported from subject country and that produced by the Indian industry. Both the products have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications and tariff classification etc.

C.2 Submissions by the exporters/importers/other interested parties

16. None of the interested parties have disputed the claims made by the domestic industry in this regard.

C.3 Examination by Authority

17. The Authority notes from the information available on record that the product under consideration produced by the Domestic Industry is like article to the goods imported from the subject country. Product under consideration produced by the Domestic Industry and imported from the subject country are comparable in terms of physical characteristics, manufacturing process & technology, functions & uses, product specifications and tariff classification of the goods. It is further noted that the Designated Authority had examined the issue of product under consideration and like article in the previous investigations, which mutatis mutandis is relied upon in the present review investigation. The goods produced by the Domestic Industry and imported from the subject country are like articles in terms of the Rule 2(d) of the Anti-Dumping Rules. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

D.1 Submissions by the Domestic Industry

18. The domestic industry has made the following submissions:-

i. The Petition for review and continuation of the anti-dumping duty in force on imports of Paracetamol originating in or exported from China PR has been filed by M/s Farmson Pharmaceuticals Gujarat Private Limited and M/s Sri Krishna Pharmaceuticals Limited and was supported by M/s Bharat Chemicals, M/s Granules India Ltd., and M/s Meghmani LLP.

ii. The Petitioners other than M/s Sri Krishna pharmaceutical have not imported the product under consideration. M/s Sri Krishna pharmaceuticals Ltd have imported merely 30 MT, which is insignificant in relation to its production, Indian production and Indian demand.

iii. Petitioners command a major proportion in Indian production and accordingly constitute “domestic industry” within the meaning of the Rules.

iv. Petitioner is not related, either directly or indirectly, to any exporter or importer of product under consideration in the subject country. Thus, the petitioner is an eligible Domestic Industry under Rule 2(b) read with Rule 5(3) of the Anti-Dumping Rules.

D.2 Submissions by the exporters/importers/other interested parties

19. The interested parties have made the following submissions:-

i. The levy of the anti-dumping duty is dependent upon the dumping margin and there is no such principle of granting sufficient protection to the domestic industry in the anti-dumping investigations.

ii. There are significant changes in the composition of the domestic industry in all the four investigations concerning the product under investigation before the Authority as may be seen from the following:-

    a) Original Investigation: It may be seen that in the original investigation before the Authority, there were four producers namely M/s Triton Laboratories Ltd., M/s Vamsi Labs Ltd., Srinivasa Agro Industries & Drugs Ltd. and Sri Krishna Pharmaceuticals Ltd. who participated in the investigation and provided injury information.

    b) First Sunset Review: In first sunset review there were three producers namely, Sri Krishna Pharmaceuticals, M/s Farmson Analgesics Pvt. Ltd and M/s Bharat Chemicals ltd.

    c) Second Sunset Review: In the second SSR, Sri Krishna Pharmaceuticals Ltd. and M/s Bharat Chemicals Ltd. provided injury information.

    d) Third Sunset Review-Present Investigation: In the current investigation, again only the 2 producers namely Sri Krishna Pharmaceuticals Ltd. and M/s Farmson Analgesics Pvt. Ltd. have been participating and provided injury information.

e) The composition of the domestic industry or the domestic producers in all the four investigations are different and it is not difficult to assume that the composition of the domestic producers was changed at their will and desire to suit their needs,

f) It may be seen that the domestic producers who were petitioners in the previous investigations i.e. original investigation and the two sunset review investigations have not provided any information in the present case

g) There is no analysis or reasons in the petition as to why those producers who were petitioners in the earlier investigations are not providing information in the current investigation.

h) In the initiation notification also, there is no analysis with respect to those producers not providing information.

i) M/s Triton Laboratories Ltd. was merged with Granules India Ltd. in the year 1998. However, M/s Triton Laboratories Ltd. was projected as a separate company from Granules India Ltd. In spite of the fact that the former was merged with the later at the time of initiation of original investigation i.e. on 30th January 2001 and no company with the name of Triton Laboratories existed at the time of initiation of original investigation. However, the domestic producers forming part of the domestic industry at the time of original investigation misled the Authority and got the anti-dumping duties imposed by misrepresenting the facts in the original investigation.

j) M/s Granules India Ltd. in the first sunset review investigation was shown as an importer and not included as part of the investigation. M/s Granules India Ltd. is the largest producer of subject goods in India. It has sales of Rs. 579 Crores in the POI

k) The domestic industry has not provided the injury information of M/s Granules India Ltd despite it being the largest company.

l) Even in the previous two sunset reviews investigations, no injury information was obtained from M/s Granules India Ltd. for a meaningful analysis and conclusions in those investigations. There are no reasons in the petition or in the initiation notification as to why this producer has not provided information in the present investigation when the amalgamated company of Granules India i.e. Triton Laboratories participated in the original investigation as a petitioner and provided injury information.

iii. M/s Farmson Analgesics Pvt. Ltd. is also one of the largest producers of the subject goods in India. It was a petitioner in the first sunset review and not a petitioner in the second sunset review. With regard to this producer also, there are no reasons in the petition or in the initiation notification as to why this producer has not provided information in the 2nd sunset review and is now providing injury information in the present investigation.

iv. The producers who were also the petitioners in the previous investigations commanding majority of the production have not provided injury information in the current investigation and only the producers with a limited and low share in the total domestic production have provided injury information, there is no ground for the continuation of the duties in the current investigation as in each investigation the sufficient injury information of the domestic industry has been kept away from the examination.

v. The present case is a fit case for termination of investigation and discontinuation of the duties.

D.3 Examination by the Authority

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

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

21. The petition has been filed by M/s Farmson Pharmaceuticals Gujarat Private Limited and M/s Sri Krishna Pharmaceuticals Limited and was supported by M/s Bharat Chemicals, M/s Granules India Ltd., and M/s Meghmani LLP. Post initiation, one of the supporting companies namely M/s Bharat Chemicals has provided all the necessary information. However, the Authority has not considered the same as it was filed at belated stage of investigation.

22. In the present case, the producers before the Designated Authority have output constituting a major proportion of the total domestic production and thereby the legal requirement as stipulated in Rule 2 (b) of the AD rules is met. However, in case of Sunset review it would be desirable to have the same composition of domestic industry as in original investigation.

23. The Authority notes, on the basis of information on record that the production of Applicants constitutes a major proportion of total Indian production. Among the petitioners M/s Sri Krishna pharmaceuticals Ltd. has imported merely 30 MT of PUC during POI, which is 0.45% in relation to its production and 0.06% in Indian demand, which is very insignificant and therefore the Authority has considered them as an eligible domestic industry while initiating the present investigation. Also, the Authority had satisfied itself of the adequacy and accuracy of the data summited by the petitioner by an onsite visit.Further, the petitioners are related neither to an importer in India nor to any exporter from subject country. Thus, the petitioner companies are eligible domestic industry in terms of AD Rules. Further, production of the petitioner companies constitutes "a major proportion of total Indian production" and hence, satisfies the standing requirements for the subject goods under Rule 2(b) and Rule 5(3) of the AD Rules.

E. ISSUES RELATING TO CONFIDENTIALITY

E.1 Submissions by the domestic industry

24. The domestic industry has made the following submissions:-

i. The exporter/ producers have made unnecessary claims as to confidentiality or provided incomplete information thereby handicapping the domestic industry in making meaningful comments with regard to the responses filed. The responses are not properly indexed or summarized.

ii. Information provided in non-confidential version is beyond understanding. The NCV does not provide clear understanding of the data and the domestic industry is unable to provide detailed comments on that for the same reason.

iii. Non-confidential version of the questionnaire responses is grossly inadequate and incomplete. The concerned interested party has not disclosed all such information that they are obligated to disclose under the Rules and practice being followed by the Designated Authority in this regard.

E.2 Submissions by the exporters/importers/other interested parties

25. The exporters/importers/other interested parties have made the following submissions:-

a. The petitioners have claimed excessive confidentiality without providing any legitimate reasons in violation of Rule 7 of the Customs and Tariffs Rules, 1995. The Petitioners have not disclosed the following information in their petition:-

b. Soft Copy in excel file of transaction-wise and sorted import data, raw/original import data and list of excluded transactions from DGCI&S has not been provided.

c. The import data has not been provided for the whole POI and has been provided only for the 9 months.

d. The item-wise details of constructed normal value have been kept as confidential,

e. Company-wise production details of the petitioners, supporting producers and the domestic producers have been kept as confidential.

f. The annual report of the companies for the POI and the previous three years have not been provided. The domestic industry has simply stated that the same may be seen from the website of the petitioners. However, it may be seen that there are no annual reports available on the website of the petitioners.

g. In the application, it has been mentioned that Sri Krishna Pharmaceuticals Ltd. has imported the subject goods. However, the reasons have not been provided by the domestic industry.

h. The domestic industry has claimed adjustment from export price for ocean freight, marine insurance, port expenses, bank charges, inland transportation, commission and VAT adjustment. However, no evidence with regard to the aforesaid adjustments claimed have been provided by them,

i. Profit/ loss and ROCE in percentage terms have been kept confidential,
j. The Hon'ble Authority may kindly direct the petitioners to disclose and provide the aforesaid information so as to enable the exporters/ producers for making effective comments in this investigation.

E.3 Examination by the Authority

26. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

"7. 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 sub-rule (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.

(2)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 summarization is not possible.

(3) 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."

27. Submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to the need for treating them as confidential. On being satisfied, the Authority has accepted the confidentiality claims of all the parties and accordingly not disclosed such information to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide non-confidential summary of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file.

F. Miscellaneous Submissions

F.1 Submissions by the domestic industry

28. The exporter questionnaire filed by responding exporter/ producers namely M/s Anqiu Lu An Pharmaceutical Co., Ltd,. Zhejiang Kangle Pharmaceutical Co., Ltd, M/s A.H.A International Co., Ltd., Zhejiang Chemicals Import & Export

Corporation, and China Sinopharm International Corporation are deficient in nature and none of them have filed the exporter Questionnaire Response (Part2), which seeks information from the exporters on their capacities, capacity expansion, transaction wise third country exports, domestic sales, inventories etc. These details/information are indicative of likelihood behaviour of the exporters and therefore they are required to be submitted to the Authority in the Sunset Review investigation. It is submitted that, this is not a case of deficient information but complete failure to file the required information in the prescribed format itself.

29. The production of product under consideration is quite limited globally. As, about 86% of global production is in India and China only and out of which 62% of the production is in China alone, while India commands the remaining 24%. Thus, any sickness in this industry would leave the Indian users at the mercy and monopoly of the Chinese producers.

30. That due to the adverse effect of the insufficient form of duty there were large-scale production suspension in the country, which was primarily in the last two decades (all these closures are more than 5 years old and are prior to previous extension of ADD).

31. As per 145th Parliamentary standing committee on commerce which assessed the impact of Chinese goods on Indian industry, it is clearly stated that API sector needs protection from import and the government of India also endeavors to revive the API sector in India.

32. Katoch Committee Report dated 24 September,2015 on Active Pharmaceuticals Ingredients (APIs) specifically states that a long term strategy for strengthening API sector by involving Ministry of Commerce as well as other regulatory authorities is required which involves judicious and liberal use of measures like anti-dumping.

33. FICCI report February 2018 edition on “Trends and Opportunities for Indian Pharma” highlights that dependence on China for API supplies exposes the pharma industry to raw material supply disruptions and price volatility.

34. Office Memorandum dated 18 April, 2018 issued by the Government of India, Ministry of Chemicals and Fertilizers, Department of Pharmaceuticals, constituted a Task force to formulate a roadmap for enhanced production of API s in the country as there is need for concerted efforts to harness the opportunities in pharmaceutical sector.

35. The public at large is already well protected through a regulatory mechanism as Paracetamol is covered under National List of essential medicine in Pharmaceutical Policy, 2015.

36. Paracetamol is one of the cheapest API available in the country.

F.2 <u>Submissions by the exporters/importers/other interested parties</u>

37. None of the other interested parties has made any submissions.

F.3 Post remand back submissions made by the Domestic Industry and the exporters.

Repetitive submissions by the interested parties have not been repeated for the sake of brevity.

a) <u>Submissions by Domestic Industry</u>

38. It is submitted by the Domestic Industry that in the previous final findings with regard to the majority of exports under advance license scheme, both the petitioners and the opposing parties agree that exports from subject countries in this period have occurred only under advance license scheme.
39. Imports to India have occurred under the duty exemption scheme, the importers have not paid either anti-dumping duty or basic custom duty. Since no taxes and duties were payable on these imports, therefore the price reported to Indian Customs were abnormally high, as there was no adverse impact of quoting Higher Price.
40. Since the imports have occurred under the duty exemption scheme, The DI submits that the export price reported to Indian Customs during that period are unreliable. The DI therefore requests the authority to consider the price at which material was sold by the producers to unrelated traders in the domestic market
41. The DI further submits that the present exports under duty exemption category establishes that these are not the real prices at which the Chinese producers would export the product. It is the third countries lower prices that are representative of the exporter's real prices for the Indian market.
42. The behavior of the exporters have changed post issuance of final finding. Even when the order had not even attained finality the Chinese producers and Indian importers resorted to significant imports of products at materially low prices.
43. The production of Product under Consideration (PUC) is quite limited globally. About 86% of the global production is in China and India out of which China and India commands for 62%and 24% of the shares respectively and any sickness in this industry would leave the global demand only at the mercy and monopoly of the Chinese producers.
44. A bare perusal of the exporter's questionnaire filed by the exporters establishes that there is a need for the continuation of duty as it states that there is a decline in capacity utilization of exporter giving rise to the idle capacity. Domestic sales of the exporter has come down and sales to India has increased. The exporters are selling PUC at the rate of 107.71 CNY/KG in their domestic market and they are selling the same in India at 88.18 CNY/KG, which shows dumping.
45. With regard to injury the DI states that the imports have increased in absolute terms in the period of investigation as compared to the preceding two years. The landed price of import is below the cost of production for the subject goods and the imports are undercutting the prices of the domestic industry. The cessation of duty will lead to an increase in imports in absolute terms as well as in relation

to production and consumption in India and the DI will suffer losses and its return on capital employed would become negative.

46. The DI submits that they are seeking extension of duty on the grounds of likelihood of recurrence of injury.

47. Despite the positive dumping margin and price underselling, India is a much more price attractive market as compared to the other markets.

48. The Chinese producers concede that their domestic consumption for the product has declined. The capacities have not been proportionately reduced thus threatening industry outside China.

49. As per 145th Parliamentary standing committee on commerce which assessed the impact of Chinese goods on Indian industry, it is clearly stated that API sector needs protection from import and the government of India also endeavors to revive the API sector in India.

50. Katoch Committee Report dated 24 September,2015 on Active Pharmaceuticals Ingredients (APIs) specifically states that a long term strategy for strengthening API sector by involving Ministry of Commerce as well as other regulatory authorities is required which involves judicious and liberal use of measures like anti-dumping.

51. FICCI report February 2018 edition on "Trends and Opportunities for Indian Pharma" highlights that dependence on China for API supplies exposes the pharma industry to raw material supply disruptions and price volatility.

52. Office Memorandum dated 18 April, 2018 issued by the Government of India, Ministry of Chemicals and Fertilizers, Department of Pharmaceuticals, constituted a Task force to formulate a roadmap for enhanced production of API s in the country as there is need for concerted efforts to harness the opportunities in pharmaceutical sector.

53. After the effective imposition of duty in the previous Sunset Review investigations, the various producers have made fresh investment in the country. A total of about Rs.40.86 Crores and capacities by 20000MT has been invested in this industry after the last protection. Cessation of anti- dumping duty will cause injury to the domestic industry and these investment will be jeopardized.

54. The Paracetamol industry constitutes small companies which are highly vulnerable and price sensitive. In the past various Paracetamol producers were forced to suspend production as they were unable to compete with the low price imports. Therefore the cessation of duty makes the domestic industry vulnerable.

55. The public at large is already well protected through a regulatory mechanism as Paracetamol is covered under National List of essential medicine in Pharmaceutical Policy, 2015.

56. Paracetamol is one of the cheapest API available in the country

57. The period for which duty has been in force has no relevance under the law to determine whether the antidumping is required to be extended for a further period or not. The real test of extension of duty is whether the injury to the domestic industry is likely to recur in the event of cessation of antidumping duty and not the period for which the duty is levied.

58. The Domestic Industry also request the Designated Authority to compare the price at which the responding producers have directly exported the product and the price at which such producers have given the material to the traders for eventual export to India. Petitioners' understanding is that the producers have sold the material to a price materially lower than the prices at which the traders have sold the product in the Indian market. Further, the producers have also directly invoiced the product to Indian market at higher prices. Just for illustration purposes, if the producers have invoiced the product to India @ US$ 100 per unit, they have invoiced to the traders @ US$ 75 and the traders have invoiced the goods to India at US$ 105. Thus, even when the producers are aware of Indian customers/consumers and have allegedly sold the product at higher prices in Indian market, they have sold the product at lower prices to the traders. DI submit that the price at which the producers have sold the product to the traders are the real prices at which the business has happened in this period.

59. The DI states that the designated authority in its earlier final findings 29th January, 2019 has already held that there are surplus capacities in China PR and the Chinese producers are export oriented and same is herein relied upon.

60. The DI has stated that any analysis on the basis of weighted average is at the least highly misleading. Every sales transaction is made independently by every manufacturer and on standalone basis. If there are significant exports made to third countries at lower prices, there is no submission/justification by these interested parties why those sales would not be diverted to Indian market. The responding exporters have neither shown any compulsion nor any other reason for selling at lower prices to third countries and factors which would prevent them from diverting those low priced sales to India. The Chinese producers do not appear to be charitable institutions and are business organizations whose objective is to maximize the profits.

b) <u>Submissions by the exporters/importers/other interested parties</u>

61. It is submitted by the exporters that the domestic industry is making the contradictory submissions. On the one hand, the domestic industry is alleging dumping and likelihood of dumping on the basis of imports of the subject goods from China and on the other hand, they state that the imports from China are imported at a higher price under advance license and therefore, the imports are not reliable. It is submitted that the domestic industry has not produced any evidence on record in support of their submissions and therefore, there is no merit in the submissions of the domestic industry. With regard to the imports of the subject goods under duty free schemes, it may be seen that for the demand of the subject goods for the exported Paracetamol formulations may in all

likelihood will be met from the imports from China due to superior quality of imports and such imports will continue to be made as these imports will not be subject to anti-dumping duty. Thus, considering the nature of the product and the prevailing circumstances, the imports of the subject goods into India will remain imminent to that extent.

62. The domestic industry has not provided the source of information of imports provided for the period April 2018- March 2019 .Even on the basis of the information so supplied, it may be seen that there is no merit in their submissions as the previous final findings in the investigation were issued on 29th January 2019 and the Customs Notification for withdrawal of duties was issued on 16th April 2019 and the duties even continue today in view of the orders of the Hon'ble Gujarat High Court and have not been discontinued. It may be seen that the position that was prevailing before the issuance of the above final findings remains the same even after the issuance of the above final findings. Therefore, there is no merit in the submissions of the domestic industry that imports post issuance of final findings have increased.

63. There are no significant changes in the capacity utilization of Hebei Jiheng and it has remained more or less in the same region throughout the injury investigation period. With regard to sales also, it may be seen that the same is more or less the same throughout the injury investigation period. For the selling prices, it is submitted that the domestic prices and the exports to India throughout the injury investigation period are comparable. It may also be seen that the imports of the subject goods to India by Hebei Jiheng are not so significant for drawing any conclusion on the basis of their imports. It is also submitted that the transaction-wise details of export to other countries by the exporters represented by us have already been filed and are a matter of record**.**

64. Indian market is not price attractive for the exporters as the prices charged by them for the other countries on average basis are higher than the Indian prices.

65. No significant changes in the demand of the PUC in China or other countries and remain more or less the same throughout injury period investigation.

66. In anti-dumping investigation the decision for the levy of duties is dependent upon the dumping or likelihood of dumping and injury and it has no connection with the investment made by the domestic industry in the capacity expansion. The designated authority held the same in the Melamine SSR Investigation from EU, Indonesia, Iran and Japan

67. The consideration of the public interest is not a legal condition to be examined in accordance with Indian law on anti-dumping for the continuation, imposition or withdrawal or termination of the duty or investigation.

68. It is reiterated by the exporters that in the cases of Dry Cell Batteries from China PR (Case No 15/12/2011-DGAD &Final Findings dated 20th May 2013) it was held by the Authority that the anti-dumping duties beyond 10 years be imposed in special cases only. The present case is not a special case where duty

is required to be continued. The duties for the PUC has been in existence for the past 17-18 years.

F.4 Examination by the Authority

69. Imports under advance licenses are not meant for domestic consumption and therefore it has no bearing on the prices of domestic industry and consequential likelihood of injury.

70. As regards the continuation of duty beyond a period of 17 years, the Authority finds that the duties have been extended in the past only when it was found after investigation that there was likelihood of continuation or recurrence of dumping or injury in the event of cessation of duty.

71. As regards the submission that 86% of global production is in India and China out of which 62% of the production is in China and 24% in India therefore any sickness in the industry would leave the Global demand at the mercy and monopoly of Chinese producers, it is stated that only 6% of the Indian demand is being met by the imports and Domestic Industry is operating efficiently.

72. From the analysis of DGCIS import data it is seen that imports have reduced from 2969 MT in the POI to 988 MT in the post POI and the landed value of the imports in the Post POI has increased to Rs 362/Kg from Rs 250 /Kg in the POI.

73. As regards the capacity utilization of the cooperative exporters is concerned it is noted that the capacity utilization of the major exporter who has exported 80% of the total exports from the cooperative producers of China has increased from 68.7% in year 2016-17 to 71% in the POI.

74. As far as the price attractiveness of the India is concerned, the Authority has analysed the China PR custom data with regard to export from China PR to the rest of the world which indicates that 28.6 % of total volume of exports to third countries is at a price lower than the price at which China exports to India. Whereas 64.1% of the total exports are priced at rates higher than the prices at which China exports the subject goods to India.

75. As regards the submission that the price at which the producers have sold the product to the traders are the real prices at which the business has happened in this period, it is stated that the real prices are the prices at which China country as a whole has exported to India for which landed value has been calculated at USD 3828/MT which is higher than the Non-injurious price of the domestic industry and not the prices at which producers have sold product to traders in China PR.

76. The Authority takes note of the submissions filed by the Applicants as to the stance of Government of India with regard to API and other market information such as the report of FICCI.

77. Dumping analysis has been detailed under the relevant headings.

78. Other submissions made by the interested parties have been examined under the relevant headings.

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

79. The Authority sent questionnaire to known exporters from subject country, advising them to provide information in the form and manner prescribed. The following producers and exporters from the subject country filed the questionnaire response:-

i. M/s Anqiu Lu An Pharmaceutical Co., Ltd.
ii. M/s A.H.A International Co., Ltd.
iii. China Sinopharm International Corporation
iv. Zhejiang Chemicals Import and Export Corporation.
v. Lianyungang Kangle Pharmaceutical Co., Ltd.
vi. Zhejiang Kangle Pharmaceutical Co., Ltd.
vii. Hebei Jiheng (group) Pharmaceutical Co. Ltd.

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

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

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

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

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

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely 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 Views of the Domestic Industry

81. The following are the submissions made by the domestic industry, during the course of present investigation and considered relevant by the Authority:-

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

ii. Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.

iii. The imports are entering the Indian market at dumped prices.

iv. There is difference in prices in different import transactions which mean that Chinese producers are selling very same product at a price which differs significantly even at the same time period and is not a peculiar phenomenon of POI, but extends to the entire injury period,

v. It is a fit case where weighted average normal value cannot be compared with weighted average export price. The Designated Authority is, therefore, requested to compute the weighted average normal value and compare the same with individual export price and in all those import transactions where the dumping margin is negative, the same are required to be excluded for determination of dumping margin.

vi. There can be no plausible reason/justification for such significant difference in the prices in respect of imports being reported at the same time.

G.2 Views of the other interested parties

82. The submissions made by the producers/exporters/importers/other interested parties are as follows:-

i. Determination of the normal value for subject country in the current investigation as computed by the domestic industry is not in accordance with the legal provisions and therefore, the determination of dumping margin in the current investigation by the petitioners is flawed.

ii. Normal value for the companies in China PR in the current investigation may please be determined on the basis of their domestic sales and the cost of the subject goods.

iii. It is in view of the fact that the period of 15 years for disregarding the domestic prices or costs of Chinese producers not being on market economy conditions as provided in para 15(a)(ii) of the Protocol of Accession of the People's Republic of China to WTO, has expired on 11th December 2016 in terms of para 15 (d) and has become non-operational.

iv. At present, no provisions which enable the Hon'ble Authority for considering Chinese producers as operating on non-market economy principles for disregarding their domestic prices and costs and the normal value for China may be determined on the basis of their domestic prices and cost of the subject goods.

v. Any other methodology used for the determination of normal value for Chinese exporters would be in violation of the obligations of India under the WTO.

vi. Without prejudice to above submission it is submitted that determination of normal value for Chinese exporters on the basis of their records without following any additional procedure, domestic industry has arbitrarily determined the normal value for Chinese exporters without following the due procedure as laid down under the Indian Anti-dumping Rules.

vii. The constructed normal value proposed by the domestic industry is based on the cost of production in India and considering the rate of profit at 5%. However, the item-wise cost details of the constructed normal value have not been provided.

viii. The methodology of relying upon the Indian costs and prices is to be followed only when it was not possible to construct the normal value on the basis of other alternatives prescribed in the opening sentence of Para 7.

ix. In terms of the provisions of Para 7, the market economy third country is required to be first identified for determination of normal value and only where it is not possible to obtain necessary data from such third country, the normal value can be determined 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.

x. The domestic industry is under obligation to inform, without reasonable delay the selection of market economy third country to the parties concerned so as to provide an opportunity to respond to the same.

xi. Mandatory procedure prescribed by the law has not been followed, as the interested parties have not been put to notice about selection of the third country. Nor have the interested parties been requested to suggest and make necessary information available about the third country.

xii. In the absence of following the mandatory procedure, the present proceeding cannot continue in view of the decision of the Hon'ble Supreme Court in the case of Shenyang Matsushita 2005 (181) ELT 320 (SC).

xiii. The failure to follow the mandatory procedure of Para 7 has substantive implications on the determination of the normal value and resultantly the dumping margin.

xiv. Therefore, the Hon'ble Authority is requested to follow the procedure prescribed in Para 7 of the Annexure I in the current investigation.

G.3 <u>Examination by the Authority</u>

a. <u>Normal Value in China</u>

83. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of normal value. The Authority sent copies of the Supplementary questionnaire to all the known producers/ exporters for rebutting presumption of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the AD Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant

information. However, none of the Chinese producers filed any response to the Supplementary questionnaire issued by the Authority.

84. Accordingly, the normal value and export price for the all the producers/exporters from the subject country have been determined as below:-

b. <u>Determination of Normal Value for producers and exporters in China PR</u>

85. 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 Anti-Dumping Rules. In the absence of sufficient information on record regarding the other methods as are enshrined in Para 7 of Annexure I of the AD rules, the Authority has determined the normal value by adopting the method "any other reasonable basis".

86. The Authority has, therefore, constructed the normal value for China PR on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses .Accordingly, the constructed normal value for Chinese exporters is determined **Rs. *****per Kg.

c. <u>Determination of export price of China PR</u>

87. The Authority notes that below mentioned exporters from China PR have furnished information to the Authority, which was used for determination of export price and individual dumping margin.

i. M/s Anqiu Lu An Pharmaceutical Co., Ltd.
ii. M/s A.H.A International Co., Ltd.
iii. China Sinopharm International Corporation
iv. Zhejiang Chemcials Import and Export Corporation
v. Lianyungang Kangle Pharmaceutical Co., Ltd.
vi. Zhejiang Kangle Pharmaceutical Co., Ltd.
vii. Hebei Jiheng (group) Pharmaceutical Co. Ltd.

88. In view of the responses filed, the Authority has analyzed the response made by the producers /exporters as follows:-

a) <u>M/s Anqiu Lu An Pharmaceutical Co., Ltd.(producer)and M/s A.H.A International Co., Ltd,. China Sinopharm International Corporation and Zhejiang Chemicals Import and Export Corporation.</u>

89. The Authority notes that M/s Anqiu Lu An Pharmaceutical Co., Ltd. has exported *** MT of the subject goods directly to India and ***MT through its traders M/s A.H.A International Co., Ltd., China Sinopharm International Corporation and Zhejiang Chemicals Import and Export Corporation. The Authority notes that whereas Anqiu Lu An Pharmaceutical Co has reported an export price of US$ ***/MT and A.H.A International Co., Ltd., China Sinopharm International Corporation and Zhejiang Chemicals Import and Export Corporation have reported net export price of US$ ***/MT, US$ ***/MT and US$ ***/MT respectively.

90. The producers-exporters have claimed price adjustments on account of inland freight, ocean freight, and marine insurance, credit cost, port expenses and

VAT. Ex-factory export price has been determined for each producer/exporter. Weighted average export price of the said producer and its respective traders have thereafter been determined as US$ *** /MT considering the total volume of exports made by the said exporter.

b) M/s Lianyungang Kangle Pharmaceutical Co., Ltd. (Producer) and M/s Zhejiang Kangle Pharmaceutical Co., Ltd.

91. The Authority notes that M/s Lianyungang Kangle Pharmaceutical Co. has exported *** MT through its trader namely M/s Zhejiang Kangle Pharmaceutical Co., Ltd. They have claimed price adjustments on account of inland freight, ocean freight, and marine insurance, credit cost, port expenses and VAT. After adjustment of the expenses claimed by the producer/trader, the authority has determined the ex-factory export price as US$ ***/MT.

c) M/s Hebei Jiheng (Group) Pharmaceutical Co. Ltd...(Producer).

92. The Authority notes that M/s Hebei Jiheng (group) Pharmaceutical Co. Ltd have exported *** MT directly to India. The exporters have claimed price adjustments on account of inland freight, ocean freight, and marine insurance, credit cost, port expenses and VAT. After adjustment of the expenses claimed by the producer/trader accordingly, the authority has determined the ex-factory export price as ***US$/MT.

93. The dumping margin during the POI for all exporters/producers from the subject country has been determined as provided in the table below:-

G.4 DETERMINATION OF DUMPING MARGIN

Name of company (Producer) (POI)	Name of the company (Exporter)	CNV US$/MT	NEP US$/MT	Dumping margin US$/MT	DM%	Range
M/s Anqiu Lu An Pharmaceutical Co., Ltd.	M/s A.H.A International Co., Ltd.	***	***	***	***	0-10
	China Sinopharm International Corporation					
	Zhejiang Chemicals Import and Export Corporation					
Lianyungang Kangle Pharmaceutical Co., Ltd.	Zhejiang Kangle Pharmaceutical Co., Ltd.	***	***	***	***	0-(10)
Hebei Jiheng (group) Pharmaceutical Co. Ltd.		***	***	***	***	10-20

(a) Comparing the normal value and export price at ex-factory level for the country as a whole, the dumping margin for the subject country is determined as below:-

Particulars US$/Kg -Rs./Kg (POI)	US$/Kg	Rs./Kg
Normal Value	***	***
Net Export Price	***	***
Dumping Margin	***	***
Dumping Margin %	***	***
Range %	10-20	10-20

H. INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

H.1 Submissions by the Domestic Industry

94. Followings are the submissions made by the Domestic Industry: -

i. Nature of sunset review is different than that of original investigation as the focus is more on likelihood of the continuation or recurrence of dumping and injury, in case antidumping duties are removed. Presence of current injury or presence of current dumping is not required to be examined for the review cases where likelihood of injury is more important.
ii. With respect to the injury determination, if the anti-dumping duty has had the desired effect, the condition of the domestic industry is expected to have improved during the period the anti-dumping duty was in force.
iii. The assessment whether injury will continue, or recur, would entail a counter-factual analysis of future events, based on projected levels of dumped imports, prices, and impact on domestic industry.
iv. The Designated Authority has to address the question as to whether the domestic industry is likely to be materially injured again, if duties are lifted.
v. There is negative price undercutting. This is due to anti-dumping duty in force; the situation is likely to reverse in the event of cessation of anti-dumping duty.
vi. There had been an increase in selling price and the landed price of imports due to anti-dumping duty in force. In the event of cessation of anti-dumping duty, the imports in all likelihood would have price suppression and depression effect.
vii. Production, capacity utilization and sales of the domestic industry have increased. However, should the present duties cease at this stage, the capacity utilization shall decline significantly.
viii. Profits, cash profits and return on capital employed of the domestic industry have increased since the base year.
ix. Market share of the domestic industry and other Indian producers has remained constant throughout the investigation period. In the event of cessation of anti-dumping duty, the dumped imports from subject country will

resume in significant volumes taking away market share of the domestic industry.

x. The growth of the domestic industry in terms of most of the parameters has shown improvement. This is due to anti-dumping duty in force. The situation is likely to reverse in the event of cessation of anti-dumping duty.

xi. In the present case, export price from subject country significantly differs in terms of time period and therefore it is a fit case where weighted average normal value cannot be compared with weighted average export price.

xii. The Designated Authority is requested to consider weighted average normal value and compare with individual export price and in all those import transactions where the dumping margin is negative, the same are required to be excluded for determination of dumping margin.

xiii. The period for which duty has been in force is irrelevant for determining whether there is a need for continuation of duties. The law provides for extension of duties if the cessation of such duties is likely to lead to continuation or recurrence of dumping or injury. Even as per the practice of other countries such as Canada, USA, Brazil and European Union, duties may continue to be in force for more than 15 years, even if there are no imports of the subject goods.

H.2 Submissions by the exporters/importers/other interested parties

95. Followings are the submissions made by the exporters.

i. There is no injury to the domestic industry in the current investigation and all the injury parameters of the domestic industry have significantly improved over the injury investigation period.

ii. The anti-dumping duties against the import of subject goods are in existence for more than 17 years and the present case is not a special case where duties are required to be extended for a further period of 5 years.

iii. The majority of imports to India from subject country are under duty free schemes such as advance license, DEPB etc. run by the Govt. of India which are not subject to duty.

iv. Even if such imports are included for analysis of injury and likelihood of injury and anti-dumping duty is recommended, the imports made under said duty free schemes would not be subject to any anti-dumping duty and would continue to come to India

v. The composition of the domestic industry in all four investigations before the Hon’ble Authority has significantly changed. Therefore, there are no reasons to believe that the domestic industry is being currently affected.

vi. The largest producer of the subject goods i.e. Granules India having sales of Rs. 579 Cores in the period of investigation in India have been abstained from all the 3 sunset review investigations and provided no injury information. Therefore, the analysis of injury and likelihood of injury on the basis of limited information in all the 3 SSR investigations cannot give the true picture of the state of the domestic industry and therefore, in the current case, there is no need to extend duty for another period of five years.

vii. The Authority while issuing the Final Finding concerning Dry Cell Batteries from China PR (Case No. 15/2/2011-DGAD & Final Findings dated 20th May 2013) has held that the anti-dumping duties beyond 10 years be imposed in Special cases only.

viii. In case there is increase in imports from subject country after the anti-dumping duty is not extended, the domestic industry can always file application for initiation of fresh anti-dumping investigation.

H.3 Examination of the Authority

96. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

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

98. Rule 11 of Antidumping Rules read with Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "…. taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles…." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

99. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product

in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

100. In consideration of submissions received in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.

(i) Assessment of Demand/ Apparent Consumption

101. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the subject goods in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand for the product under consideration is given below:-

**April 17 to Mar18*

Demand	Unit	2014-15	2015-16	2016-17	POI
Sales of Domestic Industry	MT	***	***	***	***
Indexed		100	104	108	108
Sales of Other Indian Producers	MT	***	***	***	***
Indexed		100	114	108	110
Imports from					
China	MT	4,356	1,930	2205	2969
Other Countries	MT	79	115	30	65
Total Demand	MT	48,251	50,295	49,603	50,835

102. The Authority notes that the demand has shown increase over the injury period, even though it had marginally declined in 2016-17 as compared to the preceding year. The demand increased once again in the period of investigation as compared to both the preceding year and base year.

(ii) Volume Effect of Dumped Imports and impact on Domestic Industry: Import volume and Market Share.

103. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The table below summarizes the factual position with regard to import volumes and market share-:-

Particulars	Units	2014-15	2015-16	2016-17	POI	POST POI 2018-19
China	MT	4,356	1,930	2205	2,969	981
Other Countries	MT	79	115	30	65	43

Total imports	MT	4,434	2,045	2235	3034	1024
Market Share in Demand						-
Sale of Domestic Industry	%	***	***	***	***	-
Sale of other Indian Producers	%	***	***	***	***	-
Import from subject country	%	9%	3.8%	4.44%	5.84%	-
Import from other countries	%	0.16%	0.22%	0.06%	0.11%	-
Total Demand	%	100	100	100	100	-

104. It is seen that the import volume declined till 2015-16 and increased thereafter. Further, the imports have decreased from 2969 MT in POI to 981 MT in post POI. Also, the market share in demand of the domestic industry has remained more or less constant.

(iii) Price Effect of the Dumped Imports on the Domestic Industry

a. <u>Price Undercutting</u>

105. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The Authority has compared landed price of imports with the selling price of the domestic industry for the subject goods.

<u>Price Undercutting</u>

Particulars	Unit	POI
Landed price of imports from China PR	Rs./Kg	250.06
Net Sales Realization	Rs./Kg	***
Price undercutting	Rs./Kg	(***)
Price undercutting	%	(***)
Range		(0-10)

From the above, the Authority notes that there is no price undercutting.

106. The domestic industry submitted and opposing interested parties have not disputed that the entirety of the imports were made under advance license and therefore neither customs duty nor ADD was paid on these imports.

b. Price Suppression/ Depression

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

Particular	Unit	2014-15	2015-16	2016-17	POI
Cost of sales	Rs. /Kg	***	***	***	***
Trend		100	89	87	99
Selling price	Rs. /Kg	***	***	***	***
Trend		100	93	89	103
Landed price of imports	Rs./Kg	265	266	238	250
Trend		100	102	87	94

108. The Authority notes that whereas the selling price has increased in the POI as compared to the base year, the cost of sales has marginally declined in POI. The landed value of imports from subject country has increased in POI as compared to the previous year. The Authority notes that the domestic industry increased its selling price in proportion to increase in cost of sales throughout the injury period. Therefore, there is no price suppression or depression.

(iv) Economic Parameters of the Domestic Industry

109. Annexure II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the Domestic Industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

110. Accordingly, various economic parameters of the Domestic Industry are analyzed herein below:-

a) Production, Capacity, Capacity Utilization and Sales Volume

111. Production, sales, capacity & capacity utilization details are as follows:-

Particulars	**Unit**	**2014-15**	**2015-16**	**2016-17**	**POI**
Capacity	MT	***	***	***	***
Trend	*Indexed*	*100*	*100*	*100*	*100*
Production	MT	***	***	***	***
Trend	*Indexed*	100	103	111	126
Capacity utilization	%	***	***	***	***
Trend	*Indexed*	100	103	111	126
Domestic Sales for PUC	MT	***	***	***	***
Trend	*Indexed*	100	113	116	117

112. From the above information, the Authority notes the following:-

a) Capacity of the domestic industry has remained constant over the period.
b) The production, sales and capacity utilization of the Domestic Industry has increased over the injury period.

b) Demand

Demand	**Unit**	**2014-15**	**2015-16**	**2016-17**	**POI**
Sales of Domestic Industry	MT	***	***	***	***
Indexed		100	104	108	108
Sales of Other Indian Producers	MT	***	***	***	***
Indexed		100	114	108	110
Imports from					
China	MT	4,356	1,930	2205	2969
Others	MT	79	115	30	65
Total Demand	MT	48,251	50,295	49,603	50,835

113. From the above information, the authority notes that the sales of the DI and other producers have increased from the base year.

c) Market Share in Demand

114. The details of market share of the Domestic Industry in demand are given in table below.

Particulars	Unit	**2014-15**	**2015-16**	**2016-17**	**POI**
Sale of Domestic Industry	%	***	***	***	***
Sale of other Indian Producers	%	***	***	***	***
Import from subject country	%	9%	3.8%	4.44%	5.84%

Import from other countries	%	0.16%	0.22%	0.06%	0.11%
Total Demand	%	100	100	100	100

115. It is seen that the market share of Domestic Industry has marginally increased over the injury period.

a. Profitability, return on investment and cash profits

116. Performance of the Domestic Industry with regard to profits, return on investment and cash flow is as follows: -

Particulars	Unit	2014-15	2015-16	2016-17	POI
Profit/(Loss)	Rs./ Kg	***	***	***	***
Trend	*Indexed*	100	375	225	325
Cash Profit	Rs. Lacs	***	***	***	***
Trend	*Indexed*	100	240	165	255
Return on Capital Employed- NFA	%	***	***	***	***
Trend	*Indexed*	100	173	90	136

117. It is seen from the above table that the profitability, cash profits and return on investments have increased in the POI when compared to the base year.

a. Inventories

118. Inventories with the Domestic Industry are as follows:-

Particulars	Unit	2014-15	2015-16	2016-17	POI
Average	MT	***	***	***	***
Trend	*Indexed*	100	110	125	130

119. It is noted that the average inventory level of the subject goods has shown an increasing trend.

b. Employment, Productivity and Wages

120. Performance of the Domestic Industry with regard to employment, productivity and wages is as follows:-

Particulars	Unit	2014-15	2015-16	2016-17	POI
No of Employees	Nos	***	***	***	***
Trend	*Indexed*	100	110	118	119
Wages	Rs. Lacs	***	***	***	***
Trend	*Indexed*	100	104	138	168
Productivity/person/Day	Kg	***	***	***	***
Trend	*Indexed*	100	94	94	106

121. It is seen from the above that the number of employees, wages and productivity during POI have increased as compared to the base year.

I. Magnitude of Injury and injury margin

122. The Non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI and the injury margin so worked out is as under.

SN	Particular	UOM	China (POI)
1	Import Volume	MT	2969
2	Non Injurious Price	Rs/KG	***
3	Landed Price	Rs/KG	250
4	Injury Margin	Rs/KG	***
5	Injury Margin	%	***
6	Injury Margin Range		0-(10)

J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

123. As this is a Sunset Review investigation and the authority now examines the likely scenario of continued dumping and consequent injury if the anti-dumping duties were allowed to expire.

J.1 Submissions by the Domestic Industry

124. Following are the submissions made by the Domestic Industry with regard to likelihood of continuation of dumping and consequent recurrence of injury –

i. A perusal of Article 11.1 of AD Agreement and Section 9A (5) of the Customs Tariff Act, clearly suggests that the main intent behind the legislation of Sunset Review investigation is to examine: -

(a) Whether the dumping continued and if so, whether it is likely to continue;
(b) In case where dumping did not continue, whether the dumping would recur in the event of revocation of anti-dumping duties;
(c) Whether the Domestic Industry continued to suffer injury; and if so, whether injury to the domestic industry is likely to continue;
(d) In case where the Domestic Industry has not suffered continued injury, whether injury to the Domestic Industry is likely to recur in the event of revocation of anti-dumping duties.

ii. The original investigation and the subsequent Sunset Review investigations also established the existence of significant dumping. The dumping margin in the previous as well as the first SSR was quite high.

iii. There is a long history of dumping of subject goods from China in domestic market as well as in other countries such as South Africa and Indonesia.

iv. The continued dumping was only reduced after the last concluded sunset review investigation. Prior to that, the domestic industry was suffering continued injury on account of significant dumped imports, as stated by the Authority in the final findings earlier notified in the review cases.

v. The significant level of these imports only started declining since 2015-16. However, it is pertinent to note that the domestic industry is still healing from the past injurious effects of dumping and thus is in a vulnerable state. Cessation of anti-dumping duties is likely to cause intensified injury to the domestic industry.

vi. It would appear that the domestic industry has enjoyed antidumping duty protection for the last 15 years, the fact is that the domestic industry has been effectively protected for only last five years. The Chinese producers continued dumping and the same caused injury to the domestic industry for one decade, despite the ADD being in force.

vii. The change in the form of duty from benchmark to fixed quantum has led to reduction in imports. Cessation of antidumping duty is likely to increase the imports as significant surplus capacities are available with the producers. The decline in the imports is because of existence of ADD.

viii. Due to continuous dumping, several plants producing the PRODUCT UNDER CONSIDERATION have been closed down in the country namely:-

- M/s Triton Labratories Ltd.
- M/s Vamsi Labs Ltd.
- M/s Srinivasa Agro Industries & Drugs Ltd.
- M/s Pan Drug
- M/s Alpha Drug
- M/s Glaxosmithkline Pharmaceuticals Ltd.
- M/s Thexa Pharma Pvt. Ltd.
- M/s Vani Pharma Labs Ltd.
- Rohini Chemical
- Fortune Chemical
- Dinesh Pharmaceutical
- Dr. Jain's Company
- Saboo Medichem

ix. The production of product under consideration is quite limited globally. About 86% of global production is in India and China. 62% of the production is in China alone, while India commands 24%. Thus, any sickness in this industry would leave the global demand at the mercy of the Chinese producers.

x. The questionnaire responses filed by the exporters, establish that there is import of subject goods from subject country at dumped price.

xi. The domestic industry in the present scenario is still reeling from the adverse effects of the dumping and has shown marginal growth in terms of its economic parameters. The same growth would be reversed if the Anti-dumping duty is ceased by the Authority.

xii. The only reason the domestic industry has not suffered further deterioration in its performance is that the volume of imports was low due to the duties in force. However, the producers in the subject country have significant idle capacities, which are sufficient to meet the entire demand in India. In the event of cessation of duty, the exports are likely to utilize these unutilized capacities and flood the Indian market.

xiii. The foreign producers are export oriented, in as much as their capacities are far more than the domestic demand in the subject country. The production of the subject goods in subject country is in the range of 1 lac MT, as against 2.21 lac MT capacities; whereas the domestic demand for the product in China is far lower nearly 20,000 MT. This clearly shows that the exporters have built up capacities in excess of the demand in the subject country out of 1 lac MT production, about 80% are meant for exports.

xiv. The exporters have not only been dumping in India, but also in other countries. Further, the prices at which the goods have been supplied to these countries are lower than the non-injurious price. It is therefore, reasonable to conclude that the exporters are likely to sell at dumped and injurious prices in India as well in case the duty is revoked.

xv. The export price from subject country to various countries globally are far lower than the export price to India in respect of significant proportion of exports from subject country to various countries globally. The dumping margin and injury margin in these third countries exports are higher than the dumping margin and injury margin in respect of exports to India.

xvi. Since India is a more price attractive market as compared to third countries, the exporters would prefer to divert their goods from other countries to India in case of revocation of duty, in order to increase their profits and capture the market. Considering that the exporters have no commitments in these third country markets and the sole criteria for them to price their product is price received by them.

xvii. Decline in imports post imposition of duty and positive dumping margin in such imports implies likelihood of dumping in the event of withdrawal of duty and in itself justifies extension of anti-dumping duty.

J.2 Submission of exporters

125. There is no likelihood of recurrence of injury as per Article 9A (5) of the Customs and Tariffs Act.

i. The petitioners have not given the details of excessive capacity available with the Chinese producers and their likelihood of being exported to India, the petitioners have failed to make out a case of likelihood of dumping.

ii. This clearly indicates that there is no likelihood of injury to the domestic industry in the current investigation and the present investigation deserves termination.

J.3 Examination by the Authority

126. The Authority examined the likelihood of continuation or recurrence of injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Anti-dumping Rules.

127. The Authority has noted the details submitted by the domestic industry regarding exports of China to third countries as per China customs which shows that 28.6% volume of exports to third countries are at a price lower than price at which China exports to India and 64 % of the volume of exports to third countries are at a price above than price at which China exports to India.

128. The Authority has taken into consideration the submissions made by the domestic industry and the evidence presented in support of their submissions. The Authority has examined the likelihood of continuation or recurrence of injury under following heads:

a. A significant rate of increase importation; of dumped imports into India indicating the likelihood of substantially increased importation.
b. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
c. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
d. Inventories of the article being investigated.

Each of the above parameters is accordingly analyzed in view of information placed on record by the interested parties.

(*a) A significant rate of increase importation; of dumped imports into India indicating the likelihood of substantially increased importation*

- **Volume of imports during the injury period and post POI**

Particulars	**Units**	**2014-15**	**2015-16**	**2016-17**	**POI 2017-18**	**POST POI 2018-19**
China	MT	4,356	1,930	2205	2969	981
Others	MT	79	115	30	65	43
Total imports	MT	4,434	2,045	2,235	3,034	1024

April 17 to Mar18

129. The Authority notes that there has been decline in the volume of imports from subject country from 2969 MT in the POI to 981 MT in the post POI.

130. It is also seen that there is a decline in the volume of imports in POI and post POI as compared to the base year.

(b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports.

131. Total exports to India was 2969 MT during POI out of which 2543 MT was from the cooperative exporters.

132. The Authority noted the submission of the DI regarding the existing surplus capacities, capacity addition, if any, with the responding exporters, possibility of trade diversion from third countries to India, freely disposable production capacities with the responding exporters. The analysis shows as follows:-

a. Capacity, production, surplus capacities, exports to India and rest of the world, volume of exports to India.

Name of Producer	**Units**	**Anqiu Lu An Pharmaceutical Co., Ltd.**	**Lianyungang Kangle Pharmaceutical Co., Ltd.**	**Hebei Jiheng (group) Pharmaceutical Co. Ltd.**	**Total**
Capacity	MT	***	***	***	***
Production (POI)	MT	***	***	***	***
Capacity utilisation	%	***	***	***	***
Domestic Consumption	MT	***	***	***	***
Exports to India	MT	***	***	***	***
Exports to ROW	MT	***	***	***	***
Total Exports	MT	***	***	***	***
% Exports Orientation	Range %	35	54	39	39

b. After analysis of the capacities of the cooperative exporters, the Authority notes the capacities of non-cooperative exporters/producers as per the data submitted by the petitioner and the information available in public domain which is as under:-

S. no	Producers in China	Capacity (MT per annum)
1.	Anhui BBCA Likang Pharmaceutical	10,000
2.	Changshu Huagang Pharmaceutical	8000
3.	Jiangsu World kindly Pharmaceutical	10000
4.	Wenzhou Pharmaceuticals factory	6,000
5.	Jiangsu Guoheng Pharma chemicals Co., Ltd.	2,500
6.	Runqi trading Co., Ltd	12,000
7.	Shanghai Bailion Chemicals Co., Ltd	50,000
8.	Lianoyuan City Baikang Pharmaceutical	500
9.	Total capacity of non-co-operative entities	99,000
10.	Total capacity of cooperative producers	75,000
11.	Total capacity of China PR	174,000
12.	Indian demand	50,835

C. It is observed from the analysis of the cooperating producers that the trading companies do not have their own production facilities and they quote the capacity of the producers on their websites.

d. Considering the capacity utilisation and export orientation of the responding producers and evidence provided by the domestic industry, it is evident that there are not much surplus capacities in China of cooperative exporters which represent 85% of the total export to India and the export orientation of the cooperative producers is 39% of production.

(C)Inventories of the article being investigated

133. The questionnaire response filed by the Chinese producer's shows that level of inventories with the cooperative producers/ exporters is not quite significant in comparison to Indian demand as can be seen from the table below.

Producer	Units	2015	2016	2017	POI
M/s Anqiu Lu An Pharmaceutical Co., Ltd.	MT	***	***	***	***
Lianyungang Kangle Pharmaceutical Co., Ltd.	MT	***	***	***	***
Hebei Jiheng (group) Pharmaceutical Co. Ltd.	MT	***	***	***	***
Total	MT	***	***	***	***
Indian Demand	MT	48,251	50,295	49,603	50,835

(D)Price attractiveness of Indian market

134. The export price to India and the quantities exported to India in comparison to other countries has been mentioned in the table below :-

S.NO.	Country	Quantity (kg)	Value USD	Price USD/kg
1.	Sweden (SE)	200	2135	10.68
2.	Switzerland (CH)	200	1960	9.80
3.	Puerto Rico (PR)	76000	722540	9.51
4.	Korea DPR (KP)	7294	59996	8.23
5.	Sengal (SN)	37200	275722	7.41
6.	New Zealand (NZ)	36700	265774	7.24
7.	Spain (ES)	726182	4731798	6.52
8.	Honduras (HN)	2700	17247	6.39
9.	Cyprus (CY)	1510	9597	6.36
10.	Portugal (PT)	11000	69148	6.29
11.	Oman (OM)	75000	465278	6.20
12.	Australia (AU)	194061	1165226	6.00
13.	Jamaica (JM)	550	3184	5.79
14.	Tunisia (TN)	97850	564678	5.77
15.	Croatia Rep (HR)	18000	103048	5.72
16.	Kazakhstan (KZ)	3000	16692	5.56
17.	Algeria (DZ)	371325	2043715	5.50
18.	Albania (AL)	255	1403	5.50
19.	Uruguay (UY)	15075	81821	5.43
20.	Romania (RO)	113635	610836	5.38
21.	Kirghizia	3150	16881	5.36
22.	Korea Rep (KR)	917072	4800689	5.23
23.	Argentina (AR)	131676	669468	5.08
24.	Greece (GR)	26400	131646	4.99
25.	Sri Lanka (LK)	22500	111160	4.94
26.	Laos PDR (LA)	1025	5060	4.94
27.	Italy (IT)	410574	2024742	4.93
28.	Japan (JP)	673277	3290755	4.89
29.	United States (US)	1329487	6478959	4.87
30.	Mongolia (MN)	13325	63689	4.78
31.	Panama (PA)	65688	311056	4.74
32.	Costa Rica (CR)	15500	73335	4.73
33.	Moldavia (MD)	200	940	4.70
34.	Saudi Arabia (SA)	57050	268095	4.70
35.	Germany (DE)	783030	3673146	4.69
36.	Guyana (GY)	500	2344	4.69
37.	Morocco (MA)	192450	900783	4.68
38.	Finland (FI)	36000	168368	4.68
39.	Poland (PL)	39895	185434	4.65
40.	Paraguay (PY)	31550	146388	4.64

41.	Hungary (HU)	317800	1469842	4.63
42.	France (FR)	2723382	12530613	4.60
43.	Haiti (HT)	500	2300	4.60
44.	Slovenia Rep (SI)	70950	326288	4.60
45.	Ireland (IE)	409446	1851772	4.52
46.	Lebanon (LB)	20300	91677	4.52
47.	Canada (CA)	322933	1456263	4.51
48.	Israel (IL)	12500	56197	4.50
49.	Kampuchea	192350	864025	4.49
50.	Hong Kong (HK)	93600	418493	4.47
51.	Bulgaria (BG)	14000	62440	4.46
52.	Czech Rep	150000	664200	4.43
53.	Macedonia Rep (MK)	20000	88500	4.43
54.	United Kingdom (GB)	321400	1418800	4.41
55.	Denmark (DK)	10750	47285	4.40
56.	Norway (NO)	57000	249351	4.37
57.	Cote d Lvoire	2200	9622	4.37
58.	Georgia (GE)	1500	6530	4.35
59.	Sudan (SD)	1050	4528	4.31
60.	Ecuador (EC)	52050	222496	4.27
61.	Zimbabwe	48500	205666	4.24
62.	Venezuela (VE)	31950	133412	4.18
63.	Jordan (JO)	163955	683314	4.17
64.	Ukraine (UA)	31010	129033	4.16
65.	Mexico (MX)	228035	942760	4.13
66.	Uzbekstan (UZ)	97500	402696	4.13
67.	Rep Yemen	7005	28702	4.10
68.	Netherlands (NL)	642800	2612640	4.06
69.	Byelorussia	43768	176654	4.04
70.	Philippines (PH)	420125	1680716	4.00
71.	Egypt (EG)	1077390	4289120	3.98
72.	Pakistan (PK)	537515	2130457	3.96
73.	Belgium (BE)	401000	1574454	3.93
74.	Turkey (TR)	754759	2947147	3.90
75.	Guatemala (GT)	128800	501363	3.89
76.	Brazil (BR)	1443432	5569782	3.86
77.	Malaysia (MY)	298155	1148139	3.85
78.	Singapore (SG)	153250	590125	3.85
79.	Ethiopia (ET)	49625	189732	3.82
80.	Colombia (CO)	237661	907214	3.82
81.	Peru (PE)	209575	798631	3.81
82.	Latvia (LV)	36000	136184	3.78
83.	Chile (CL)	89390	338000	3.78
84.	Nigeria (NG)	2454182	9192619	3.75
85.	Mali (ML)	17800	66067	3.71
86.	Ghana (GH)	429510	1586019	3.69
87.	Cameroon (CM)	4025	14841	3.69
88.	Myanmar (MM)	69735	256063	3.67
89.	Nicaragua (NI)	8300	30433	3.67

90.	El Salvador (SV)	55400	202809	3.66
91.	Thailand (TH)	2475900	9061183	3.66
92.	Bolivia (BO)	11300	41351	3.66
93.	Vietnam (VN)	2763850	10096528	3.65
94.	Bangladesh (BD)	273000	995763	3.65
95.	Dominican Rep (DO)	4850	17586	3.63
96.	Djibouti (DJ)	13675	49564	3.62
97.	Taiwan (TW)	365950	1325995	3.62
98.	Georgia (GE)	1500	6530	4.35
99.	Sudan (SD)	1050	4528	4.31
100.	Ecuador (EC)	52050	222496	4.27
101.	Zimbabwe	48500	205666	4.24
102.	Venezuela (VE)	31950	133412	4.18
103.	Jordan (JO)	163955	683314	4.17
104.	Ukraine (UA)	31010	129033	4.16
105.	Mexico (MX)	228035	942760	4.13
106.	Uzbekstan (UZ)	97500	402696	4.13
107.	Rep Yemen	7005	28702	4.10
108.	Netherlands (NL)	642800	2612640	4.06
109.	Byelorussia	43768	176654	4.04
110.	Philippines (PH)	420125	1680716	4.00
111.	Egypt (EG)	1077390	4289120	3.98
112.	Pakistan (PK)	537515	2130457	3.96
113.	Belgium (BE)	401000	1574454	3.93
114.	Turkey (TR)	754759	2947147	3.90
115.	Guatemala (GT)	128800	501363	3.89
116.	Brazil (BR)	1443432	5569782	3.86
117.	Malaysia (MY)	298155	1148139	3.85
118.	Singapore (SG)	153250	590125	3.85
119.	Ethiopia (ET)	49625	189732	3.82
120.	Colombia (CO)	237661	907214	3.82
121.	Peru (PE)	209575	798631	3.81
122.	Latvia (LV)	36000	136184	3.78
123.	Chile (CL)	89390	338000	3.78
124.	Nigeria (NG)	2454182	9192619	3.75
125.	Mali (ML)	17800	66067	3.71
126.	Ghana (GH)	429510	1586019	3.69
127.	Cameroon (CM)	4025	14841	3.69
128.	Myanmar (MM)	69735	256063	3.67
129.	Nicaragua (NI)	8300	30433	3.67
130.	El Salvador (SV)	55400	202809	3.66
131.	Thailand (TH)	2475900	9061183	3.66
132.	Bolivia (BO)	11300	41351	3.66
133.	Vietnam (VN)	2763850	10096528	3.65
134.	Bangladesh (BD)	273000	995763	3.65
135.	Dominican Rep (DO)	4850	17586	3.65
136.	Djibouti (DJ)	13675	49564	3.62
137.	Taiwan (TW)	365950	1325995	3.62
138.	India (IN)	3080621	11128592	3.61

139.	Congo,DR	89300	322233	3.61
140.	Cuba (CU)	16850	60660	3.60
141.	Kenya (KE)	941170	3385483	3.60
142.	Mauritius (MU)	4000	14280	3.57
143.	Indonesia (ID)	7667860	27314431	3.56
144.	S. Africa (ZA)	175600	624786	3.56
145.	Iraq (IQ)	191450	677055	3.54
146.	Zambia (ZM)	119025	419477	3.52
147.	Russia (RU)	2015515	7039254	3.49
148.	Iran (IR)	81750	284072	3.47
149.	Syrian (SY)	289800	1005553	3.47
150.	Benin (BJ)	39500	134850	3.41
151.	Mozambique (MZ)	68000	231030	3.40
152.	United Arab Emirates (AE)	206600	686013	3.32
153.	Tanzania (TZ)	268000	883641	3.30
154.	Lithuania (LT)	42150	138818	3.29

Source: China Custom

135. The Authority notes that 28.6 % total volume of exports to third countries is at a price lower than the price at which China exports to India. Whereas 64.18 % of the total exports are exported are above the price at which China exports the subject goods to India.

(E) Export Orientation of China PR

136. As per the data of China Customs and other evidence filed by the Domestic Industry, the Authority notes that the cooperative producers in China are export oriented to the extent of 39%. Therefore, in the event of cessation of ADD, probability is not very high that the exporters/producers would resort to dumping of subject goods to India.

K. CAUSAL LINK AND NON ATTRIBUTION ANALYSIS OF OTHER KNOWN FACTORS

137. Having examined the existence of continued dumping, volume and price effects of dumped imports on the prices of the Domestic Industry, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined herein below by the Authority to see whether any other factor, other than the dumped imports could have contributed injury to the Domestic Industry.

a. Volume and price of imports from third country:

138. Statement of imports from countries other than the subject country shows that the imports of subject goods from other countries are entering at below de minimis level. Therefore, the imports from other countries cannot be considered to have caused injury to the Domestic Industry

b. Contraction in Demand and / or Changes in Pattern of Consumption

139. Overall demand for the subject goods has shown positive growth during the injury period. It is also noted that no significant change in the pattern of consumption has come to the knowledge of the authority, nor any interested party has made any submission in this regard.

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

140. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry as the raw materials as well as the subject goods are freely importable in the country. The Domestic Industry competes among one another and at the same time competes with the imports of the subject goods.

d. Development in technology:

141. Technology for production of the product concerned has not undergone any change. Thus, development in technology cannot be regarded as a factor causing injury to the domestic injury.

e. Export performance of the Domestic Industry:

142. Domestic Industry has exported the subject goods. However, the price and profitability in the domestic and export market has been segregated by the authority for the purpose of present injury assessment. Therefore, export performance would not have affected the injury analysis made by the Authority in this statement.

f. Performance of other products:

143. Performance of other products being produced and sold by the Domestic Industry has no impact over the reported performance of the subject product as the Authority has examined the performance of the subject goods only.

POST DISCLOSURE COMMENTS

L.1 Submissions by the Domestic Industry

144. It is submitted by the Authority that the last date and time for the submission of the post disclosure statement was 30th September 2019 at 6.00 PM however the soft copy of the comments was received at 30th September 2019 at 6.55 PM. The hard copy of the same was received on 01.10.2019 at 05.00PM.Despite their late submissions the authority has taken a lenient view and has considered their responses. The post-disclosure comments made by the interested parties are mostly reiterations. However, the comments considered relevant by the Authority are addressed.

145. The DI in their preliminary submissions request the disclosure of the copy of communication sent by the authority and copy of the replies filed by the interested parties. The DI requested to make available copy of all

communications sent via mail or letter to the opposing interested parties, including rejoinders and verification report prepared by the authority.

146. The DI submits that the interpretation and conclusions drawn from the same information are different in the previous disclosure statement/ Final Findings and present disclosure statement.

147. An analysis of the transaction wise data of the cooperative producers with their respective exporters, so as to arrive at dumped and injurious imports of the cooperative producers was carried out in the previous disclosure statement and final finding. The present disclosure contains no such analysis. The deletion of analysis has rendered the present disclosure statement incomplete. Thus the final findings shall be based on the incomplete establishment of essential facts under consideration.

148. With regard to the surplus capacities in China the situation where the Chinese producers are exporting 39% of their production it cannot be concluded that there is not much surplus capacities in China.

149. The capacity utilization analysis has been restricted to the responding exporters, it does not take into account significant volume of exports that are accounted by those producers who have not preferred cooperation. The fact that responding producers' exports constitute 85% of total exports to India is immaterial in deciding whether Chinese producers hold surplus capacities and are export oriented. The fact that a significant proportion of capacity /production is accounted by the non-cooperating producers should be linked to Chinas global exports and third country exports by responding exporters.

150. In the present disclosure statement it is stated that the questionnaire response filed by the Chinese producer shows that the level of inventories with the cooperative producers is not quite significant in comparison to Indian demand however the previous disclosure statement showed rising inventories with the foreign producers. In such a scenario the petitioners are unable to understand the basis of the statement that the inventories with the exporters is not high.

151. In the previous disclosure statement/Final findings The analysis of the Chinese PR Custom data with regard to export from China PR indicate that with the revocation of ADD, the Indian prices would be attractive for the Chinese producers/Exporters however the Designated Authority deleted the same while issuing the present disclosure statement.

152. In the previous final Finding/disclosure the designated authority noted that the producers in China are oriented towards exports globally whereas in the present disclosure the Authority notes that the producers in China are export oriented to the extent of 39%. Thus this renders the present disclosure incomplete.

153. The DI stated that from the perusal of the disclosure statement it is very clear that the Designated Authority has deleted the dumped and injurious volume analysis done for the participating exporter/ producer without any reason. The

present investigation admittedly concerns an examination of likelihood of recurrence of injury to the domestic industry. The disclosure statement clearly shows positive dumping margin and therefore likelihood of dumping is well established. DI states that analysis based on weighted averages can be highly misleading. For these reasons, the authority has examined behavior of foreign producers by considering individual export transactions in the past in several investigations. Further, the analysis has been carried out by considering exports to India and exports to third countries. While responding producers have given data with regard to export to India and authority is in a position to undertake similar analysis, as far as exports to third countries are concerned, the exporters are non-cooperative. Thus, as far as exports to India is concerned, since relevant information is on record, petitioners submit that the same is required to be examined considering invoice by invoice exports to India. In a situation where significant proportion of exports to India are below normal value, the very fact that some exports to India are above normal value does not imply no likelihood of dumpling in the event of cessation of ADD. On the contrary, significant exports to India at a price below normal value clearly establishes likelihood of dumping in the event of cessation of ADD.

154. As far as exports to third countries are concerned, since exporters have preferred non-cooperation and have withheld relevant information with regard to individual export transactions to third countries, the authority is requested to apply adverse facts to the exporters (and not against domestic industry) and hold that the same clearly establishes likelihood of dumping. Further, the authority is requested to consider the information provided by the petitioners which shows a significant proportion of exports at a price below normal value. As per the DI's data, 15610 MT has been exported from China to various countries at a price below normal value. As against this volume of exports below normal value, the Indian demand is only 50000 MT. Further, as against 15610 MT exports to third countries at a price below normal value, 4000 MT was exported at a price below selling price prevailing in India. Thus, in a situation where exporters were selling 15610 MT to third countries at dumping price and at a price below selling price in India, it follows that these exporters would be in a position (and in fact will wish) to divert these exports to India at a dumping price. Thus, the petitioner (DI) request the authority to kindly consider a volume of 15610 MT for a purpose of establishing likelihood of dumping and injury.

155. The DI states that in the present disclosure statement the designated authority has noted the capacities of responding producers but has ignored the capacity which is available with the non-cooperative Chinese producers. The DI request the designated authority to not to reward their non-cooperation by presuming that they do not have significant surplus capacities. Particularly when the Designated Authority has information with regard to (a) exports from China by various companies, (b) exports from China by responding producers.

156. The present disclosure statement does not consider the following submission of the petitioners:

157. The exporters questionnaire filed by responding exporter/producer namely M/s Anqiu Lu An Pharmaceutical Co. Ltd, Zhejiang Kangle Pharmaceuticals Co. Ltd, M/s AHA International Co. Ltd, Zhejiang Chemical Import & export cooperation and China Sinopharm International Corporation are deficient in nature and none of them have filed the exporter Questionnaire Responses (Part 2), which seeks information from exporters on their capacities, capacity expansion, transaction wise third country exports, domestic sales, Inventories etc. there details are indicative of the Likelihood behavior of the exporters are required to be submitted to the authority in the sunset Review Investigation.

158. The exporter's questionnaire response states that there is a decline in the capacity utilization of the exporter giving rise to the idle capacity. Domestic sales of exporter has come down and sales to India has increased.

159. Imports have increased in the absolute term in the Period of investigation (POI) as compared to the preceding two years. The landed value of imports is below the cost of production for the subject goods and imports are undercutting the prices of the domestic industry. The cessation of duty will lead to increase in imports in absolute terms as well as in relation to production and its return on capital employment would become negative.

160. The domestic consumption of the product has decline in China however the capacities have not been proportionately reduced which proves a threat for industries outside China.

161. The API sector needs protection from imports and Indian Government commits to revive the API sector in India. Katoch Committee Report dated 24 September,2015 states that a long term strategy is required for strengthening API sector in which role of Ministry of Commerce as well as other regulatory authorities is a must, it must also involve liberal use of Antidumping measures.

162. The effective imposition of duty in the previous Sunset Review investigations, the various producers have made fresh investment in the country. A total of about Rs.40.86 Crores and capacities by 20000 MT has been invested in this industry after the last protection. Cessation of anti- dumping duty will cause injury to the domestic industry and these investment will be jeopardized.

163. As regards the price attractiveness, DI states that any analysis on the basis of weighted average is at the least highly misleading. Every sales transaction is made independently by every manufacturer and on standalone basis. If there are significant exports made to third countries at lower prices, there is no submission/justification by these interested parties why those sales would not be diverted to Indian market. The responding exporters have neither shown any compulsion nor any other reason for selling at lower prices to third countries and factors which would prevent them from diverting those low priced sales to India. The Chinese producers do not appear to be charitable institutions and are business organizations whose objective is to maximize the profits.

164. It is a fit case where weighted average normal value cannot be compared with weighted average export price. The Designated Authority is, therefore, requested to compute the weighted average normal value and compare the same with individual export price and in all those import transactions where the dumping margin is negative, the same are required to be excluded for determination of dumping margin

165. The legal provisions does not refer to surplus capacity. The Authority may examine "freely disposable production capacity", having regard to long term commitments made by the exporters and capacities dedicated by them for domestic and third countries markets. The domestic industry is unaware of any long term commitments made by these exporters for supplies in third countries. Nor the responding producers have brought any such evidence on record. Such being the case, unutilized capacities and all exports, at the minimum, constitute freely disposable production capacities. And the evidence adduced by the petitioning domestic industry in this regard in the petition and written statement establishes it beyond a shadow of doubt that the imports from the subject country are likely to cause injury to the petitioning domestic industry.

166. The DI contends that the determination of export price that the price at which the goods were exported to India alone cannot become basis for the determination.

167. There is a difference in the price at which the producer/exporters are exporting to India. The DI states that if the price at which the responding producers have directly exported the product and the price at which such producers have given the material to the traders for eventual export to India are compared, it will be seen that the producers have sold the material to Chinese trader for eventual export to India at a price materially lower than the prices at which the traders have sold the product in the Indian market. Further, the producers have also directly invoiced the product to Indian market at much higher prices.

168. The DI reiterates the fact that the Designated authority should not consider the Chinese producers cooperative as the exporters questionnaire filed by the Zhejiang Kangle Pharmaceutical Co Ltd, M/s A.H.A International Co. Ltd. Zhejiang Chemicals import and export cooperation and China Sinopharm International Cooperation are incomplete, as none of these parties have filed response to the exporter Questionnaire Response (Part 2) which seeks information from the exporters on invoice wise exports to third countries. This information is very important for the likelihood determination in a Sun set review investigation.

169. The statement helps to determine the dumping margin and injury margin in individual export transaction to third countries. The DI requests the designated authority to consider the responses filed by the exporter/producer as defective and to be treated as non-cooperative.

L.2 Submission by the Exporter

170. The exporter has no comments on the disclosure statement.

L.3 Examination by the Authority

171. As regards the submission regarding the disclosure of the copy of the communications sent via email or letter to the opposing interested parties it is stated that all essential facts under Rule 16 of Anti-dumping Rules have been disclosed. All the Non-confidential version of the communication including emails sent to the opposing party are kept in the public file.

172. It is submitted that our present disclosure statement is issued as per the existing trade practices and rules. Dumping and injury analysis has been carried out as per rules and past practices of the authority. In every case dumping margin is worked out on the basis of weighted average of all the transactions as per rules.

173. The analysis of the China PR custom data with regard to export from China PR indicate that as 64% of the total exports are exported above the price at which China exports the subject goods to India and therefore Indian market does not seem to be price attractive in comparison to other countries.

174. As regards the examination of surplus capacities of non-cooperative exporters is concerned it is noted by the authority that the information on surplus capacities available with non-cooperative exporters/producers is on the basis of the data submitted by the domestic industry and the information available in public domain. It is further observed by the authority that traders in China PR quote the capacities of the producers on their websites and they do not have their own production facilities and therefore the capacities mentioned at their websites is misleading. However, the authority does not deny the surplus capacities available with Chinese producers (including non-cooperative producers). Even if there are surplus capacities available with China PR the authority is of the view that in the event of cessation of duty there is a remote possibility of dumping as the Indian market is not price attractive in comparison to other countries.

175. Details of cooperative exporters regarding their capacity, capacity utilization, domestic sales and inventories have been provided in their exporters' response (NCV) in indexed form and the analysis has been done under the relevant heads.

176. The analysis regarding the volume of imports, landed price and related parameters has been done under the relevant heads which states that there has been a decline in the volume of imports from subject country from 2969 MT in the POI to 981 MT in the post POI period i.e. April 2018 to March 2019. As regards the landed price being lower than the cost of production for the subject goods, it is observed that cost of sales throughout the injury period has been much lower in comparison to landed price of the PUC so the contention of domestic industry is not agreed upon in this context.

177. As regards the stance of Government of India as expressed in documents such as Katoch Committee report, 145th Parliamentary report and Office Memorandum dated 18th April, 2018 issued by the Government of India, Ministry of Chemicals and Fertilizers, Department of Pharmaceuticals, the Authority notes that the present investigation is conducted as per Rules, facts of the case and past practices of the Authority.

178. As regards the contention regarding global production being bifurcated between China and India and the state of present domestic industry, the Authority notes that as per its injury analysis, the production of domestic industry is sufficient to cater to the Indian demand.

179. The analysis of the price attractiveness by the Authority does not position India as price attractive for Chinese Exports so far as subject goods are concerned.

180. Other post disclosures submissions made by the domestic industry have already been addressed under the relevant headings.

L. CONCLUSIONS

181. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this final finding, the Authority concludes that:-

1. Evidence on record do not indicate that the dumped imports from China PR will lead to injury to Domestic Industry.

2. Import of the subject goods from China PR has remained at insignificant level throughout the injury period and decreased in the post POI period.

3. The domestic industry has shown improvement in terms of all injury parameters and there is no injury to the Domestic industry. Furthermore, the production of subject goods by domestic industry is sufficient to cater to Indian demand.

4. The analysis of the price attractiveness by the Authority does not position India as price attractive for Chinese Exports so far as subject goods are concerned and therefore there is very less likelihood that exports from China PR would be diverted to India in case ADD ceases.

5. The ADD was in force since September’ 2001 and the condition of domestic industry has improved. Therefore, the ADD has served its intended purpose.

M. RECOMMENDATION

182. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to domestic industry, exporters, importers, users and other interested parties to provide relevant information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury, causal link and likelihood of dumping post cessation of ADD in force in terms of the provisions laid down under the Anti-Dumping Act and Rules, the Authority holds that the expiry of the said anti-dumping duty will not lead to injury to the domestic industry due to reasons and/or analysis given above. Therefore, the Authority does not recommend continuation of the anti-dumping duty on the imports of subject goods from China PR.

(Sunil Kumar)
Additional Secretary & Director General