

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

NOTIFICATION

NEW DELHI, The 1st December, 2005

SUNSET REVIEW FINAL FINDINGS

Subject: Sunset Review regarding anti-dumping duty imposed on Sodium Nitrite originating in or exported from China PR.

No. 39/1/1999-DGAD - WHEREAS, the Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 (herein after also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after also referred to as Rules), recommended imposition of provisional anti dumping duty on imports of Sodium Nitrite (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred to as subject country). The preliminary findings were published vide Notification no. 39/1/99-DGAD dated 6th April 2000 and provisional duties were imposed on the subject goods vide Customs Notification No. 76/2000-Customs dated 23.5.2000. The Designated Authority notified the final findings on 3.11.2000 and definitive antidumping duty were imposed by Customs vide Notification No: 147/2000 dated 19.12.2000.

2. AND WHEREAS, the Designated Authority, received an application from the domestic industry of the subject goods from China PR i.e. M/s Deepak Nitrite Ltd., requested for continuation of the anti-dumping duty imposed on subject goods for a further period of 5 years for review of the antidumping duties levied on the subject goods. The Authority, on the basis of a request made on behalf of the domestic industry, issued a public notice dated 2nd December,2004, published in the Gazette of India, Extraordinary, initiating anti-dumping sunset review investigation in respect of the duty in force against the above countries as above, to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The antidumping duty as notified vide Notification No. 76/2000 dated 23.5.2000, as amended by Notification No. 147/2000-Customs dated 19.12.2000 was

extended up to 21.5.2006 vide notification No.60/2005 dated 4.7.2005 in terms of Section 9 (A) (5) of the Act.

A. BACK GROUND OF THE CASE

3. On the basis of an application filed by the M/s Deepak Nitrite Ltd. and M/S Punjab Chemicals Ltd., the domestic producers in India, the Designated Authority conducted an investigation into Dumping, Injury and Causal link of imports of Sodium Nitrite from China PR and on the basis of its determination of Dumping, Injury and Causal link, notified its final findings vide Notification No: 39/1/99-DGAD dated 3rd November 2000. Acting Upon the findings of the Authority the Central Government imposed antidumping duty on imports of the subject goods from the subject country vide Customs notification No: 147/2000 dated 19.12.2000. The present investigation to review the need for continuation of duty has been initiated on 2/12/2004 on the basis of an application filed by one of the domestic producers i.e, M/s Deepak Nitrite Ltd(DNL) which was later supported by M/s Punjab Chemicals and Pharmaceuticals Limited (PCPL) and M/s National Fertilizers Limited (NFL).

B. PROCEDURE

4. The procedure described below has been followed with regard to this investigation:

- i. After initiation of the review the Authority sent questionnaires, alongwith the initiation notification, to all known exporters/producers in the subject country, and domestic industry in India in accordance with the Rule 6(4), to elicit relevant information;
- ii. The Embassy of the subject country in New Delhi was informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
- iii. Questionnaires were sent to known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4).
- iv. Investigation was carried out for the period starting from 01.04.2003 to 31.3.2004 (POI). However, injury examination was conducted for the periods 2000-01, 2001-2002, 2002-03 and Period of Investigation (POI).
- v. 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 POI;
- vi. A market economy questionnaire (MET) was forwarded to all the known exporters and the Bureau of Fair Trade (BOFT), Government of China. While for the purpose of initiation the normal value in China PR was considered

based on the constructed cost of production of the subject goods in China PR. The Authority informed the known exporters that it proposed to examine the claim of the applicant in the light of para 7 and para 8 of Annexure I of Anti Dumping Rules as amended. The concern exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 to enable the Authority to consider whether market economy treatment be granted to cooperative exporters/ producers who could demonstrate that they satisfy the criteria stipulated in the said paragraph. None of the exporters/producers from China PR have filed any response, in any manner, to the initiation notification. The Chinese Government also did not file any response to the initiation notification.

- vii. The Authority has considered the views expressed by the applicant to the extent they are relevant for the present investigation since none of the other interested parties made any submission with regard to this sunset review investigation.
- viii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file and kept open for inspection by the interested parties;
- ix. The Authority verified the information furnished by the domestic industry to the extent possible to examine the injury suffered and to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to domestic industry;
- x. The Authority held a public hearing on 21.9.2005 to hear the interested parties orally, which was attended only by representatives of the domestic industry. None of the importers/exporters nor the Government of the exporting country attended the public hearing. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from them have been considered by the Authority in this finding;
- xi. In accordance with Rule 16 of the Rules supra, the essential facts under consideration of the Authority and the basis of determination proposed to be adopted were disclosed to known interested parties vide letter dated 10/11/2005 giving two weeks time.
- xii. **** In the Notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND ‘LIKE ARTICLE’

5. The product under consideration in the original investigation and the product attracting antidumping duty is Sodium Nitrite. It is an oxidizing as well as a reducing agent. It is a white crystalline powder mostly used in pharmaceutical industries, dye industries, lubricants, construction chemicals, rubber blowing agent, heat transfer salts, meat processing etc. The major raw material for production of Sodium Nitrite is ammonia which is converted into nitrous oxide at high temperature in presence of catalyst. The nitrous oxide is further absorbed in Caustic Soda to get Sodium Nitrite. The product is odorless and soluble in water. The product is classified under custom sub-heading 2834.10 of the Custom Tariff Act, 1975. This being a sunset review investigation, the investigation covers the product covered in the original investigation only.

6. The investigations did not reveal any significant difference in the product being imported from subject country and goods being produced by the domestic industry. Sodium Nitrite produced by the domestic industry and imported from China is comparable in terms of characteristics such as physical & chemical properties, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Even though there are different manufacturing process/technologies involved for production of NO_x gas, the production process thereafter is similar. NO_x gas is produced by all producers from ammonia only and the end product has comparable specifications and is used interchangeably. Sodium Nitrite produced by the domestic industry is a like article to the goods imported from China in accordance with the anti-dumping Rules. Since, no argument has been extended, by any interested party, on the issue of product under consideration or like article, therefore, the Authority holds that the product being manufactured by the domestic industry and the product being manufactured and exported from the subject country are alike in all respects.

D. DOMESTIC INDUSTRY

7. The applicant M/s Deepak Nitrite Limited (DNL) claimed in its application that the production by them constituted a major proportion (74%) of the total Indian production. However, upon initiation of investigations, M/s Punjab Chemicals and Pharmaceuticals Limited (PCPL) and M/s National Fertilizers Limited (NFL) provided information relevant for determination of injury and offered themselves for verification. Based on the verified information, it was found that the production of the subject goods including the supporters was 96% of the domestic production and thus constitute the domestic industry.

E. DUMPING DETERMINATION

E.1 Views of the domestic industry

8. The domestic industry has submitted that China PR may be considered as a non-market economy country and the normal value may be determined as per para 7 of Annexure I of AD Rules. In this sunset review investigation since none of the exporters/producers from China PR has responded and filed any submission with regard to their claim of market economy treatment, the normal value may be determined for all exporters/producers from China as rules available for non-market economy country.

E.2. Examination by the Authority

9. The Designated Authority in an anti-dumping investigation proceeds with a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes 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 economic country as per para 8(2) of Annexure-I of AD Rules. In the instance case, China PR was proposed to be investigated as non-market economy. The applicant has claimed that in the past three years China PR has been treated as non-market economy country in the anti- dumping investigations by other WTO member countries namely European Commission and USA. With regard to treatment of China PR as a non-market economy by other WTO Members countries, the applicant has cited cases namely, in the matter of Ferro molybdenum, Steel ropes & cables, Hot rolled flat products of non alloy steel from China PR where European Commission has treated China PR as a non-market economy country.

10. The Authority sent MET and exporters questionnaires to the known exporters/producers for the purpose of determination of normal value in accordance with Section 9A (1)(C). None of the exporters/producers responded to the initiation notification and did not file any response either to the exporter's questionnaire or to the MET questionnaire. In view of the above, the determination of normal value in respect of China PR is to be carried out in accordance with the Rules relating to non-market economies as contained in Para 7 & 8 of Annexure-1 of Rules as amended.

11. In anti-dumping investigations concerning imports originating in China PR, normal value shall be determined in accordance with para 7 & 8 of Annexure I of the AD Rules. The Authority notes that para 7 of Annexure 1 of AD Rules provides that:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the 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.”

Further Para 8 of Annexure 1 of the AD Rules (as amended) provides that:

“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 purposes 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 economic country;

Provided, however, that the 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 the criteria specified in sub-paragraph (3).”

12. The Authority notes that none of the Chinese exporters/producers filed any information/evidence as mentioned in sub Para 3 of the Paragraph 8 of Annexure 1 of AD Rules to enable the Designated Authority to consider the following criteria as to whether;

- a. the decision 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;

13. The Authority, in view of non-cooperation of Chinese exporters/producers could not examine the claim of market economy status to any individual company and found

appropriate to determine the normal value as per para 7 of Annex-I of AD Rules treating China as a non market economy country. The Authority notes that the applicant did not provide information regarding the evidence of price or constructed normal value in a market economy third country. The information regarding the price from a market economy third country to other countries were also not made available. As regards the prices from market economy third country to India could not be adopted since majority of imports to India were either by China or transhipped subject goods of Chinese origin from third countries. Imports from Europe and Taiwan were found to be dumped and could not be considered representative for the purpose of considering the normal value as per para 7 of Annexure I. In view of the above, the Authority found appropriate to construct the normal value considering the cost of production in India, duly adjusted, reflecting the raw material prices and optimum conversion costs, selling, general administrative expenses and reasonable profit. The raw materials for manufacturing Sodium nitrite at the international price, the consumption norms of the domestic industry and reasonable profit have been considered for constructing the normal value for all exporters/producers of China PR. In view of this, the normal value in respect of China PR is determined as per Rules relating to non-market economies as contained in Para 7 of Annexure-1 of AD Rules. The normal value is therefore determined as US\$****/MT for all exporters/producers from China for the purpose of final determination.

E.3 EXPORT PRICE

14. The Authority notes that neither the exporters/producers nor importers/consumers have responded in this investigation. The Authority on the basis of transaction wise import statistics collected from DGCI&S determined the import volumes and export price for the subject goods from China. The adjustments claimed by the domestic industry with regard to inland freight, handling, insurance, overseas freight etc. have been considered to arrive at ex-factory export price to India. The Authority has determined the ex-factory export price as US\$ *****/MT of subject goods for all exporters/producers from China for the purpose of final determination.

E.4 DUMPING- MARGIN

15. The rules relating to comparison provides as follows:

“While arriving at margin of dumping, the Designated Authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical

characteristics, and any other differences which are demonstrated to affect price comparability.” The authority has carried out weighted average normal value comparison with the weighted average ex-factory export price during the POI for evaluation of the dumping margin for all the exporter/producers from China.

The dumping margin for exporter/producers comes as under:

Exporter/Producer	Normal Value (US\$/MT)	Export Price (US\$/MT)	Dumping margin as % of Export Price
All exporters/Producers	****	****	55.74%

The Dumping Margins so determined for all exporters/producers from China has been found to be significant and above de-minimis.

F. INJURY DETERMINATION

F.1 Cumulative Assessment of Injury

16. Since the dumped imports from China alone is being examined in this review investigation therefore, cumulative assessment of injury is not an issue in this case.

F.2 Continuation of Injury

F.2.1 Views of the domestic industry

17. The domestic industry argued that it continues to suffer material injury due to continued dumping from China even after imposition of the duties. Though the volume of imports decreased temporarily after imposition of duty, the volume went up once again during the POI due to intensified dumping.

18. The domestic industry has submitted that the alleged dumping of the subject goods was brought before the Authority and on examination of dumping causing injury to the domestic industry, anti-dumping duty was levied concerning imports of Sodium Nitrite from China PR in 2000. The subject goods were once again dumped from Taiwan and Europe and on investigation on alleged dumped imports causing injury to the domestic industry, the duties were levied concerning imports of Sodium Nitrite from above mentioned countries. The period of investigation in the second investigation was 2000-2001 which is the base year for this present sunset review investigation. They have further argued that the financial health of the domestic industry was improved but due to continued dumping from China and the transshipment of subject goods from number of other countries namely Thailand, Iran, Indonesia and Korea RP during 2002-2003 and 2003-2004, the financial situation of the domestic industry was deteriorated.

19. The domestic industry has submitted that while examining the injury determination, the Authority should also examine the previous history of injury due to the dumped imports from China PR, Taiwan and Europe. The domestic industry has argued to include the imports reported from Thailand, Iran, Indonesia and Korea RP as these countries do not have the production of subject goods and transshipped through the above mentioned countries of the Chinese goods.

F.2.2 Examination by the Authority

20. The Authority has taken note of various arguments raised by the domestic industry in its submissions and issue of continuation of injury to the domestic industry has been examined in the light of these arguments made before the Authority.

21. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authority is required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

22. For the purpose of injury analysis the Authority has examined the volume and price effects of dumped imports of 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 the dumping and injury, if any.

23. Since positive dumping margin has been established for the exports/producers from China, entire exports from China has been treated as dumped imports for the purpose of injury analysis and causal links examination.

VOLUME EFFECT: Volume Effect of dumped imports and Impact on domestic Industry

24. The effects of the volume of dumped imports from the subject country as well as imports from other countries have been examined as follows:

25. Import Volumes and share of subject country:

The domestic industry has submitted that transshipped imports may also be considered along with Chinese imports for the purpose of determination of import volumes since these countries are not the producers of the subject goods. Since the domestic industry also did not provide sufficient evidence for inclusion of transshipped imports from Thailand, Iran, Indonesia and Korea RP, the Authority considered appropriate to accept the transaction wise DGCI&S data for the purpose of import volumes determination for injury examination. The import figures of the product under consideration are as follows:

Quantity in MT

	2000-01	2001-02	2002-03	POI
	Qty	Qty	Qty	Qty
China	1287	2000	2202	3740
indexed	100	155	171	291
Imports from other countries attracting anti-dumping duty	1313	1095	822	926
indexed	100	83	63	71
Others	67	237	445	2362
indexed	100	387	693	3804
Total	2667	3332	3469	7028
Indexed	100	125	130	264
Demand	25627	26232	28022	30397
Indexed	100	102	109	119
Production	****	****	****	****
Indexed	100	92	105	101

Source: DGCI&S data

26. The Authority notes that the import volumes from China PR have increased during the POI. It has increased in absolute terms as well as in relative terms to production and consumption in India. The rate of increase in imports is much higher than the rate of increase in demand during the POI. The Authority also notes that the imports from China PR have increased during the POI in spite of anti-dumping duty in place. The import volumes have substantially increased during the POI both in absolute term and in relation to the total imports.

27. Demand, Output and Market shares

a) Production of the Domestic Industry

Quantity in MT

Particulars	2000-01	2001-02	2002-03	POI
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Capacity	****	****	****	****
Production	100	100	100	100
Indexed	****	****	****	****
Capacity Utilization(%)	100	92	105	101
Domestic sales	76.19	70.46	80.36	76.73
Indexed	****	****	****	****
Demand	100	101	108	103
Indexed	25627	26232	28022	30397
	100	102	109	119

The sales of domestic industry have marginally increased during the POI whereas the demand of the subject goods has increased by 19% during the same period. The production of the domestic industry has increased by 1% during the POI compared to the base year. Both production and sales increased considerably till 2002-2003 but declined during the POI. The capacity utilisation of the domestic industry increased during 2002-2003 but declined during the POI. The production data of the domestic industry reveals that the domestic industry has marginally improved its production compared to the base year though there is no capacity addition during this period.

28. Sales of Domestic Industry

Quantity in MT

Particulars	2000-01	2001-02	2002-03	POI
Sales (Domestic)	****	****	****	****
Indexed	100	99	107	101
Sales – (Exports)	****	****	****	****
Indexed	100	59	108	102
Captive	****	****	****	****
Indexed	100	110	93	89
Sales - Total	****	****	****	****
Indexed	100	101	107	101

The data above shows that though the production increased by 1% during the POI, the sales also increased by 1% both in the domestic and the export segments during the same period.

29. Demand and Market Share

Quantity in MT

Particulars	2000-01	2001-02	2002-03	POI
Domestic Demand	25627	26232	28022	30397
Indexed	100	102	109	119

Share in Demand(%)				
Domestic Industry	85.30	82.72	83.34	72.93
China	5.02	7.62	7.86	12.30
Countries attraction ADD	5.12	4.17	2.93	3.04
Other countries	0.26	0.91	1.59	7.77
Other producers	4.29	4.57	4.28	3.95

Total domestic demand of the subject goods increased substantially during the POI. The market share of domestic industry in demand has decreased and showing a declining trend, whereas the market share of dumped imports from China has increased substantially during the same corresponding period.

B. PRICE EFFECT OF THE DUMPED IMPORTS ON THE DOMESTIC INDUSTRY

30. The impact on the prices of the domestic industry on account of the dumped imports from China has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

31. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the domestic industry (worked out after normating the costing information of the domestic Industry) have been compared with the landed cost of imports from the subject country.

Price undercutting and underselling effects

Values in Rs/MT

Particulars		2000-01	2001-02	2002-03	POI
Cost of Production	Rs./MT	****	****	****	****
Trend	Indexed	100	103	90	97
Selling Price	Rs./MT	****	****	****	****
Trend	Indexed	100	115	119	118
Landed Value	Rs./MT				
Price under Cutting	Rs./MT				****
% Price undercutting					****
Non Injurious Price	Rs./MT				****
Price underselling	Rs./MT				****
Price underselling %	%				****

32. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from China over the entire period of investigation

with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the value reported in the DGCIS data of import prices from the subject country.

33. In determining 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 rebated.

34. For the purpose of price underselling determination the weighted average landed price of imports from China has been compared with the Non-injurious selling price of the domestic industry determined for the POI and cost of production for the remaining years.

35. The price undercutting and price underselling (without considering the antidumping duty in force) has been found to be significant.

F.4 Examination of other Injury Parameters

36. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analysed here as follows:

37. Productivity

Particulars	Unit	2000-01	2001-02	2002-03	POI
Productivity	MT/Day	****	****	****	****
Indexed		100	92	105	101
Productivity/employee	MT	****	****	****	****
Indexed		100	127	133	115
Productivity per Day - (Considering 350 days of production in a year)					

Productivity of the domestic industry has been measured in terms of its labour productivity of the output and it has been noticed that the productivity has improved because of increase in output and reduction in the workforce. The domestic industry has improved its productivity due to its policy of cost cutting measure and remain competitive. However, improved productivity has not resulted in commensurate profitability.

38. Profits and actual and potential effects on the cash flow

It is noted that the profitability of the domestic industry has improved due to imposition of anti-dumping duty in two anti dumping investigations but again declined during the POI and went in loss from a profit during 2002-2003. The domestic industry has argued that the imposition of anti dumping duty enabled them to improve its performance and earned profits during 2002-03 after having losses in earlier years due to dumped imports. Though total revenue and cash flow of the domestic industry from its domestic operations has improved during 2002-2003, the domestic industry continues to suffer loss during the investigation period. The industry has not been able to realize a fair price to recover its cost due to prevailing price level of dumped imports. The cash profit of the domestic industry has declined significantly over the years and became negative during the POI after positive cash flow during the 2002-2003 due to the dumped imports from China PR and other transshipped countries.

Particulars	Unit	2000-01	2001-02	2002-03	POI
Profits					
Cost of Production	Rs./MT	****	****	****	****
Indexed		100	103	90	97
Selling Price	Rs./MT	****	****	****	****
Indexed		100	115	119	118
Profit/Loss	Rs. MT	****	****	****	****
Indexed		-100	-63	1	-31
Total Profit/Loss	Rs. Lacs	****	****	****	****
Indexed		-100	-46	34	-12

39. Employment and wages

The employment level has declined over the injury period. But the expenses on account of salary and wages have increased due to the normal wage revision. The domestic industry improved its productivity even after wage revision due to their effort and cost curtailment measure. However, increase in the expenses towards salary and wage is in tandem with the increase in production during the comparable periods.

Particulars	Unit	2000-01	2001-02	2002-03	POI
Employment					
No. of Employee		****	****	****	****
Indexed		100	73	79	87
Wages	Rs./Lakhs	****	****	****	****
Indexed		100	70	88	94

40. Return on investment and ability to raise capital

The return on investment during 2002-2003 was having a positive return on capital employed which became negative during the POI due to the dumped imports of subject goods from China PR. The domestic industry has argued that due to the imposition of anti-dumping duty the return on capital employed was improved upto 2002-2003 and again deteriorated during the POI.

Particulars	Unit	2000-01	2001-02	2002-03	POI
Return on Investments					
Gross Block	Rs/Lacs	****	****	****	****
Working Capital	Rs./Lacs	****	****	****	****
Capital Employed (total)	Rs./Lacs	****	****	****	****
Capital Employed Domestic	Rs./Lacs	****	****	****	****
Profit / Loss - Domestic Sales	Rs./Lacs	****	****	****	****
Return on Capital Employed	%	****	****	****	****
Trend	Indexed	-100	-49	40	-13

41. Investment

There has been no capacity addition or any fresh investment by the applicants during the investigation period.

42. Magnitude of Dumping

Magnitude of dumping as an indicator of the extent to which the dumped imports can injure the domestic industry shows that the dumping margin determined against China for the POI, is substantial, even when the antidumping duty is in force.

43. Factors affecting prices

Change in cost structure if any, competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors other than dumped imports that might be affecting the prices in the domestic market. There is no viable substitute to this product. Therefore, the dumped import prices appear to affect the prices of the domestic industry.

44. Inventories

Particulars	Unit	2000-01	2001-02	2002-03	POI
Inventories	MT	1199	454	475	664
Indexed		100	38	40	55

The domestic industry has been able to liquidate inventories with the imposition of anti dumping duty. However, the exports of the domestic industry rather than its domestic sales appear to have helped the domestic industry in inventory liquidation.

45. The examination of the above economic parameters indicate that though the domestic industry has improved its performance in several parameters including output and sale volumes, this has not translated into improvement in its profitability and the industry still suffers loss during the POI. Therefore, the Authority concludes that the domestic industry continues to suffer material injury.

F.5 Other Known factors and Causal Link

i) Volume and prices of imports from other sources

46. Imports from other sources are either transshipped imports or at higher prices or di-minimis volume or such imports attracting anti-dumping duty. Therefore, these imports do not appear to have significant effect on the domestic industry, both in terms of volume and value. Therefore, volume and prices of imports from China appear to have more adverse effect on the domestic prices, significantly contributing to the current injury of the domestic industry than the imports from any other sources.

ii) Contraction in demand and / or change in pattern of consumption

47. Total domestic demand of the product under consideration, after declining in 2001-2002 has increased substantially during the POI. The market share of domestic industry in total demand has declined from 100 during 2000-2001 to 86 during the POI whereas the market share of dumped imports from China has increased from 100 to 245 during the same corresponding period. There is no significant change in consumption pattern of the product in the domestic market, which can be attributed to the injury to the domestic industry.

iii) Trade restrictive practices of and competition between the foreign and domestic producers

48. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. The performance of the domestic industry is directly linked to dumped imports in the market and no evidence regarding unfair competition between Indian producers was brought before the Authority. Therefore, the current injury to the domestic industry cannot be attributed to trade restrictive practices or competition between foreign and domestic producers.

iv) Development of technology and export performance

49. The technology for the production process of the subject goods has not undergone any significant development. Therefore, development of technology or inefficient method of production of the domestic industry cannot be treated as a cause of injury to the domestic industry. The export performance of the domestic industry was improved during the POI, therefore, possible deterioration in the export performance of the domestic industry could not be a cause of injury to the domestic industry.

v) Productivity of the Domestic Industry

50. Productivity of the domestic industry in terms of labour output and daily output has shown improvement. Therefore, productivity is not a factor which can be attributed to the injury of the domestic industry. In fact domestic industry has tried to reduce its losses in its domestic operation through improvement in productivity.

51. The above analysis of injury parameters and examination of non-attribution factors indicate that though there is improvement in several parameters in the performance of the domestic industry still they do continue to suffer material injury in terms of loss in market share, drop in profitability, cash loss, and price undercutting due to the dumped imports from the subject country.

F.6 Determination of Non-injurious Price of the Domestic Industry

52. Non-injurious Price for the subject goods has been worked out after a detailed analysis and scrutiny of information provided by the domestic industry. Weighted average Non-injurious price for the domestic industry has been determined by the Authority as Rs.22307/ Kg.

F.7 Magnitude of Injury and injury margin

53. The non-injurious price determined by the Authority has been compared with the weighted average landed value of the exports from the subject country for determination of injury margin and the injury margins have been worked out to be positive.

G. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

54. The Authority has already established that dumping is continuing from China in spite of the antidumping duty in force and the domestic industry continues to suffer material injury due to such dumped imports. Therefore, examination of the likelihood of recurrence of dumping and injury is not required. However, the Authority has

examined the likelihood of continuation of dumping and injury in the event of withdrawal or variation in the duty.

55. The domestic industry has argued that the current state of the condition of the domestic industry is not the material fact for a review of this nature. They have submitted that the Authority is required to examine the likelihood of continuation or recurrence of dumping and injury to arrive at a decision to continue or vary or remove the duty so as to offset dumping. The domestic industry in its submission has quoted the law and practices and standards of reviews in several countries to highlight the fact that determination of likelihood of 'continuation or recurrence of dumping and injury' is vital in a review investigation. They have inter alia submitted:

- i. That the Chinese exporters are still dumping material in the Indian market.
- ii. That domestic industry is suffering continued injury due to dumped import from subject country and should the anti dumping duty be revoked, the injury to the domestic industry would recur or intensify.
- iii. That export price and landed price of imports from China has not materially changed over the years. In fact, it may have, at best, further declined in US \$ term after imposition of anti dumping duty;
- iv. That volume of dumped imports from subject country continued to increase even after the anti dumping duty in force. This clearly shows that the Chinese exporters could not sell in the Indian market without resorting to dumping. As regards subsequent increase in the import volumes, domestic industry understands and submits that large scale imports are being made taking undue advantage of duty free import exemptions granted by the Govt. of India and transshipment of subject goods are taking place;
- v. That the Chinese producers are holding significant surplus capacities and the demand in China is significantly below the capacities created by them. The available information provided by the domestic industry suggests that total Chinese production capacity for the product concerned is around 4,50,000 MT per year and the current Chinese production volume is only around 130, 000 MT. This estimation is based on the Chinese worldwide export volume given by the trade statistics (around 37,240 MT/year), and on a domestic consumption estimated at roughly just triple to the Indian consumption (around 92,000 MT/year). On this basis, the Chinese capacity utilisation rate is below 30% and the spare capacity is many times the Indian consumption. Consequently, the large production capacity available in China can result in these producers quickly increasing production and exporting the same in Indian market, in the event of possible revocation of anti dumping duty. It has been argued that China's production of over 1,30,000 Tonnes per year of the subject goods is far in excess of its domestic consumption and therefore, they have to

be necessarily exported. Therefore, there is a great possibility that revocation of duty would lead to surge in imports and severe injury to the domestic industry.

56. The Authority has examined all these arguments. None of the interested parties except the domestic industry cooperated in this investigation therefore Authority is constrained to analyse the parameters of the likelihood based on the information provided by the domestic industry. As per the website information filed by the domestic industry, the Chinese producers are having the production capacity to the tune of 450000 MT per year and the yearly production is estimated to be around 130000 MT. The domestic industry has also stated that the estimated domestic consumption is around 92000 MT per annum, therefore they have huge surplus capacity available in event of possible revocation of anti-dumping duty. Available information relating to exports of Sodium Nitrite from China to other countries suggests that exporters/producers from China are dumping sodium nitrite in the other countries also, therefore, revocation of duty would most likely lead to continuation of dumping.

57. The Authority notes that dumping is continuing in spite of the fact that duty is in force against China, and import volumes have considerably increased. Considering the extent of dumping margin and the volume of current imports as well as the volume of exports of Chinese exporters to other countries, the Authority holds that dumping may continue to occur if the duties are withdrawn.

58. As far as continuation or recurrence of injury to the domestic industry is concerned the Authority has examined the price levels at which the goods are entering into the Indian market from the subject country in spite of the duty in place. There is significant price undercutting and underselling by the Chinese exporters while the landed value of current imports without antidumping duty is compared with the net sales realization and non-injurious price of the domestic industry. There is no indication or argument from any interested parties that the price structure of imports from the subject country will change once the duty is revoked. On the contrary looking at the available surplus capacity and demand supply position in China, there is every likelihood that the price level may further depress causing further injury to the domestic industry, if the duty is revoked.

I. CONCLUSIONS

59. After examining the submissions made by the domestic industry and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the state of current dumping and injury and likelihood of continuation or recurrence of dumping and injury the authority concludes that:

- i. The subject goods have entered from China PR at less than its normal value and the dumping margin of the subject goods imported from China are substantial and above de minimis level;
- ii. There is also a likelihood of dumping to continue or recur from China if the anti dumping duty is revoked;
- iii. The domestic industry continues to suffer material injury at present and the cause of the current injury is due to the volume as well as price effect of the dumped imports from China PR;
- iv. Injury to domestic industry is likely to continue if the duties are revoked in respect of imports from China PR.
- v. Therefore, continued imposition of the antidumping duty is warranted against goods originating in or exported from China to offset dumping.
- vi. However, re-export or transshipment of goods of Chinese origin, if any will be adequately covered under the duty imposed against China.

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

60. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

K. RECOMMENDATIONS

61. In view of positive determination of continuation of dumping, injury and causal links as well as likelihood of continuation of dumping and injury on account of imports from China PR, the Authority is of the opinion that continuation of the measure is required concerning imports of subject goods from China. However, considering the current level of dumping from China and injury suffered by the domestic industry, the Authority is of the opinion that the measure in force needs to be revised. Therefore, Authority considers it necessary and recommends continuation of anti-dumping duty on imports of subject goods from Peoples Republic of China in the form and manner described hereunder.

62. Having regard to the lesser duty rule followed by the authority, the Authority recommends continued imposition of definitive anti-dumping duty on imports of the subject goods originating in or exported from China PR, equal to lower of margin of dumping and the margin of injury, so as to offset dumping and remove the injury to the domestic industry. The Authority notes that the duty in the original investigation

was imposed on reference price basis therefore, the Authority considers it appropriate to impose the antidumping duty on reference price basis and accordingly, recommends imposition of definitive antidumping duty as difference between duty indicated in Col 9 of the table below and the landed value, to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from China.

L. FURTHER PROCEDURES

63. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

64. The Authority may review the need for continuation, modification or termination of the definitive measure as recommended herein from time to time as per the relevant provisions of the Act and public notices issued in this respect from time to time. The Authority shall entertain no request for such a review unless an interested party within the time limit stipulated for this purpose files the same.

Duty Table

SI.No	Sub Heading or Tariff Item	Description of Goods	Specification	Country of origin	Country of Export	Producer	Exporter	Duty Amount	Unit of Measurement	Currency
1.	2841.61	Sodium Nitrite	All Grades	China	Any	Any	Any	481	MT	US\$
2.	2841.61	Sodium Nitrite	All Grades	Any	China	Any	Any	481	MT	US\$

Christy Fernandez
(Designated Authority)