

**File No. 15/3/2016 - DGAD**  
**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**(Directorate General of Anti-Dumping & Allied Duties)**  
**4<sup>th</sup> Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi - 110001**

Dated the 9<sup>th</sup> of August, 2017

**NOTIFICATION**  
**FINAL FINDINGS**

**Subject: Sunset Review (SSR) Anti-dumping investigation concerning imports of ‘1-Phenyl-3-Methyl-5-Pyrazolone’ originating in or exported from China PR.**

**No. 15/3/2016 - DGAD:** - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the Rules) thereof;

**A. BACKGROUND OF THE CASE**

1. Whereas, the Designated Authority (hereinafter referred to as the Authority), had issued final findings *vide* Notification No.14/11/2004-DGAD dated 16<sup>th</sup> November, 2011, recommending imposition of definitive anti-dumping duties on the imports of “1-Phenyl-3-Methyl-5-Pyrazolone” (hereinafter referred to as the subject goods, or product under consideration or Pyrazolone), originating in or exported from China PR (hereinafter referred to as the subject country). The definitive anti- dumping duties were accordingly imposed by the Central Government *vide* Notification No. 01/2006- Customs (ADD) dated 10<sup>th</sup> January, 2006.
2. And whereas, the Authority, in pursuance of the initiation of the Sunset review *vide* notification F.No.15/5/2010-DGAD dated 1<sup>st</sup> July, 2010 had issued final findings *vide* Notification No.15/5/2010-DGAD dated 29<sup>th</sup> June, 2011, recommending the extension of definitive anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country. The definitive anti- dumping duties were accordingly extended by the Central Government *vide* Notification No. 80/2011- Customs (ADD) dated 24<sup>th</sup> August, 2011.
3. Whereas, M/s Prima Chemicals and M/s Polygon Chemicals, (hereinafter referred to as the “petitioner companies’ or “the applicants”), have filed a duly substantiated

application before the Authority, in accordance with the Act and the Rules, contending likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from China PR and consequent injury to the domestic industry and have requested for review and continuation of the existing anti-dumping duties imposed on the imports of the subject goods, originating in or exported from the subject country.

4. Whereas in view of duly substantiated application filed and in accordance with Section 9A (5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review investigation *vide* Notification No. Notification No. 15/3/2016-DGAD dated 11<sup>th</sup> August, 2016 to review the need for continued imposition of the duties in force 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.
5. In exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government has extended the existing anti-dumping duty levied on subject goods up to 23<sup>rd</sup> August 2017 *vide* notification No.47/2016-Customs (ADD) dated 19th August 2016, against imports from China PR.

## **B. PROCEDURE**

6. The procedure described below has been followed with regard to the investigation:
  - a. The Authority sent copy of the initiation notification dated 11<sup>th</sup> August, 2016 to the embassies of the subject country in India, known exporters from the subject country, known importers and other interested parties, and the domestic producers, as per available information. The known interested parties were requested to file the questionnaire responses and make their views known in writing within the prescribed time limit.
  - b. Copy of the letter and questionnaires sent to the exporters were also sent to embassy of the subject country along with a list of known exporters/producers, with a request to advise the exporters/producers from the subject country to respond within the prescribed time.
  - c. Copy of the non-confidential version of the application filed on behalf of the applicant was sent to the known exporters and the embassy of the subject country in accordance with Rule 6(3) of the AD Rules.
  - d. The Authority forwarded a copy of the public notice initiating the SSR to the following known producers/exporters in the subject country and gave them opportunity to make their views known in writing within forty days from the date

of the letter in accordance with the Rules 6(2) & 6(4) of the Rules:

M/s Goldlink Industries Co, Ltd.,  
17/F,258, Zhong Shan Road, Wuxi, China

M/s Jiangsu Changyu Chemical Co., Ltd.  
Zhongzhichang Leyu Town Zhangjiag City  
Jiangsu, 215621, P. R. China.

M/s Qingdao Bangli Fine Chemical Co., Ltd  
No 608 Yanshan Road Oingdao City, China

M/s Qingdao Double-Peach Specialty Chemicals (Group) Co., Ltd  
Block C, 43, Zhengzhou Road, Qingdao China

M/s Wenzhou Meiernuo Chemical Co. Ltd.  
Contact: Zhejiang Wenzhou Ohai Xinqiao Street Ningbo Road' Zip  
Code: 325000, China

M/s Jinan Xiangrui Chemical Co. Ltd.  
No.12406, Jingshi Road, Jinan, Shandong, China

M/s Shandong Xinhua Pharmaceutical Co. Ltd  
Zibo, Shandong. China

M/s Shouguang Nuomeng Chemical Co. Ltd.  
Houzhen Industrial Park, Shouguang, Shandong, China

- e. In response to the initiation of the subject investigation, none of the producers/exporters from the subject country responded by filing questionnaire response and no submissions were made.
- f. Questionnaire was sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-Dumping Rules:

M/s Apex Dyes & Intermediates  
Off Ajanta Comml.Centre  
Ashram Road, Ahmedabad 380014

M/s AS Associated Drug Co.  
27 Bull Temple Road, Bangalore

M/s Pidilite Industries Ltd  
Ramkrishna Mandir Road  
Off M.Vasanji Road  
Andheri East, Bombay 400059

M/s Asiatic Colours Chem Ind. Ltd  
Plot No. I503, 04 G, I. D. C. Estate  
Phase-I, Naroda, Ahmedabad

M/s Ankur Dyestuff Industries  
39, G. L. D. C, Phase II,  
Vatva, Ahmedabad

M/s Jansons International  
101, Jolly Bhavan No,1,  
10, New Marine Lines, Mumbai-400 200

M/s K, Rasiklal & Co.,  
R. No. 5, Lind Floor, 339/340, Samuel Street  
Masjid, Mumbai.3

M/s Nilkantha Chemicals,  
Plot No. 8021, GIDC Estate, Sachine, Surat

- g. In response to the above notification, no importers/users filed importer questionnaire response and no submissions were made.
- h. Exporters, foreign producers and other interested parties have not responded to the Authority, nor supplied information relevant to this investigation, and hence they have been treated as non-cooperating interested parties.
- i. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange for details of imports of subject goods for the past three years in addition to the period of investigation. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis.
- j. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. The Non-Injurious Price (NIP) has been determined by the Authority in terms of the principles laid down under Annexure III to the Anti-Dumping Rules.

- k. Investigation was carried out for the period starting from April 2015 to March 2016 (POI). However, injury examination was conducted for the periods, Apr'12-Mar'13, Apr'13-Mar'14, Apr'14- Mar'15 and the Period of Investigation.
- l. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority also provided opportunity to the interested parties to present their views orally in a public hearing held on 10<sup>th</sup> July, 2017. Only the domestic industry attended the oral hearing and filed written submissions of the views expressed orally.
- m. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- n. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded the Final Findings on the basis of available facts.
- o. In accordance with the Rules the Authority issued a disclosure statement containing all essential facts of the case on 22nd July 2017 for the comments of the interested parties. Only the domestic industry filed comments on disclosure statement. The comments, to the extent they were relevant, have been addressed in this finding in appropriate places.
- p. ‘\*\*\*’ represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- q. The average exchange rate of 1US\$ = Rs. 65.91 prevailing during the POI has been adopted by the Authority

**C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:**  
**Submissions made by the Domestic Industry**

- 7. The following submissions have been made by the domestic industry with regard to product under consideration and like article:
  - a. The product under consideration in the present petition is “1-Phenyl-3-Methyl-5-Pyrazolone” also referred to as Pyrazolone.

- b. Since present investigation is for a sunset review investigation, the product under consideration remains the same as has been defined in the original investigation and previous sunset review.
- c. There is no difference in Pyrazolone produced by the Indian industry and the product exported from the subject country. Pyrazolone produced by the Indian industry and imported from the subject country is comparable in essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably.
- d. Pyrazolone produced by the domestic industry should be treated as like article to the Pyrazolone imported from the subject country in accordance with the Anti-Dumping Rules.

#### **Submissions by other interested parties**

- 8. No submissions have been made by other interested parties with regard to product under consideration.

#### **Examination by the Authority**

- 9. The Product under Consideration (PUC) in the original investigation, the previous sunset review as well as in the present review is '1-Phenyl-3-Methyl-5-Pyrazolone'. In the original investigation as well as the previous sunset review investigation, the product was defined as under:

*“10. The Authority notes that since present investigation is a sunset review investigation, the product under consideration remains the same as has been defined in the original investigation. The product under consideration in the previous as well as present investigations is Phenyl-3-Methyl-5-Pyrazolone, an organic chemical, classified under Chapter 29 under Sub-heading 29 33 19 20. Product under consideration is used in dye and pharmaceutical industry for manufacture of Analgin, Solvent Dyes and Pigment Dyes, and Pigment orange 13. The imports of subject goods are also reported under customs classification No. 293319, 291634, 291739, 292429, 293311, 293359, 294200, 980200 as well. However, the Customs classifications are indicative only and not binding on the Authority. The goods produced by the domestic industry are like article to the imported product. There is no known difference in product under consideration produced Examination by the Authority. 6 by the Indian industry and subject goods exported from subject countries. Moreover, due to absence of any response from the producers/exporters of the subject goods from the subject*

*country there is no view contrary to the view held by the domestic industry and the Authority. The Authority therefore proposes to hold that the two are like article as per Rule 2(d) of Anti-Dumping Rules.”*

10. The present investigation being a sun set review investigation and antidumping duty 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 original and the mid-term review investigations. Moreover, none of the interested parties have made any submission requesting modification (including curtailment) in the scope of the review.
11. The domestic industry has claimed that the subject goods produced by the domestic industry are identical to the product under consideration being imported into India. The domestic industry has also claimed that there is no known difference in domestic industry's product and product under consideration exported from the subject country and the two are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. There is no significant difference in the subject goods produced by the petitioners and those exported from the subject country and both are technically and commercially substitutable.
12. 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 & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. It is further noted that the Designated Authority has examined the issue of product under consideration and like article in the previous investigation, which is relied upon. The goods produced by the domestic industry and imported from the subject country are held as “like article” in terms of the Rules. The two are technically and commercially substitutable. The consumers are using the two interchangeably and are like article within the meaning and scope of Rule 2(d) of the Anti-Dumping Rules.

#### **D. DOMESTIC INDUSTRY AND STANDING**

##### **Submissions made by the domestic industry**

13. The following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry:
  - a. M/s. Vani Pharma Labs and M/s Kolorjet Chemicals Pvt. Ltd. are, apart from the applicants, are the only other known producers of the product under consideration as

per information available on their website.

- b. The production details of these producers are not available. In any case, the production of the applicants will easily be more than 50% of the total Indian Production.
- c. The petitioners are not related to the exporters/producers or importer of the product under consideration nor have they imported the product under consideration.

**Submissions made by other interested parties**

- 14. No submissions have been made by other interested parties with regard to standing of the domestic industry.

**Examination by the Authority**

- 15. The Authority notes that M/s Prima Chemicals and M/s Polygon Chemicals had filed application for seeking continuation of anti-dumping duties. In the final findings of the original investigation and the previous sunset review investigation, the Authority had considered M/s Prima Chemicals and M/s Polygon Chemicals as “domestic industry”, in accordance the requirements of Rule 2(b) read with Rule 5(3) of the Anti-Dumping Rules. Petitioners have submitted that M/s. Vani Pharma Labs and M/s Kolorjet Chemicals Pvt. Ltd have claimed to produce subject goods on their websites but have not responded in this or the earlier investigations. As per information on record, production of the petitioner companies constituted \*\*\* of Indian production during the POI. Having regard to previous investigation on subject goods and the information as available with the Authority, it is considered that M/s Prima Chemicals and M/s Polygon Chemicals in any case constitute “a major proportion” of total Indian production. Further the petitioners have not imported the subject goods nor are they related to either the importers or exporters thereof.
- 16. It has been brought to the notice of the Authority that since 1st April 2016 Polygon Chemicals has been merged with Prima Chemicals. However, it is noted that since the development is post period of investigation and further since this is merger of one of the applicant company into other company, the applicants are treated as separate but related entities for the purpose of present investigation.
- 17. In view of the above position and having regard to the Rules and information on record, the Authority holds that M/s Prima Chemicals and M/s Polygon Chemicals, constitute domestic industry for the purpose of the present review investigations.

**E. DETERMINATION OF DUMPING MARGIN**

**Market Economy Claims, Normal Value, Export Price and Dumping Margin**

### **Submissions made by the Domestic industry**

18. The submissions made by the domestic industry with regard to market economy, normal value, export price and dumping margin are as follows:
- a. Article 15(b) of China's Accession Protocol implies that provisions of Clause 15(a)(ii) shall expire 15 years from date of China's Accession, i.e., provisions of this paragraph shall be available for 15 years, i.e., upto Dec., 2016. This implies that Authority will have to consider the costs and process for determination of normal value.
  - b. Relevant consideration in this regard must be the investigation period as the purpose of fixation of investigation period is to consider a period when the existence of dumping causing injury is established and that the developments occurring after the POI are not relevant for the determination.
  - c. Since the POI in the present case is April, 2015 – March, 2016 (12 Months), the provisions of Article 15 shall be fully applicable to the present investigation period. The normal value in China should be determined on the basis of Para-7 of Annexure-I. The petitioner requests the authority to kindly determine normal value in China in accordance with Para 7 & 8 of the Rules. For determination of normal value in China on the basis of Para 7 and 8, petitioner requests the authority to kindly consider the detailed submissions enclosed with the petition filed earlier.
  - d. Normal Value in China has been determined on the basis of cost of production in India, duly adjusted with selling, general and administrative expenses and considering the consumption norms of the petitioners.
  - e. The petitioners have relied upon import data provided by IBIS. The values reported in import data are CIF values. The export prices being CIF value while the normal values being at ex-factory level, the export prices have been adjusted for expenses on Ocean Freight, Marine insurance, Commission, Inland Freight, Port expenses and Bank charges
  - f. Considering the normal value and export price as discussed, the petitioners have determined dumping margins, details of which can be seen from the petition on record. The dumping margins from the subject country are not only above de minimis levels, but continue to be substantial despite imposition of antidumping duty.

### **Submissions made by other interested parties**

19. Since no interested parties have responded, no submissions have been made with regard to Market Economy Claims, Normal Value, Export Price and Dumping Margin

### **Normal value in China PR**

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

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

- (a) In determining price comparability under Article VI of the GATT 1994 and the Anti Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*
  - i. If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
  - ii. The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*
- (b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*
- (c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*
- (d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph*

*(a) (ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector?”*

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

**Examination of Market Economy Claims by the Authority:**

23. The Authority sent copies of the MET questionnaire to all the known producers/exporters in the subject country for rebutting presumption of non-market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested embassy of subject country in India to advise the producers/exporters in their country to provide the required information. As per Paragraph 8, Annexure I to the Anti-Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. However, none of the producers/exporters in the subject country have cooperated and filed response to the exporter’s questionnaire and MET questionnaire in the present investigation. In view of this position and in absence of rebuttal of non-market economy presumption, the Authority considers it appropriate to proceed with Para-7 of Annexure-I to the Rules for determination of Normal Value for China PR.

**F. DETERMINATION OF NORMAL VALUE**

24. None of the exporters/producers from the subject country have cooperated with the

Authority and responded to the present investigation. Further none of the interested parties have provided any other alternate basis as defined in the Rules on which normal value can be determined.

25. In view of the above position and considering China as a non market economy, the Authority has determined the normal value in accordance with para 7 of Annexure I of the AD Rules. In absence of sufficient information on record regarding the other methods as are enshrined in para 7 of Annexure I of AD Rules, the Authority has determined the normal value by adopting the method “other reasonable basis”. The Authority has therefore constructed the normal value for China PR by adopting international prices of key raw materials and best consumption norms of raw material. The other elements of cost are based on the optimised cost of most efficient domestic producer. A profit margin of 5% on constructed cost of sales less finance cost is allowed. Accordingly, the constructed normal value for exporters from China PR is determined as **US\$ 3.83 per Kg** as per Rule 6(8) of Rules.

**G. EXPORT PRICE**

26. The Authority notes that none of the exporters/producers of subject goods from the subject country have responded to the Authority in the form and manner prescribed. In the absence of exporter’s questionnaire response from the producers/exporters from the aforesaid countries, the Authority has determined the export price in respect of these countries on the basis of best available information in terms of Rule 6(8) of the Rules. The Authority has relied upon DGCI&S import data for the purpose of arriving at the weighted average CIF value of imports from the aforesaid countries during the POI. Adjustments on account of ocean freight, insurance, commission, port expenses, inland freight and bank charges, as per the best available information in terms of Rule 6(8), have been considered to arrive at the net export price in respect of the said countries. Accordingly, export price at ex-factory level for all exporters of China PR is determined as given in the dumping margin table given below.

**H. DUMPING MARGIN**

27. Comparing the aforesaid normal value and export price as determined, the dumping margin as determined for the subject country during POI is as follows:

**POI (2015-16)**

Country	Exporter/ Producer	Constructed Normal Value US\$/Kg	Net Export Price,US\$/Kg	Dumping Margin,US \$/Kg	Dumping Margin %	Dumping Margin % Range
China PR	Any	3.83	***	***	***	***

28. The above table shows that dumping has continued despite anti-dumping duties in force during the injury period.

**I. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK**

**Submissions made by the Domestic Industry**

29. Following are the submissions made by the Domestic industry in this regard:

- a. Despite anti-dumping duties in force the subject imports have still been undercutting the domestic industry and that too by a significant margin which clearly shows the probability of this to increase further in case there is cessation of the present anti dumping duties.
- b. Comparison of cost of production and selling price shows that, both, cost of sales and selling price of the domestic industry declined throughout the injury period. However, decline in selling price is much more than the decline in cost of sales. It is thus evident that the imports are depressing the prices of the domestic industry in the domestic market.
- c. The capacity with domestic industry is comparable to Indian demand. Thus, the domestic industry could have easily utilized its capacities and imports are not necessary in the domestic market.
- d. The production and sales of the domestic industry increased throughout the injury period. The production and sales of the domestic industry increased as a natural consequence of antidumping duties imposed during that period. Capacity utilization of the domestic industry has also increased. However, the same is much below the achievable levels.
- e. Inventories with the Domestic Industry have declined over the injury period.
- f. Profits, profit before interest and cash profits, all have remained adverse throughout the injury period. In spite of increase in production and sales, domestic industry suffered financial losses. Losses have declined, however remains substantial. The return on capital employed has seen a marginal improvement over the injury period.
- g. Demand of subject goods has increased over the injury period. Subject imports hold significant market share despite domestic industry having sufficient capacity to cater the domestic demand.
- h. Productivity has increased over the injury period in view of increase in production. In spite of this increase, domestic industry still had to bear financial losses because of dumping of the product under consideration in the Country.
- i. The consequent impact of the dumped imports on the domestic industry has been adverse. The domestic industry has suffered injury.

**Submissions made by other Interested Parties**

30. Since none of the interested parties have responded no submissions in this regard have

been received.

## **EXAMINATION BY THE AUTHORITY**

31. The Authority has taken note of the submissions made by the domestic industry. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the Domestic industry.

### **Assessment of Demand**

32. For the purpose of assessment of the domestic consumption/ demand of the subject goods, the sales volume of the domestic industry and other Indian producers have been added to the total imports into India and the same has been summarized below:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Sales of Domestic Industry	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>115</i>	<i>124</i>
Imports by Subject Country	MT	231	384	342	216
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>166</i>	<i>148</i>	<i>94</i>
Imports by Other Country	MT	-	-	-	-
Total demand	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>120</i>	<i>123</i>	<i>117</i>

33. The Authority notes that sales of the domestic industry have consistently grown during the injury period. Similarly, the total demand has increased over the injury period.

## **J. VOLUME EFFECTS OF DUMPED IMPORTS**

### **Import Volume and Market Share**

34. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S. The volume of imports of the subject goods from the subject country has been analysed as under:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
China	MT	231	384	342	216
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>166</i>	<i>148</i>	<i>94</i>
Other Countries	MT	-	-	-	-
Total Imports	MT	231	384	342	216
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>166</i>	<i>148</i>	<i>94</i>
<b>Market Share in Imports</b>					
Subject country	%	100.00	100.00	100.00	100.00

Other Countries	%	-	-	-	-
<b>Imports in relation to</b>					
Production	%	***	***	***	***
Consumption	%	***	***	***	***

35. The Authority notes that import from the subject country increased in 2013-14 as compared to previous year and has declined thereafter. Import Value declined in POI as compared to previous year as well as base year (2012-2013). Imports in relation to production and consumption has also declined during the POI, as compared to base year as well as the previous year. Hence, the Authority finds that there has not been significant increase in dumped imports, both in absolute terms as well as in relation to production and consumption.

**K. PRICE EFFECT OF THE DUMPED IMPORTS ON THE DOMESTIC INDUSTRY**

36. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products 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. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to the price undercutting, price suppression and price depression, if any. For the purpose of this analysis the Net Sales Realisation (NSR) of the domestic industry have been compared with the landed cost of imports from the subject country.

**Price Undercutting**

37. While working out the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been deducted. The landed value of imports has been calculated by adding 1% landing charge; the applicable basic customs duty and education cess to the CIF prices from the subject country as obtained from the DGCI&S data.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Landed price of imports	Rs./MT	213.10	228.54	312.69	279.28
<i>Indexed</i>		<i>100</i>	<i>107</i>	<i>147</i>	<i>131</i>
Net Sales Realisation	Rs./MT	***	***	***	***
<i>Indexed</i>		<i>100</i>	<i>106</i>	<i>122</i>	<i>116</i>
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	Range	15-25	15-25	(5)-5	0-10

38. The Authority notes that undercutting was positive during 2012-13, 2013-14 and POI, but was negative during 2014-15. Further, the extent of undercutting has come down during the POI as compared to the base year.

**Price suppression and depression effects of the dumped imports:**

39. The price suppression and price depression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values of the subject goods from the subject country in relation to injury period including POI.

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Landed price of Subject Imports	Rs./kg	213.10	228.54	312.69	279.28
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>147</i>	<i>131</i>
Cost of Sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>113</i>	<i>112</i>
Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>122</i>	<i>116</i>

40. It is noted that the landed price of imports and both - cost of sales and selling price - have increased over the injury period. It is also noted that the increase in the selling price is more than the cost of sales over the base year. The Authority does not find any price suppressing or depressing impact of dumped imports.

**L. EXAMINATION OF OTHER ECONOMIC PARAMETERS OF DOMESTIC INDUSTRY**

**Production, Capacity, Sales and Capacity Utilization**

41. The Production, Capacity and Capacity Utilization details of PUC are as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Capacity	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
Production	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>108</i>	<i>122</i>	<i>130</i>
Capacity Utilization	%	***	***	***	***
Domestic Sales	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>115</i>	<i>124</i>
Demand	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>120</i>	<i>123</i>	<i>117</i>

42. The installed capacity of production of the domestic industry has remained same during the injury period including the POI. However, production, sales and thereby the capacity utilization have increased over the injury period in line with increase in demand. Capacity utilization in POI has increased substantially as compared to base year. Domestic sales in POI have increased by 24% as compared to base year and up to 7% as compared to previous year.

### **Inventories**

43. Data relating to inventories of PUC shows as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Opening	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>93</i>	<i>33</i>
Closing	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>93</i>	<i>33</i>	<i>140</i>
Average	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>67</i>	<i>87</i>

44. It is noted that average inventories have decreased in POI as compared to base year and 2013-14, although it increased as compared to previous year.

### **Profits and actual and potential effects on the cash flow**

45. The data relating to profits and cash flow with respect to the domestic operations of the PUC show as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Cost of Sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>113</i>	<i>112</i>
Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>122</i>	<i>116</i>
Net Profit/ Loss	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-114</i>	<i>98</i>	<i>-19</i>
Net Profit/ Loss	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-121</i>	<i>114</i>	<i>-24</i>
PBIT	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-994</i>	<i>12,525</i>	<i>5,757</i>
Cash Profit	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>-100</i>	<i>-122</i>	<i>169</i>	<i>22</i>
Return on Capital Employed – NFA Basis	%	***	***	***	***
Return on Capital Employed – NFA Basis	Range	0-(5)	0-(5)	15-25	5-15

46. With regard to Profit/ Loss and cash flow, it is noted that the domestic industry has incurred losses during 2012-13, 2013-14 and POI, and earned profit during 2014-15. The quantum of losses in POI decreased substantially as compared to base year. As regards PBIT which was negative during 2012-13 and 2013-14, it turned positive during 2014-15 and POI. Same holds true about cash profits. Rate of return also improved during that period, and became positive during POI. Hence, the Authority finds that the overall financial health of DI has improved.

### **Employment, Wages and Productivity**

47. The data relating to employment, wages and productivity show as follows:

<b>Particulars</b>	<b>UOM</b>	<b>2011- 12</b>	<b>2012- 13</b>	<b>2013-14</b>	<b>POI</b>
Productivity per employee	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	107	121	129
Employment	Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	102	104	104
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	127	147	213

48. It is noted that productivity per employee of the domestic industry has increased in consonance with the movement of production. There was marginal increase in the number of employees over the injury period and the wages paid have also increased. Hence, on these parameters also the DI has improved its position.

### **M. MAGNITUDE OF DUMPING**

49. It is observed from the section pertaining to Dumping Margin above that dumping margin in respect of the imports of the subject goods from the subject country is positive and above *de minimis* during the POI.

### **Growth**

50. The Authority notes that the growth of the domestic industry in terms of production, sales, profitability and market share was positive during POI.

### **N. CONCLUSION ON MATERIAL INJURY**

51. The Authority notes that notwithstanding, some fluctuating trends during injury period, overall performance of the domestic industry has improved in terms of production, sales volumes, inventory, productivity per employee etc. Thus, the Authority notes that the economic parameters of the domestic industry do not show existence of injury to DI.

**O. MAGNITUDE OF INJURY AND INJURY MARGIN**

52. As the injury analysis as per economic parameters have shown that injury to DI does not exist, it does not appear necessary to calculate the magnitude of injury/ injury margin, which is generally required for calculating the quantum of anti-dumping duties in accordance with “Lesser duty Rule” principle.

**P. OTHER KNOWN FACTORS & CAUSAL LINK**

53. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting and price suppression and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping, the Authority is required to examine whether any factor, other than the dumped imports could have contributed to injury to the domestic industry, as follows:

**a. Volume and prices of imports from third countries:**

54. The Authority notes that during POI, imports of the subject goods from countries other than the subject country have remained non-existent.

**b. Contraction of demand and changes in the pattern of consumption:**

55. The Authority notes that there is no contraction in the demand over the injury period. Overall demand for subject goods has shown improvement over the injury period.

**c. Developments in technology:**

56. The Authority notes that none of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

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

57. The Authority notes that the subject goods are freely importable. The domestic industry is the major producer of the subject goods and account for significant domestic production and sales. Further there is no perceptible competition among the domestic producers, except that is obvious of a market economy.

**e. Export performance of the domestic industry:**

58. Export performance is not a very relevant parameter in assessing dumping or injury, therefore, the price and profitability in the domestic and export market have been segregated for the purpose of examining injury to the domestic industry. However, the improving export performance of the domestic industry does exhibit their ability to competitively supply to the world market including against the exporters from the subject country.

59. The entire analysis above shows that the domestic industry, on the whole, has been steadily improving its performance. The return on capital employed for both the companies is very healthy. The volume of imports from the subject country while coming at what is a much reduced margin, has decreased significantly during the POI. Dumped imports does not appear to have caused injury to DI. It is well possible that the injury to DI, even if there to some extent, could be due to internal reasons and/ or factors other than dumped imports rather than dumped imports.

**Q. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

60. From the above analysis, the Authority notes that neither the listed known parameters nor the other factors analysed above show any continued injury to the domestic industry either during POI. The economic health of the domestic industry has improved.

61. However, in a review investigation, the Authority has to determine as to whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to recur due to these dumped imports if the duty is removed or varied. The Authority examined the likelihood of continuation or recurrence of dumping and injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Indian Anti-Dumping Rules, which states as under:

*“A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances, which would create a situation in which the dumping would cause injury, must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the Designated Authority shall consider, inter alia, such factors as;*

- a. a significant rate of increase 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 market, 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 to increase demand for further imports and,*
- d. Inventories of the article being investigated.”*

**Submissions by the domestic industry**

62. The domestic industry submitted as under in support of its claim of likelihood of

continuation or recurrence of dumping and injury

- a. The dumping margins ascertained with respect to the subject country were not only above *de minimus* but also substantial in the original as well as sunset review investigation. In the event of cessation of anti-dumping duty, these exporters will get a greater opportunity to dump the product under consideration into India, taking away the market share of the domestic industry. The Indian producers would be left with no options but to suffer heavy losses to sustain in the market or to close their plants
  - b. Volume of imports has been significantly high despite imposition of anti dumping duty which, in turn indicates that in case of cessation of the present duties in force, the import volumes are bound to increase multiple folds such that they will decimate the Indian domestic country
  - c. Producers in the subject country maintain enormous capacities to produce the subject goods. It is to be noted that the imports are bound to increase when the producers of the subject goods in the subject country possess capacities of such mammoth proportions.
  - d. The export sales of the product under consideration from the subject country around the globe are significant. It would be seen that the producers in the subject country export significant percentage of their production. In the event of cessation of duty, these exporters are likely to increase their exports to India at dumped prices.
  - e. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, exporters from subject country would further channelize their output in the Indian market in view of the significant capacity with it.
  - f. The Indian market for the product under consideration is highly price sensitive. The consumers decide their source, with the price being the foremost consideration. Such being the case, availability of such low priced imports without any dumping duties from subject country in the market would definitely cause a further adverse impact over the Domestic Industry from what is being made presently.
  - g. The market share of subject country is quite significant in spite of the existing anti dumping duties. This strongly suggests that the market share is bound to increase further in the event of cessation of the current duties.
  - h. The domestic industry would suffer huge financial losses, cash losses and negative return on investment if the anti dumping duty is allowed to cease. Hence, the domestic industry is likely to suffer material injury in the event of cessation of anti-dumping duty.
63. In addition, the domestic industry has, in its post disclosure comments, submitted that the Authority has to determine that anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. Therefore, in order to come to such a conclusion, the Authority has to undertake a likelihood analysis.

### **Submissions made by other interested parties**

64. Since none of the interested parties have responded, no submissions have been made in this regard.

### **Examination by the Authority**

65. In view of the above, while considering the likelihood aspect under clause (vii) of Annexure II to the Rules the Authority, *inter alia*, considered the following factors:

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

66. The Authority notes that the imports are coming mostly from the subject country, the table below shows the situation regarding import of the subject goods from the subject country:

	UOM	2012-13	2013-14	2014-15	POI	Post POI
Import Vol.	MT	231	384	342	216	192
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>166</i>	<i>148</i>	<i>94</i>	<i>83</i>
Change over Previous Year	%	-	66.23	-10.94	-36.84	-10.98

67. The import volumes it may be noted is on a steady decreasing trend during the POI. Even in the post-POI period the decreasing trend is continuing. Therefore, there is no direct evidence of an inherent or significant increase in dumped imports into India, at this stage.

**(ii) 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;**

68. The precise data regarding the installed capacity and or global trade figures at a sufficiently disaggregated level is not available. DI has not submitted any evidence in this regard. Hence, merely based on the submission by the DI, it cannot be concluded that exporters have sufficient freely disposable inventories, or executing an imminent substantial increase in capacity indicating the likelihood of substantially increased dumped exports to India.

**(iii) 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**

69. The post-POI analysis of the possible price suppression and depression in accordance with the data provided by the domestic industry along with data obtained from the DGCIS

below shows continuation of the trend seen during the injury period. While the landed value has reduced somewhat in post-POI as compared to POI, the selling price has increased while the cost of sales is decreasing. This evidences the absence of any price suppressive or depressive impact of the imports.

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>	<b>Post POI</b>
Landed price of Subject Imports	Rs./kg	213	229	313	279	<b>265</b>
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>147</i>	<i>131</i>	<b><i>124</i></b>
Cost of Sales	Rs./Kg	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>113</i>	<i>112</i>	<b><i>104</i></b>
Selling Price	Rs./Kg	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>122</i>	<i>116</i>	<b><i>119</i></b>

**(iv) Inventories of the article being investigated in the subject country:**

70. Adequate/ dependable data is not available about the stock in hand with the exporters in China PR. DI has not submitted any reliable evidence in this regard.
71. It may be noted from the preceding analysis; the performance parameters of the domestic industry have improved during the period of investigation. Production, capacity utilisation, demand and sales have all improved. This is reflected in the financial results as well, where the domestic industry is showing cash profits. The overall loss in the period of investigation could therefore be attributable to factors other than dumped imports. The likelihood analysis of the possibility of the subject country exporters recommencing dumping into India shows that there is no inherent reason or cause to believe so. Further, given the improved performance of the domestic industry, the imports not likely to cause any injury to the domestic industry.

**R. POST DISCLOSURE COMMENTS**

72. Post Disclosure comments have been received only from the domestic industry. None of the exporters or any interested parties have commented on the disclosure.

**Submission by the domestic industry**

73. The domestic industry in its comments has reiterated that the domestic industry remains vulnerable due to the price attractiveness of the Indian market and the price sensitive buyers here. They stressed that the likelihood of continuation or recurrence of dumping is very high in case the current anti-dumping duty is terminated. They have stated that the DI suffers continued injury in spite of existing anti-dumping duties and prayed that a duty expressed in US\$/Kg be imposed for a further period of 5 years.

### **Examination by the Authority**

74. No new facts have been brought out by the DI in the post disclosure comments. The Authority has noted the comments and suitably addressed them at the relevant places in these final findings.

### **S. CONCLUSIONS**

75. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/ recurrence of dumping and injury, the Authority concludes that there is a significant reduction in the imports of the concerned product from the subject country i.e., China PR. The imports have reduced both in absolute terms and in relation to production/ consumption in India. Import of the product under consideration from China PR and the price at which it is being imported is unlikely to be injurious should the current anti-dumping duty cease, particularly as it is seen that there is no evidence of any price suppression or depression.
76. Thus, it is concluded that injury is at best nominal and could be due to factors other than dumped imports. The available evidence clearly depict that the performance of the domestic industry has improved over the injury period of four years taken into consideration for this investigation. The likelihood analysis undertaken reveals that the injury is not likely to continue in the event of cessation of the anti-dumping duty.

### **T. RECOMMENDATIONS**

77. The Authority notes that the sunset review investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of continued dumping, injury and causal link. No response was received from any interested party other than the domestic industry. Having initiated and conducted the present review investigation into continued dumping, injury and causal link in terms of the Antidumping Rules, the Authority is of the view that the exports from the subject country are not causing material injury to the domestic industry. Further, the analysis of likelihood of injury in view of cessation of duties demonstrates that there is no reason for continuation of anti-dumping duties against the subject goods from the subject country. Having concluded as above, the Authority is of the view that continuation of anti-dumping duty, on the imports of the subject goods, originating in or exported from the China PR, is not required.

78. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

**(Dr. Inder Jit Singh)**  
**Additional Secretary & Designated Authority**