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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE-GENERAL OF ANTI DUMPING & ALLIED DUTIES

NOTIFICATION

New Delhi, the 23rd July 2007

FINAL FINDINGS

Subject: Sunset Review of the definitive anti-dumping duty on imports of Paracetamol originating in/exported from China PR.

No. 15/20/2006-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules (hereinafter also referred as Rules), 1995, thereof;

A. BACKGROUND

2. WHEREAS, having regard to above Rules, the Designated Authority (hereinafter referred to as the Authority) initiated anti-dumping investigation on 30th January 2001 into alleged dumping of Paracetamol (hereinafter referred to as subject product/goods) originating in/exported from China PR and Taiwan. Provisional antidumping duties were imposed on imports of the subject goods from the subject countries vide customs notification No: 89/2001-Customs dated 6th September 2001, based on the preliminary findings of the Authority dated 16th April 2001. The final findings of the Authority were published vide notification of 22nd January 2002 and definitive anti dumping duties were imposed on the subject goods from the subject countries vide notification No: 29/2002-Customs dated 27th March 2002.

3. AND WHEREAS pursuant to the amendment notification published by the Authority dated 17th May 2005, anti-dumping duty was withdrawn from Taiwan vide customs notification No: 67/2005 dated 19th July 2005.

4. AND WHEREAS on the basis of a duly substantiated application filed by M/s. Sri Krishna Pharmaceuticals Ltd, Hyderabad, M/s Farmson Analgesics Pvt. Ltd, Vadodara and M/s Bharat Chemicals Ltd, Mumbai representing a major proportion of the domestic

production of the subject product, the Designated Authority initiated sunset review of the Anti Dumping Duty on imports of the subject product originating from China PR (hereinafter also referred to as subject country) vide notification dated 25th July 2006 under section 9A (5) of the Act, to examine whether the expiry of the duty would lead to continuation or recurrence of dumping and injury.

5. AND WHEREAS vide notification No: 87/2006 dated 31st August 2006 the definitive duties were extended by the Central Government under Section 9A (5) for a period of one year up to 5th September 2007.

B. PROCEDURE:

6. The procedure described below has been followed:-

(i) As per sub-rule (5) of Rule 5 supra, the Authority notified the Embassy of subject country in India about the receipt of fully documented application from the applicant before proceeding to initiate the review investigation;

(ii) In accordance with sub rule (2) of the rule 6 supra, the Authority forwarded copy of the said public notice to the known exporting producers, importers, industry associations, the Embassy of the country concerned and to the applicants and gave them an opportunity to make their views known in writing.

(iii) As per sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to all the known exporters and the Embassy of subject country in India, together with a questionnaire for according market economy treatment. While for the purpose of initiation, the normal value was considered based on the constructed cost of production of the subject product in India, the Authority informed the known exporters / producers of the subject goods from the subject country that it proposed to examine the claim of the applicants in the light of para (7) & (8) of Annexure-1 of the Anti-Dumping Rules as amended. The known exporters were requested to furnish necessary information/ sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 to enable the Authority to consider grant of market economy treatment to cooperating exporters / producers who could demonstrate that they satisfied the criteria stipulated in the said paragraph.

(iv) According to sub-rule (4) of Rule 6 supra, the Authority provided a copy of the relevant questionnaire to all the known exporters and the Embassy of subject country in India and other interested parties.

(v) The Embassy of subject country in New Delhi was also informed about the initiation of investigation and requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time.

(vi) The Authority sent questionnaires, to elicit relevant information, to the following known exporters from the subject country.

- ❖ Anhui Bayi Chemical Industry Co. Ltd., 379 Huaibin Road, Anhui.
- ❖ Conler Pharmaceutical Corporation Ltd., Conler Building }
- ❖ Zhejiang Kangle Pharmaceutical Co. Ltd, RM 504, 5/F Kangle Building }
- ❖ Wenzhou Pharmaceutical Factory, }
- 112 West Ma'anchi Road, Wenzhou, Zhejiang Province.
- ❖ Changshu Huagang Pharmaceutial Co. Ltd., Yuxiang Village, Yetang Town, Changshu, Jiangsu.
- ❖ Hebei Jiheng Group Co. Ltd., 58 Zhonghua Street }
- ❖ Hebei Jiheng (Group) Pharmacy Co. Ltd., No. 368, Jianshe Street } Hengshui City, Hebei.
- ❖ Huzhou Beigang Enterprises Group Corp., F/4F, North Area, Fucheng Bldg., Huzhou, Zhejiang.
- ❖ Zhongxin Pharma Tiangin Xinxin Pharmaceutical, Chenglinzhuang Industrial Estate, Tianjin.
- ❖ Jiangsu Guotal International Group Co. Ltd., 11/F, Guotai Bldg., No. 43, Renmin Road (M), Zhangjiagang City, Jiangsu Province.
- ❖ M/s. Liaoyuan City Baikang Pharmaceutical, Liaoyuan City, Jilin Province.

No exporter/producer responded to the exporter's questionnaire.

(vii) A copy of initiation notification along with the importers' questionnaire was also sent to the various importers listed in the application.

- ❖ Flamingo Pharmaceuticals Ltd.,18-A, Mahal Estate, Mahakali Caves Road, Mumbai – 400093
- ❖ Granules India Ltd., 8-2-293/A/A/2, Road No. 2, Banjara Hills, Hyderabad.
- ❖ Glow Export Trading Pvt. Ltd.,] IPCA House,
- ❖ IPCA Labs Ltd.,] 63E, Kandivili Industrial Estate,
- ❖ Techno Economic Services P. Ltd.,] Kandivili West,
- ❖ AGOG Pharma.,] Mumbai-400067

- ❖ Medreich Sterilab Ltd., 12 Saraswathi Ammal Street, Bangalore 560 033
- ❖ Micro Labs Ltd., 92 SIPCOT Indl. Complex, Hosur 635 126
- ❖ Ajanta Pharma Ltd.,] Plot no: E 28 MIDC, Opp Fire BRI
- ❖ Shalina Labs Pvt. Ltd.,] Mumbra, Mumbai.
- ❖ Cipla Ltd, Kandivili Indl. Estate, Kandivili West, Mumbai – 400067.
- ❖ Ciron Drugs & Pharmaceuticals P. Ltd., ACME Plaza, Andheri Kurla Road, Andheri East, Mumbai 400059.
- ❖ Indoco Remedies Ltd., 39 C 1st Floor, Raj Indl. Complex, Military Road, Marol, Andheri East, Mumbai 400059.
- ❖ Maneesh Pharmaceutical Pvt. Ltd., 103, Shivaji Nagar, Pune 411005
- ❖ Mangalam Drugs & Organics Ltd.,] Phoenix House, 3rd Floor,
- ❖ Medopharm.,] 462 Senapati Bapat Marg,
- ❖ Healthy Life Pharma Pvt. Ltd.,] Lower Parel,
- ❖ Glow Export Trading Pvt. Ltd.,] Mumbai 400013
- ❖ Cadila Pharma, Oxford Chambers, B Pasalkar Marg, Sakinaka, Mumbai 72.
- ❖ Hindustan Tablets, 302, Mint Street, Nacharam High Road, Hyderabad.
- ❖ May India Labs P Ltd., 1st Floor, LB Road, Adyar, Chennai 20.
- ❖ Bal Pharma Limited., Ravikiran Apartments, 12 Plain ST Bangalore – 1.

However, no response was received to the importers' questionnaire.

(viii) Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM, Excise Law Times etc., for wider circulation.

(ix) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation.

(x) The investigation of dumping and injury covered the period from 1st April 2005 to 31st March 2006 (Also called the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from 1st April 2002 to the end of POI (also called Injury period).

(xi) The Authority sought and verified all the information it deemed necessary for the purpose of determination of dumping and resulting injury. The Authority conducted on-the-spot investigation of the domestic industry to the extent considered necessary. The cost of the production of the domestic industry was also analysed to work out the cost of production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the applicants to ascertain if anti dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

xii) The Authority held a public hearing on 27th April 2007 to hear the interested parties orally, which was attended by representatives of the domestic industry. The parties attending the public hearing were requested to file written submissions of the views expressed orally. The written submissions received have been considered by Designated Authority in this finding.

(xiii) The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties.

xiv) **** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.

C. PRODUCT UNDER CONSIDERATION AND “LIKE” ARTICLE..

7. The product under consideration in the present investigation, as defined in the original investigation, is Paracetamol also known as acetaminophen (hereinafter referred to as subject goods), originating in or exported from China PR. It is an odourless white powder, with chemical formula of $C_8H_9NO_2$. Paracetamol is a bulk pharmaceutical active ingredient with analgesic and antipyretic properties, which is used in a number of drug formulations in the form of powder, granules, injectibles and tablets for relief of fever, headaches, minor aches and pains.

8. The product is defined under the category “Organic Chemicals” in Chapter 29 of the Customs Tariff Act, sub-heading 2922.29. Until 2002-03, it was classified under 2922.2914. In 2003-04, with the change in the ITC (Harmonized System) classification from April 2003, the code was altered to 2922.2933. This sunset review investigation covers the product as covered in the original investigation only. As no interested party has extended any argument on the issue of the product under consideration and like article, and the subject goods produced by domestic industry have been used interchangeably with those imported from the subject country, the Authority holds that the subject goods produced by the domestic industry and those being imported from the subject country are like articles within the meaning of the Rules.

D. DOMESTIC INDUSTRY

9. The application for review, continuance and enhancement of anti-dumping duty has been jointly filed by M/s. Sri Krishna Pharmaceuticals, M/s Farmson Analgesics and M/s Bharat Chemicals. They are the major domestic producers of the subject goods, with a share of 54% of domestic production in the POI and have provided information relevant to the present investigations. Apart from the applicants, there are reported to be 9 other small-scale producers of the subject product. Subsequent to the initiation, one domestic producer, viz., M/s Para Products has provided all relevant information. Another producer, M/s Granules India Ltd has been an importer of the subject product over the entire injury period and therefore, in terms of Rule 2(b) of the Rules, is deemed not to form part of the domestic industry. The remaining other producers did not respond to the Authority's request to provide information. Hence, having regard to the legal provisions and the facts & circumstances of the case, the Authority considers the applicants plus the supporter (accounting for 75% of domestic production) to constitute domestic industry within the meaning of the Rules.

E. CONTINUATION OF DUMPING.

10. Under Section 9A (1) (c) of the Customs Tariff Act 1975,

“Normal value in relation to an article means:

(i) the 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

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

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

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

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the

country of export, the normal value shall be determined with reference to its price in the country of origin.”

11. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). None responded.

E1 Normal value determination for China PR

E1.1 Views of the domestic industry

12. The domestic industry has submitted that China PR, the subject country under present investigation in the present proceedings, is a Non-Market Economy country and treated as such by the European Commission, the United States and even India. Therefore normal value has to be determined in accordance with the Para 7 and 8 of Annexure I of the Anti Dumping Rules. Accordingly, the domestic industry had proposed India as the appropriate surrogate country for the purpose of calculating normal value in China, as the subject goods are being produced only in India and China. The domestic industry has determined normal value on the basis of the cost of production in India, duly adjusted to include selling, general and administrative expenses and reasonable profit.

Legal provisions in India

13. Para 7 of Annexure I under the Rules, which has been inserted vide notification no. 44/99– Cus (NT) dated 15th July, 1999 (as amended) reads as under:

“7. In case of imports from non-market economy country, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or 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.....”.

Market Economy Treatment (MET)

14. Para 8 of Annexure 1- inserted vide Customs Notification No 1/2002 – Cus (N.T) dated 04.01.2002 reads as follows:

“8.(1) The term “non market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3).

(2) There shall be a presumption that any country that has been determined to be, or has been treated as a non-market economy country for the purpose of an anti dumping investigation by the designated authority or by the competent Authority of any WTO member country during the three year period preceding the investigation is a non-market economy country.

Provided, however, that a non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non market economy country on the basis of criteria specified in sub-paragraph (3)

(3) The designated authority shall consider in each case the following criteria as to whether:

a) the decisions of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;

c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and

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

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in this paragraph.”

15. No exporter/producer from China responded to the questionnaire sent by the Authority nor did any interested party submit any comments.

E1.2 Normal Value & Export Price:

16. The Authority has taken cognizance of the fact that there has been no response by any exporter from the subject country and that the applicants had provided evidence of price or constructed value in India as a market economy third country. In the absence of exporter response, the Authority has determined that the only option available for the purpose of final findings is to construct the normal value by taking into account the weighted average cost of production, conversion costs and selling, general &

administrative expenses of the domestic industry in India together with a reasonable margin of profit. The normal value so constructed is Rs. *** or \$ *** per kg.

Methodology for working out dumping margin

E.2 Export Price

Views of the domestic industry

17. The domestic industry has made the following submissions.

(i) As none of the Chinese producers/exporters have cooperated, the Authority is justified in proceeding on the basis of facts available in accordance with the Rules.

(ii) The present anti-dumping duty in force on the product is on variable basis, the reference price determined in the original investigation being \$ 3.33 per kg. Price undercutting was negative in the first 2 years of the injury period and imports were limited. It became positive from the third year and increased in the period of investigation, as a consequence of which imports increased very significantly.

(iii) The export price does not reflect the true state of affairs and the price at which the subject product is being imported by a number of consumers and traders. There are significant duty-free imports under advance licence as also duty paid imports by traders/resellers. There are differences in the import prices in transaction-wise data analysis. As product specifications are practically invariant, there is no reason for significant price variations. Anti-dumping duty is payable only if CIF price is below the benchmark price. Thus, all transactions where the landed prices of imports are higher than or equal to the benchmark are suspect and do not represent the true import price of the product.

Examination by the Authority

18. The Authority sought the details of imports of the subject product segregated into duty-free versus duty-paid imports. However, neither the Customs authority nor DGCIS had the data segregated as required. Therefore, in the absence of such segregation, the Authority has taken the official price for calculation of dumping margin and price undercutting. A weighted average export price to India has been determined for the subject product. Adjustments like freight, insurance, commission and handling expenses have been conservatively allowed. The weighted average export price has been taken as US \$ *** per kg and after adjustments, the ex-works export price comes to \$ *** per kg.

E.3 Dumping margin

19. The Authority has worked out the dumping margin by making a comparison between the normal value and export prices at ex-factory level, based on the constructed normal value and the weighted average export price determined for the product. The weighted average overall dumping margin thus determined is seen to be significant and above de-minimis, as shown below:-

	Rs / kg	\$/kg
Constructed Normal Value	***	***
Export Price	***	***
Dumping Margin	***	***
Dumping Margin %	26.58%	

Source: DGAD.

F. INJURY AND CAUSAL LINK: CONTINUATION OF INJURY

F.1 Views of the domestic industry

20. The domestic industry has argued that despite the imposition of anti dumping duty, imports of the subject product from the subject country have continued. The volume of imports decreased in the first year after the imposition of duty but continued to remain significant. No other interested party offered any comments on injury.

21. Rule 11 of Anti Dumping Rules reads as follows:

“Determination of Injury:

(1) In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India.

(2) The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules.”

22. Annexure II to the Rules requires that a determination of injury shall involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products. Annexure-II (ii) of the Rules provides as under:-

(ii). “While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India With regard to the effect of the dumped imports on prices ...the designated authority shall consider whether there has been significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

Annexure II to the Rules further provide that

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

F 2 Examination by the Authority

23. The Authority has taken note of the arguments raised by the domestic industry in their submission and examined the issue of continuation of injury to the domestic industry in the light of these arguments. For the purpose of injury analysis, the Authority has examined the volume and price effects of dumped imports on the subject goods on the domestic industry and its effect on the prices and profitability. To examine the existence of injury and causal links between dumping and injury, if any, since a positive dumping margin has been established for the exports from the subject country, the entire exports has been treated as dumped imports for the purpose of injury analysis and causal link examination.

A. Volume effect of dumped imports and impact on domestic industry

Import statistics

24. The information provided by DGCI&S (a secondary source), consequent to the initiation of the investigation, show that the product has been reported under customs classifications 2922.2914 up to 2002-03 and 2922.2933 thereafter, the alteration in the code being due to the change in the ITC (HS) classification in April 2003. Since the product description is only indicative, all imports of subject goods irrespective of their classification have been included for the purpose of determination of volume, value and average import price. Data analysis shows that bulk of the product imports are from the subject country at present, as below:-

Imports of Paracetamol

<i>Imports</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Total product imports				
Qty (MT)	1514.93	1733.01	2131.55	6209.32
Value (Rs lacs)	1525.83	1793.97	2527.40	8608.62
Price/kg	100.72	103.52	118.57	138.64
Imports from China PR				
Qty (MT)	696.00	945.00	1557.65	6204.62
Value (Rs lacs)	631.01	924.95	1856.52	8586.78
Price/kg	90.66	97.88	119.19	138.39
Share in total imports	45.9%	54.5%	73.1%	99.9%
Imports from other countries				
Qty (MT)	818.93	788.01	573.90	4.70
Value (Rs lacs)	894.83	869.02	670.87	21.84
Price/kg	109.27	110.28	116.90	464.67

Source: DGCIS.

25. The Authority noticed that imports from the subject country which was 46% of total subject product imports in the base year 2002-03 increased to 55%, 73% and 99.9% respectively in the years thereafter, implying that imports from the subject country crowded out those from other countries, viz., USA, Switzerland and UK. Imports from countries not dumping, which were 54% of total imports in 2002-03, were half this percentage in 2004-05 and merely 0.1% in the POI. The difference between the average CIF rate of the imports of the product from the subject country and from other countries narrowed from Rs 18 per kg. in 2002-03 to Rs 2 per kg. in 2004-05, again testifying to the crowding-out effect. In sharp contrast, in the POI, the price of imports from other countries shot up to Rs. 465 per kg., which appears to be an aberration.

Assessment of demand

26. For the calculation of the domestic consumption/demand of the subject goods, the Authority added the sales volume of the domestic industry and other Indian producers to the total imports into India.

<i>Parameter (in MT)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Sales of Domestic industry	8223	10343	10475	10845
Sales of other domestic producers	6200	6200	6200	7100
Total imports	1515	1733	2132	6209
Demand	15938	18276	18807	24154
Indexed	100	115	118	152

Share of imports in demand (%)	9.51	9.48	11.33	25.71
Trend	100	100	119	270
Share of all domestic producers	90.49	90.52	88.67	74.29
Trend	100	100	98	82

Source: Domestic industry, DGCIS.

The Authority noted that the demand for the subject goods in India showed positive growth and increased by 52% in the injury period and by about 28% in the POI alone. The share of all domestic producers in domestic demand declined from 90% to 74% from the base year to the POI, while that of total imports increased almost three-fold from 9.5% to 26% over the same period.

Import volumes and market share

27. With regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

<i>Parameter (in MT)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Total Imports	1515	1733	2132	6209
Imports from China	696	945	1558	6205
Indexed	100	136	224	891
Chinese imports/ total imports (%)	45.94	54.53	73.08	99.92
Domestic demand	15938	18276	18807	24154
Percentage share in domestic demand of				
a) Chinese imports	4.37	5.17	8.28	25.69
b) other imports	5.14	4.31	3.05	0.02
c) domestic industry	51.59	56.59	55.70	44.90
d) other domestic producers	38.90	33.92	32.97	29.39
Domestic industry production	***	***	***	***
Chinese imports/DI production (%)	100	116	177	656

Source: Domestic industry, DGCIS.

The Authority noted that the imports from the subject country increased in absolute terms from just 696 MT in 2002-03 to 6205 MT in the POI, reflecting an almost eight fold increase from the base year. The share of imports from other countries dwindled to merely 0.08% in the POI. In relation to domestic demand, the imports from the subject country increased from 4.4% in 2002-03 to 25.7% in the POI, while relative to domestic industry's production, they increased from 100(indexed) in 2002-03 to 656 in the POI. Moreover, as the share of Chinese imports in demand increased, that of the domestic industry declined by about 7% from 2002-03 to the POI and of the other domestic producers fell all through

by about 10% in the POI compared to the base year. Besides, while the rate of fall in the market shares was relatively slow between 2003-04 and 2004-05, it accentuated steeply in the POI. Hence, the reduction in the domestic industry's share has not been due to domestic competition. In view of this, the Authority has concluded that the dumped imports from the subject country show adverse volume effect.

B. Price effect of imports

28. For the purpose of this analysis, the weighted average cost of production, weighted average Net Sales Realisation (NSR) and the Non-Injurious Price (NIP) of the domestic industry have been compared with the landed price of imports from the subject country to examine whether there has been significant price undercutting by the dumped imports compared with the price of the like product in India or whether such imports have depressed the prices or prevented price increases that otherwise would have occurred to a significant degree.

<i>Parameter (Rs. /kg)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Landed Price	118.77	123.33	144.22	159.15
Indexed	100	104	121	134
Net Sales Realization of Domestic industry	***	***	***	***
Indexed	100	112	130	145
Cost of sales	***	***	***	***
Indexed	100	106	125	141
Price undercutting*	***	***	***	***
Price undercutting %	negative	1-5%	0-3%	1-5%

Note: * NSR minus landed price of imports
Source: Domestic industry, DGCIS.

29. Price undercutting has been determined by comparing the landed value of dumped imports, with the weighted average net sales realisation (ex factory) (NSR) of the domestic industry, where the rebates, discounts, commissions offered and the excise duties paid have been excluded. The Authority notes that the indexed landed value of Chinese imports increased by 134 since 2002-03, and that of NSR increased by 145, but both show a rising trend. The landed value was lower than the NSR in the years 2003-04 to the POI, resulting in price under-cutting, which declined substantially in 2004-05 but increased again in the POI. The non-injurious price for the domestic industry has been determined at Rs *** per kg in the POI, against which the landed value was Rs. 159.15 per kg. The extent of price under-selling (i.e., weighted average landed value of imports less non-injurious price of the domestic industry determined for the POI) is 1-5%.

<i>In Rs/kg</i>	
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Non-Injurious Price	***
Landed value	159.15
Price Underselling	***
Price Underselling %	1-5%

Source: DGCIS, computations

Price under-selling in the POI is slightly higher than price under-cutting, but both are marginal in magnitude. There is no evidence of price suppression, as the NSR has remained above the cost of sales in all the years excepting the base year.

C Situation of the Domestic Industry: Preliminary remarks

30. The Authority noted that the petitioners belonged to the category of small scale industries that are held to be employment-intensive and promoting spatial growth with minimum fixed investment. To enable such industries to face competition in the domestic market from imports following lowered trade barriers and increased free trade agreements, policies of progressive de-reservation (to remove limits on modernising ability) and interventions in fields such as credit, infrastructure development, technical upgradation and fiscal & market support have been put in place.

31. For the examination of the impact of the imports on the domestic industry in India, the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II (iv) of the Rules supra. It is noted that application for review of anti dumping duty has been jointly filed by three domestic producers, with a supporter, who together accounted for 75% of total Indian production. The petitioners and the supporter, therefore, constitute domestic industry within the meaning of the Rules. The Designated Authority therefore, has examined injury to the domestic industry as prescribed under the Rule 11 of the Rules.

Sales Volume

32. Sales volume of the domestic industry (DI) has been as under:

<i>Volume (in MT)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
DI- Domestic Sales	8223	10343	10475	10845
Indexed	100	126	127	132
Domestic Demand	15938	18276	18807	24154
Indexed	100	115	118	152
Market share of DI in demand (%)	51.59	56.59	55.70	44.90

Source: Domestic industry.

The Authority noted that though the domestic industry could meet less than half the total demand for the product, its sales volume has consistently increased till the POI, concurrent with the increase in demand of subject goods, the pace of which accelerated in the POI. But the industry was unable to get the full benefit of the increased demand, which rose by a factor of 52 from the base year, against a factor of 32 for domestic sales. Significant market share has been lost to imports from the subject country.

Profits

33. Profitability position of the domestic industry has been as under:

<i>Parameter (in Rs. Lakhs)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Profit/Loss (Rs./Kg).**	***	***	***	***
Indexed	-100	201	126	67
Profit/Loss on Domestic sales	***	***	***	***
Indexed	-100	253	160	89

** Selling Price – Cost of Sales

Source: Domestic industry.

The Authority observed that profitability of the domestic industry improved in 2003-04 compared to the base year, moving from a situation of loss to one of profits, but the position deteriorated again from 2004-05, as imports of the subject product increased relative to domestic production. Profits, however, still remained positive, though only a third of what had accrued in 2003-04.

Productivity

34. The Authority noted that productivity per employee of the domestic industry increased till 2004-05 and dropped very slightly in the POI. Sales per employee have shown an increase all through.

<i>Parameter</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Sales of the DI (Rs. Lakhs)	***	***	***	***
Employees in Nos.	***	***	***	***
Production (MT)	***	***	***	***
Sales per Employee	***	***	***	***
Indexed	100	144	164	174
Productivity per Employee	***	***	***	***
Indexed	100	119	125	124

Source: Domestic industry.

Return on Investment

35. Capital employed in net fixed assets increased by a factor of 22 in the POI since the base year, although it had fallen in the interim. Return on investments which had increased from a negative figure in 2002-03 to over 65 times the rate in 2003-04, dropped in the POI to less than half that level.

<i>Parameter (Rs. Lakhs)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
PBIT	***	***	***	***
Indexed	-100	5805	4154	3586
Capital Employed (NFA)	***	***	***	***
Indexed	100	88	96	122
Return on cap. employed (NFA) (%)	***	***	***	***
Indexed	-100	6858	4367	2988

Source: Domestic industry.

Capacity, Production and Capacity Utilization

36. The capacity, production and capacity utilization of the domestic industry has been as under:

<i>Parameter(MT)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Capacity	11100	11700	12900	12900
Indexed	100	105	116	116
Production	***	***	***	***
Indexed	100	117	126	136
Capacity Utilization (%)	***	***	***	***
Indexed	100	111	109	117
Domestic Demand	15938	18276	18807	24154
Indexed	100	115	118	152

Source: Domestic industry.

The domestic industry's capacity (indexed) increased to 116 in the POI, yet was less than half the home demand for the subject product, so that even taking account of other domestic producers, supply would fall short of demand. The capacity utilisation increased in the POI to 93% compared to 80% in the base year. The increased demand has been met partly through imports and partly through increased domestic production.

Factors affecting domestic prices

37. The imports from subject country have led to price undercutting and price under-selling in the Indian market in the POI, of a relatively minimalist order.

Magnitude of dumping margin

38. The dumping margin for product imports from the subject country computed in para 19 is found to be significant.

Inventories

39. Inventories position with the domestic industry has been as under:

<i>Parameter (in MT)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Average stock of inventory	***	***	***	***
Indexed	100	91	30	58
Sales volume	8223	10343	10475	10845
Inventory/Sales %	***	***	***	***
Trend	100	72	24	44

Source: Domestic industry.

The Authority noted that inventories which had shown a declining trend up to 2004-05 increased in the POI, though they were lower than in 2002-03. The percentage of inventory to sales ranged between 2-5% during the injury period.

Cash Flow and Cash Profit

40. The Authority has examined cash flow situation of the domestic industry, which is given in the following table.

<i>Parameter (in Rs. Lakhs)</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
PBT	***	***	***	***
Indexed	-100	253	160	89
Interest	***	***	***	***
Indexed	100	89	86	127
PBIT	***	***	***	***
Indexed	-100	5805	4154	3586
Depreciation	***	***	***	***
Indexed	100	95	91	98
Cash profit	***	***	***	***
Indexed	100	632	478	387

Source: Domestic industry.

Cash profits had improved six fold between 2002-03 and 2003-04, but deteriorated by a factor of about 40% during the POI, relative to 2003-04. Both pre- and post-tax profits peaked in 2003-04 from a position of loss in the base year, but dropped off thereafter. Interest payments increased in the POI, after having declined in the interim after 2002-03.

Employment and wages

41. Employment level of the domestic industry has been as under:

<i>Parameter</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
Employees (No:)	***	***	***	***
Indexed	100	98	101	110
Wages (Rs. Lakhs)	***	***	***	***
Indexed	100	102	111	121

Source: Domestic industry.

The Authority noted that the employment level of the domestic industry had increased and so also wages. These parameters do not reflect injury.

Ability to raise capital

42. No evidence has been placed before the Designated Authority of any problem faced by the domestic industry relating to the ability to raise capital.

Growth

43. Status of various parameters of growth is given in the following table.

<i>Year-to-year growth (%)</i>	<i>2003-04</i>	<i>2004-05</i>	<i>POI</i>
1. Sales Volume	25.78	1.28	3.52
2. Unit selling price	12.20	15.85	11.40
3. Cost of production	6.25	17.78	12.50
4. Production	17.06	7.98	7.47
5. PBIT	5905.26	-28.44	-13.67
6. Cash profit	532.14	-24.34	-19.19
7. Market Share	9.69	-1.58	-19.39
8. ROI	6958.33	-36.33	-31.58

Source: Domestic industry.

The table above shows that the financial injury parameters have been adversely affected during the injury period and are showing negative growth.

- i) Performance of the domestic industry which had improved with the imposition of anti-dumping duty up to 2003-04, deteriorated in the POI in terms of profit and loss, productivity per employee, return on capital employed, market share, cash profits, profits before tax, etc.
- ii) Imports resulted in marginal price undercutting and price underselling.

F.3 Other known factors and causal link

44. In order to reach its conclusions on the cause of the injury suffered by the domestic industry and in accordance with Article 3.5 of Agreement of Anti Dumping and as per para (v) of Annexure II under Rule 11 under Customs Tariff Act as amended, the Authority examined the impact of all known factors and their consequences on the situation of the domestic industry. Known factors other than the dumped imports, which could at the same time have injured the domestic industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

Effect of Other factors

- (a) Contraction of demand or Changes in the pattern of consumption

45. The Authority notes that there is no contraction in the overall demand during the period under consideration. On the contrary, the overall demand has increased significantly during the injury period. The Authority also concludes that there is no apparent change in the pattern of consumption.

- (b) Volume and Prices of imports of imports from other sources_

46. According to the available information, the total import volume of the product concerned originating in countries other than the subject country declined over the injury investigation period and was only 0.1% in the POI. Therefore, the impact of imports of other countries on the domestic industry has reduced.

- (c) Trade Restrictive practices of and competition between foreign and domestic producers

47. The Authority notes that though there are other small scale producers of the subject product competing in the domestic market, their share had fallen more than that of the domestic industry. Dumped imports from the subject country compete directly with the subject goods produced by the domestic producers in a single market for the subject goods. The Authority also notes that the imported product is sold to meet the similar commercial grades and specifications as domestically produced subject goods and that the imported and domestically produced subject products are like articles and are used for similar applications/end uses.

(d) Developments in Technology, Export performance and productivity of the Domestic Industry

48. Developments in technology are not a relevant factor for the injury to the domestic industry. As for the export performance of the domestic industry, the Authority notes that such exports form a very insignificant part of the total sales of the domestic industry during the injury period. Further, the performance with respect to various economic indicators has been determined with respect to domestic sales only.

49. As regards improvement in productivity, the Authority notes that during the period under consideration, the productivity measured as production per employee per year has rather improved during the injury period and fallen very slightly in the POI. Hence, the Authority holds that the productivity per se is not the cause for the injury to the domestic industry.

F.4 Conclusions on causation

50. Significant increase in the volume of dumped imports has resulted in marked decline in market share of the domestic industry. The imposition of anti-dumping duty had resulted in an improvement in the performance of the domestic industry, but some parameters have deteriorated again from 2003-04, with an increase in volume of dumped imports from the subject country.

51. The Authority, therefore, concludes that the dumped imports originating in the subject country have caused material injury to the domestic industry within the meaning of Rule 11 of Anti Dumping rules and article 3.5 of the Agreement of Anti Dumping.

Magnitude of Injury Margin

52. Import data from DGCI&S has been used for the determination of landed value of the subject goods for the purpose of determination of injury margin. Non-injurious price has been computed after analysis and scrutiny of the costing information provided by the domestic industry, including the data provided by the unit supporting the petitioners. The non injurious price so determined by the Authority has been compared with the landed value for computing the injury margin, as shown below:

Injury margin calculations (in Rs/kg)			
Non-Injurious price	Landed value	Injury Margin	IM %
***	159.15	***	1-5%

H. LIKELIHOOD OF CONTINUATION OF DUMPING AND INJURY

53. Section 9A of the Act requires the Designated Authority, in an expiry review, to examine whether cessation of the duty would lead to continuation or recurrence of dumping and injury.

H.1 Views of the domestic industry

54. The domestic industry has submitted as follows:

(i) The Chinese exporters have continued dumping even after the imposition of anti-dumping duty and in increasing volumes. This would only increase if the duties are revoked.

(ii) There are no changes in the parameters/ circumstances prevailing at the time of original investigation and at present. Dumping margins are not only more than de-minimis but also significant. Circumstances prevalent at the time of original investigations continue to exist in present investigation, viz., continued dumping even after imposition of the anti dumping duty, surplus capacities with producers in China, huge volume of exports to third country markets.

(iv) The export price to India is an indicator of the continuation of dumping. At the landed price (without anti-dumping duty), there is significant price undercutting. Hence, if duty is revoked, Indian prices would be extremely attractive to Chinese producers.

(v) China exports significant volume to other countries world-over and at prices lower than the price to India. In the event of duty revocation, these exports would shift to the Indian market to get better realization, leading to continuation of dumping and consequent injury to the domestic industry.

(vi) Exporters in the subject country have built capacities of 64,000 MT, far in excess of their domestic demand.

(vii) The level of dumping margin established in the original and current investigations is an indicator of likely dumping in the event of revocation of anti dumping duties. Dumping margin in the present investigation is significant.

Investigations	Dumping margin %	Imports (MT)
Previous	47.30	1372.39
Current	26.90	6486.55