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F. No. 6/36/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi -110001

Dated: 7th January, 2021

NOTIFICATION

FINAL FINDINGS

Case No. ADD - OI - 32/2019

Subject: Anti-dumping investigation concerning imports of "Ciprofloxacin Hydrochloride" originating in or exported from China PR.

F. No. 6/36/2019-DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as "the Rules" or "the AD Rules") thereof:

A. BACKGROUND OF THE CASE

1. The Designated Authority (hereinafter referred to as "Authority") received an application through TPM Consultants, from M/s Aarti Drugs Ltd. (hereinafter also referred to as "the Applicant" or "petitioners")) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as "the Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as "the Rules") for imposition of anti-dumping duty on imports of "Ciprofloxacin Hydrochloride" or "Ciprofloxacin HCL" (hereinafter also referred to as "the product under consideration" or "PUC" or "subject goods") from People's Republic of China (hereinafter also referred to as the "subject country"). M/s Godavari Drugs Limited, another domestic producer of the subject goods, supported the application filed by the Applicant.

2. The Authority, on the basis of sufficient prima-facie evidence submitted by the Applicant, issued a public notice vide Notification No. 6/36/2019- DGTR dated 10th January 2020, published in the Gazette of India, initiating the subject investigation in accordance with Rule 5 of the Rules to determine existence, degree and effect of the alleged dumping of the subject goods,

originating in or exported from the China PR, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the Domestic Industry.

3. The Authority having regard to the Act and the Rules, considered it appropriate to recommend interim duties and issued preliminary finding vide Notification No. 6/36/2019- DGTR dated 15th June 2020, recommending imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from China PR. Accordingly, the Central Government vide Notification No.28/2020-Customs(ADD) dated 2nd September 2020 imposed provisional anti-dumping duties on imports of the subject goods, originating in or exported from the China PR which are valid for 6 months.

B. PROCEDURE

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

a. The Authority notified the Embassy of the Subject Country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.

b. The Authority issued a public notice dated 10th January 2020, published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods from subject country.

c. The Embassy of subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules. The Authority sent a copy of the initiation notification to the Government of the subject country, through its Embassy in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Applicant and requested them to make their views known in writing within the prescribed time limit.

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

e. The Authority also forwarded copy of the notice to known producers/ exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the Applicant and requested them to make their views known in writing within 30 days of the initiation notification. The Authority sent Exporter's Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:

   i. M/s Zhejiang Guobang Pharmaceutical Co. Ltd
   ii. M/s Zhejiang Jingxin Pharmaceutical Imp
   iii. M/s Zhejiang Langhua Pharmaceutical Co Ltd.

f. The Embassy of the subject country in India was also requested to advise the exporters/producers

from China PR to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.

g. In response to the initiation of the subject investigation, the following exporters/producers from the subject country filed exporter's questionnaire response:

i. M/s Zhejiang Langhua Pharmaceutical Co Ltd
ii. M/s Zhejiang Guobang Pharmaceutical Co Ltd
iii. M/s Zhejiang Jingxin Pharmaceutical Import & Export Co Ltd
iv. M/s Shangyu Jingxin Pharmaceuticals Co Ltd

h. The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

i. M/s Pharma Zone
ii. M/s Shalina Laboratories Pvt Ltd
iii. M/s Minerva Biogenix Pvt. Ltd.
iv. M/s Pinnacle Life Science Private Limited
v. M/s Laborate Pharmaceutical India Limited
vi. M/s Sneha Medicare Pvt Ltd
vii. M/s Africure Pharmaceuticals (India) Private Limited
viii. M/s Del Trade International Private Limited
ix. M/s Sevantilal & Sons
x. M/s Bal Pharma Limited
xi. M/s Pratistha Pharma
xii. M/s Granules India Limited
xiii. M/s C J Shah And Co
xiv. M/s Medico Remedies Limited
xv. M/s Aurobindo Pharma Limited
xvi. M/s Cadila Pharmaceuticals Ltd.
xvii. M/s Flamingo Pharmaceuticals Ltd.,
xviii. M/s Prashi Pharma Private Limited
xix. M/s Syncom Formulations (India)Limited.
xx. M/s Micro Labs Ltd
xxi. M/s Mancare Pharmaceuticals Pvt. Ltd.
xxii. M/s Gorang International
xxiii. M/s Granules India Limited
xxiv. M/s Brawn Laboratories Ltd
xxv. M/s Theon Pharmaceuticals Ltd.
xxvi. M/s Agog Pharma Ltd.
xxvii. M/s Aquatic Remedies Limited
xxviii. M/s Medopharm
xxix. M/s Umedica Laboratories Pvt. Ltd.

i. None of the importers/users except M/s Micro labs Limited has responded and filed importer's

questionnaire response.

j. The Authority sent notice of initiation to the following other domestic producers, intimating them of the initiation of investigation with a request to provide relevant information to the Authority in the form and manner prescribed:

i. M/s Aurobindo Pharma Limited
ii. M/s Dr. Reddy's Laboratories Ltd.
iii. M/s Neuland Laboratories Limited
iv. M/s Emmennar Pharma Private Limited
v. M/s Sreepathi Pharmaceuticals Limited
vi. M/s Sun Pharmaceutical Industries Ltd.

k. None of the other domestic producers have responded or participated in the present investigation.

l. The Authority made available non-confidential version of the evidence presented/submissions made by various interested parties in the form of a public file kept open for inspection by the interested parties. Submissions made by all the interested parties to the extent considered relevant at this stage have been taken into account in these final findings.

m. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and its analysis after due examination of the transactions.

n. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

o. Due to the worldwide outbreak of COVID-19 and consequent restrictions imposed by different countries, including India, the physical inspection through on-spot verification of the information was not carried out by the Authority. Desk Verification of the information provided by the applicant/producers/ exporters, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, to the extent deemed necessary, has been relied upon for the purpose of these final findings.

p. Other submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in these final findings.

q. The Period of Investigation for the purpose of the present anti-dumping investigation is from April 2018 – June 2019 (15 months). The examination of trends in the context of injury analysis covered the periods April 2015- March 2016, April 2016-March 2017, April 2017-March 2018 and the POI.

r. Due to the worldwide outbreak of COVID-19 and consequent restrictions imposed by different countries, including India, the Authority in accordance with Rule 6(6) of the AD Rules and Trade Notice No. 01/2020 dated 10th April 2020, conducted oral hearings through video conferencing on 19th October 2020 to provide an opportunity to the interested parties to present relevant information orally before the then Designated Authority in office.

s. All the parties who had attended the above mentioned oral hearings were advised to file written submissions of the views expressed orally, followed by rejoinders, if any. The arguments made in such written submissions and rejoinders received from the interested parties have been considered, to the extent deemed necessary, for the purpose of these final findings.

t. The submissions made by the interested parties during the course of this investigation, including in response to the Preliminary Findings, wherever found relevant, have been addressed by the Authority, in these Final findings.

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

v. The Authority has considered the arguments raised and information provided by all the interested parties till this stage, to the extent the same are supported with evidence and considered relevant to the present investigation.

w. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.

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

y. The exchange rate for the POI has been taken by the Authority as US$1 = 70.73

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

"The product under consideration is "Ciprofloxacin Hydrochloride" or "Ciprofloxacin HCL".

Ciprofloxacin Hydrochloride is used to treat different types of bacterial infections, including skin infections, bone and joint infections, respiratory or sinus infections, urinary tract infections, and certain types of diarrhoea. It acts as anti-infective agent, a topoisomerase IV inhibitor, an antibacterial drug, an EC 5.99.1.3 [DNA topoisomerase (ATP-hydrolysing)] inhibitor, a DNA synthesis inhibitor, an antimicrobial agent, an environmental contaminant and a xenobiotic.

The product under consideration is classified under Chapter 29 of the Customs Tariff Act in the name of 'Ciprofloxacin HCL and its salts' (subheading 29419030). The Custom classification is indicative only and not binding on the scope of the investigation."

C.1 Views of the domestic industry

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

a. The product under consideration (PUC) is Ciprofloxacin HCL, a quinolone that is quinolin-4(1H)-one bearing cyclopropyl, carboxylic acid, fluoro and piperazin-1-yl substituents at positions 1, 3, 6 and 7, respectively.
b. The prescribed unit of measurement for the product under consideration is weight in Kg/ MT
c. Ciprofloxacin HCL is classified under Chapter 29 of the Customs Tariff Act in the name of 'Ciprofloxacin HCL and its salts'. The dedicated code for Ciprofloxacin and its salts is 29419030. However, the customs classification is only indicative and is not binding on the scope of the present investigations.
d. The goods produced by the Applicant are like article to the imported goods as they are comparable in terms of chemical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable.
e. There is no known significant difference in the technology employed by the domestic industry and the producers in subject country.

C.2 Views of the other interested parties

7. None of the other interested parties has made any submission with regard to PUC.

C.3 Examination by the Authority

8. The product under consideration, as defined in the notice of initiation, is "Ciprofloxacin Hydrochloride" or "Ciprofloxacin HCL". Ciprofloxacin Hydrochloride is used to treat different types of bacterial infections, including skin infections, bone and joint infections, respiratory or sinus infections, urinary tract infections, and certain types of diarrhoea. It acts as anti-infective agent, a topoisomerase IV inhibitor, an antibacterial drug, an EC 5.99.1.3 [DNA topoisomerase (ATP-hydrolysing)] inhibitor, a DNA synthesis inhibitor, an antimicrobial agent, an environmental contaminant and a xenobiotic.

9. The product under consideration is classified under Chapter 29 of the Customs Tariff Act under the tariff code 29419030, in the name of 'Ciprofloxacin HCL and its salts'. The Customs classification is indicative only and not binding on the scope of the investigation.

10. None of the interested parties have made any submissions for modification of the scope of product under consideration post initiation of investigation. Accordingly, the Authority has considered the product under consideration, as defined in the notice of initiation, for the purpose of the present final findings.

11. The Applicant claimed that the Ciprofloxacin HCL produced by it and that imported from the subject country are produced using the same basic raw materials having broadly similar manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The contention of the Applicant has not been disputed by the other interested parties. The Authority holds that the product produced by the domestic industry are like article to the product under consideration imported from subject country in terms of Rule 2(d) of the Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Views of the domestic industry

12. Following are the submissions made by the Applicant with regard to scope of the domestic industry and standing:

a. The application has been filed by M/s Aarti Drugs Ltd. and supported by M/s Godavari Drugs Limited, another producer of the product under consideration.

b. There are six more known domestic producers of the product under consideration, namely,
   i. M/s Aurobindo Pharma Limited,
   ii. M/s Dr. Reddy's Laboratories Ltd.,
   iii. M/s Neuland Laboratories Limited,
   iv. M/s Emmennar Pharma Private Limited,
   v. M/s Sreepathi Pharmaceuticals Limited and
   vi. M/s Sun Pharmaceutical Industries Ltd.

c. The Applicant is neither related to an importer in India nor an exporter from the subject country, and has not imported the product under consideration from the subject country.

d. The Applicant holds a major proportion of total domestic production of the subject goods in India and thus, constitutes domestic industry.

e. The applicant has assessed the production of the other producers based on market intelligence as there is no published information available. The Authority sent a communication to other domestic producers advising them to file information in the form and manner prescribed concerning injury determination. However, none of the other domestic producers have filed complete injury information. The evidence submitted on the record and verified by the Authority, shows that the Applicant commands a major proportion and the applicant, along with the supporter, accounts for more than 50% of the total production of the subject goods in India. None of the other producers have disputed the above facts.

f. The applicant was never against calling information from other domestic producers to assess the total Indian production and the standing of the domestic industry. However, if other domestic producers have not cooperated with the Authority, the domestic industry cannot be penalised for the same.

g. The Authority has recorded the preliminary findings on the basis of information of applicant and since injury to the domestic industry is not based on data of the supporting domestic producer, the possibility that such domestic producer may not have provided information as per format does not vitiate the determination.

D.2. Views of the other interested parties

13. Following are the submissions made by the other interested parties with regard to scope of the domestic industry and standing:

a. No proof or any evidence is given to support the actual percentage of production of all other producers, and that Neuland's Laboratories Limited and M/s Dr. Reddy's Laboratories Ltd have only produced to export. As per the Annual Report, these two producers sell more than 30% of their production in the Domestic Market.

D.3 Examination by the Authority

14. Rule 2(b) of the Rules defines domestic industry as under:

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

15. The application has been filed by M/s Aarti Drugs Ltd. The Applicant is not related to any importer or exporter of subject goods in the subject country, nor have they imported subject goods from subject country. The Applicant is the largest producer of the subject goods in the country. Further, the application filed by the Applicant was supported by M/s Godavari Drugs Ltd., another domestic producer of the subject goods. Apart from the Applicant and supporter, following are the other Indian producers of the subject goods in India:
    i. M/s. Aurobindo Pharma Limited
    ii. M/s Dr. Reddy's Laboratories Ltd.
    iii. M/s Neuland Laboratories Limited
    iv. M/s Emmennar Pharma Private Limited
    v. M/s Sreepathi Pharmaceuticals Limited
    vi. M/s. Sun Pharmaceutical Industries Ltd.
16. At the stage of initiation and thereafter, the Authority sent a communication to other domestic producers advising them to file information in the form and manner prescribed with regard to injury determination. However, none of other domestic producers have filed complete injury information in the prescribed format.

17. As regards the submission that no evidence has been provided to support the actual production of non-petitioning other producers, the Authority notes that none of the interested parties have provided evidence contrary to evidence presented by the applicant. Some interested parties relied upon the annual report of Neuland's Laboratories Limited and M/s Dr. Reddy's Laboratories Ltd and contended that these companies sell more than 30% of their production in the Domestic Market. It is however noted the annual report of these companies show segment analysis of the company's turnover and is not specific to the product under consideration.

18. The evidence on record shows that the Applicant commands a major proportion (43%) in the total domestic production in India. Further, the Applicant, along with the supporter, account for more than 50% of the total production of the subject goods in India. Accordingly, the Authority holds that the Applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1 Views of the domestic industry

19. The following submissions have been made by the domestic industry with regard to confidentiality:

a. Applicant has disclosed all the essential information in the non-confidential version of the application in accordance with Rule 7 of the Rules and as per Trade Notice No. 10/2018 dated 7th September 2018.

b. Indexed information has been provided wherever possible. The injury analysis is essentially an analysis of trend which can be easily seen through trends of various parameters provided in the application.

c. The non-confidential version of the response filed by the other interested parties is grossly deficient and should be rejected.

d. Zhejiang Langhua Pharmaceutical Co Ltd has claimed excessive confidentiality with regard to shareholding structure, production process, full value chain, and production facilities. It has failed to disclose details of its related parties and procurement of raw materials.

e. Zhejiang Langhua has claimed product list and corporate structure as confidential, even though the same is available in public domain.

f. Shengyu Jingxin Pharmaceutical Co Ltd has claimed excessive confidentiality with regard to the working of the company itself, the holding company and its activity, and other related companies engaged in production of the subject goods. Further, it has not provided details of its shareholding structure, channel of distribution, product list, raw material procurement, product description and production process.

g. Zhejiang Jingxin Pharmaceuticals Export and Import Co Ltd (Trader) has claimed excessive confidentiality with regard to its shareholding structure, sales flow chart, and its related company(ies) engaged in the production of the subject goods.

h. Supporting producers have neither provided relevant information to the applicant nor the applicant has authority to force them as they have not authorized the applicant to disclose even indexed data. Indexed data also carries significant information.

i. NIP is a highly business-sensitive information and cannot be disclosed on an actual basis or even in a range. The Authority also does not disclose NIP or normal value or export price even in a range. The interested party is assuming that the Authority proceeds blindfold.

j. The applicant has already submitted the non-confidential version of DGCI&S Transaction wise import data vide letter dated 7th February 2020.

k. The NCV application mentions that balance sheets of the applicant can be seen on the companies' website. Quality Policy, Sales Policy, of the applicant is highly business-sensitive information, disclosure of which would be of significant competitive advantage to the competitors.

E.2. Views of the other interested parties

20. The following submissions have been made by other interested parties with regard to confidentiality:

a. The standard provided for the disclosure of the 'Non-Injurious Price' in Trade Notice 10/2018

dated 7th September, 2018 is 'Aggregated actual data must be provided in actual figure range +/- 10%'. The same has not been complied with by the domestic industry and the domestic industry has also not shown any good cause for such confidentiality. It seems that the NIP may have been deliberately concealed since the import price of the subject imports is higher than the non-injurious price.

b. Godavari Drugs Limited is a supporting domestic producer in the subject investigation. Trade Notice No. 13/2018 dated 27th September 2018 states the information required to be provided by supporting domestic producers and the prescribed formats for the same. Trade Notice 14/2018 dated 1st October 2018 provides guidelines for disclosure of such information in confidential and non-confidential version. The requirements of neither of the trade notices have been complied with. The supporting domestic producer has provided no relevant information to the Respondent.
c. The Petitioner has violated the provisions of confidentiality as per Rule 6 and & of the AD Agreement and Trade notices 10 of 2018, 13 of 2018 and 14 of 2018.
d. The Petitioner has not provided Transaction wise import data in excel format to the Respondent as per the recent ruling of Hon'ble CESTAT in Exotic Decor Pvt Ltd. Versus Designated Authority dated 12th June 2020.
e. The Annual reports, Quality Policy, Sales Policy, of the Petitioner and the supporting Industry as confidential. The Authority has violated Article 6.5 of the AD Agreement. Reliance placed on Panel Report in EC – Fasteners (China)
f. The Respondent has the right to know the calculation done by the Authority for determining the NIP and injury margin as it will have an impact on the margin of the Exporters and requests to provide a non- confidential summary of the same.

E.3 Examination by the Authority

21. Various submissions made by the Applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined and addressed as follows.

22. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

23. As regards information from supporting producers, the Authority has recorded present findings on the basis of information of Applicant domestic industry and has not taken into account the support to the petition. Since injury to the domestic industry is not based on data of the supporting domestic producer, the possibility that such domestic producer may not have provided all information strictly as per format does not vitiate the present determination and right of the Applicant domestic industry. The Authority has prescribed a format for supporting companies only with a view to analyse the performance of such supporting domestic producers. In a situation where supporting domestic producers have not provided information in the prescribed formats, the Authority has not examined possible injury to such other domestic producers. However, the right of Applicant with respect to "standing" within the meaning of Rule 5(3) cannot be diluted even if the supporting domestic producers merely support the

petition without providing any information whatsoever.

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

> *"Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule12,sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
>
> *(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*
>
> *(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information."*

25. As regards the contentions with regard to confidentiality of information, it is noted that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice.

26. As regards the contention that excel file of transaction-by-transaction imports were claimed confidential by the domestic industry, the procedure for sharing and procuring import data has been laid down in the Trade Notice 07/2018 dated 15th March 2018. It provides that (i) the sorted import data relied upon by the domestic industry can be shared in hard copy & (ii) interested parties can seek authorization from the Authority for seeking raw transaction by transaction import data from DGCI&S. Hard copy of the sorted import data was made accessible to the interested parties based upon declaration/undertaking as per prescribed format. The interested parties who requested for procurement of import data from DGCI&S and provided undertaking as per Trade Notice 07/2018 were also granted authorization to obtain import data in excel file from DGCI&S. The Authority thus notes that the procedure now being applied is

consistent, uniform across parties and investigations and provides adequate opportunity to the interested parties to defend their interests.

F. MISCELLANEOUS SUBMISSIONS

F.1. Views of the domestic industry

27. Following are the submissions made by the Applicant with regard to scope of the miscellaneous submissions:

a. There is a gap of only 6 months and 10 days and not 7 months as mischievously alleged by the exporter. The domestic industry has submitted the application five months from the date of ending of POI in terms of the Trade Notice No. 15/2018 dated 22nd November 2018. Thus, the petition was timely filed.

b. The time limits prescribed in the manual are only internal guidelines and not statutory deadlines which the Authority may waive, and the right of waiver is mentioned in the disclaimer to the manual

c. The recent amendment to the AD Rules made vide Notification No. 9/2020- Customs (NT) dated 2 February 2020 came after the initiation of investigation and any amendment cannot be imposed retrospectively unless it is specifically provided.

F.2 Views of the other interested parties

28. Following are the submissions made by the Applicant with regard to scope of the domestic industry and standing:

a. There is a gap of 7 months between the date of initiation and the end of period of investigation. It is an established principle, as per manual and the recent amendment to the AD Rules made vide Notification No. 9/2020- Customs (NT) dated 2 February 2020, that the period of investigation cannot be older than 6 months on the date of initiation. It is submitted that such an outdated period of investigation will not be able to reveal the true picture of the market and will lead to skewed results.

F.3 Examination by the Authority

29. As regards submissions concerning the length of POI or its proximity to date of initiation, the Authority notes that the POI chosen for the case is consistent with the legal position at the time of initiation and the practice being followed by the Authority. While it may be desirable to minimise the time gap between end of the POI and date of initiation in order to keep date of initiation as proximate as possible to the end of the POI, the Authority notes that there was no legal provision proscribing initiation of an investigation if the POI was older than six months on the date of initiation. The application was filed by the applicant within the time limits prescribed by the Authority and therefore the Authority was required to consider the same within the framework of legal provisions prevailing at the time of initiation.

30. It is further noted that the Rules have been amended vide Notification No. 9/2020- customs (N.T.) dated 2nd February 2020 wherein Rule 2 (da) and Explanation to Rule 22 have been

inserted, incorporating the following provisions:

"The POI shall:-

(i) not be more than six months old as on the date of initiation of investigation.

(ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months."

31. It is, however, noted that the above amendment has been carried out after the initiation of the present investigation.

32. With regard to 15 months POI taken by the Authority in this investigation, it is noted that the application in the instant case was filed on 3rd December, 2019. The Authority considers that the investigation period should normally be 12 months period. The Authority can however consider a period longer than 12 months (15 or 18 months), if it is found that such longer period also includes a complete accounting year, and there are no peculiar facts showing that fixation of a longer period of 15 or 18 months as the investigation period would be inappropriate. Considering all aspects, the Authority considered it appropriate to have the POI of 15 months.

G. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN

33. Under Section 9A(l)(c) of the Act, normal value in relation to an article means:

(i) the comparable price, in the ordinary course of trade, for the like article when 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 or an appropriate third country as determined in accordance with the rules made under sub-section (6); or the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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

G.1 Views of the domestic industry

34. The following submissions have been made by the Applicant with respect to determination of normal value, export price and dumping margin:

a. China PR should be considered as a non-market economy, in line with the position taken by the

Authority in previous cases, and by investigating authorities in other countries.

b. The cost and price of the Chinese producers cannot be relied upon for determination of normal value, and accordingly, the normal value should be determined in accordance with the provisions of para 7 of Annexure I of the Rules.

c. The subject goods are produced mainly in China PR and India. Normal value could not be determined based on price or constructed value in a market economy third country. The Applicant has determined the normal value of subject goods based on cost of production of the subject goods in India with addition of administrative & selling expenses and a reasonable amount of profit.

d. The dumping margins determined in the preliminary findings are understated. The responding exporters should be treated as non-cooperative and accordingly allowed the highest margin determined for the non-cooperative exporters. The impact of dumping on the domestic industry is significant.

e. The Chinese producers have not even filed a MET questionnaire and the responding producers/exporters are not entitled to be accorded individual normal value as they have not established that normal value can be determined based on their own data.

f. The Authority can only consider their data for export price determination, that too if the same is complete in all respect. The applicant requests the Authority to re-examine and determine the export price for each of the responding exporters.

g. The normal Value has been constructed based on the cost of production of the domestic industry which is highly business-sensitive information, disclosure of which would be of significant competitive advantage to the competitors and consumers and would seriously impact the interest of the applicant.

h. Chinese producers are practicing dumping all over the world and the Authority may direct them to provide full invoice-wise details of exports to the rest of the world and determine the dumping margin in third country exports.

G.2. Views of the other interested parties

35. The following submissions have been made by the Applicant with respect to determination of normal value, export price and dumping margin:

a. The dumping margin should be determined based on the data provided by the respondent

b. The analysis of the treatment of each cost element in the computation of normal value should be provided for computation of dumping margin. This is against the provisions of transparency in AD law.

c. The Normal value calculated by the Authority is unreliable as the Authority should have first utilized the first two methods before constructing the Normal Value. Reliance placed on Hon'ble Supreme Court decision in Shenyang Matsushita S. Battery Co. Ltd. v. Exide Industries Ltd. and others, (2005) 3 SCC 39 and anti-dumping cases of European Commission against China PR.

36. None of the interested parties has made any submission with regard to MET Claim. It has been submitted that the export price, landed value and dumping margin should be determined on the basis of the actual data in the exporter's questionnaire response submitted to the Authority.

G.3 Examination by the Authority

G.3.1 Determination of normal value and export price

Market economy status for Chinese Producers

37. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

"(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;
(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event; the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or

sector."

38. It is noted that while, the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since none of the responding producers and the exporters from China PR have submitted supplementary questionnaire response, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.

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

Determination of Normal Value for all producers in China PR

40. As none of the producers from China PR have filed the Supplementary Questionnaire response for market economy treatment, the normal value has been determined in accordance with Para 7 of Annexure I of the Rules, which provides as follows

"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. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments."

41. In the absence of sufficient information on record, regarding the other methods as enshrined in Para 7 of Annexure I of the Rules, the Authority has determined the normal value by considering the method 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*". The Authority has, therefore, constructed the normal value for China PR on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses an addition of reasonable profits. Accordingly, the constructed normal value so determined for Chinese producers/ exporters is mentioned in the dumping margin table below.

42. With regard to the contention that the normal value should be determined after exhausting the first two methods before constructing the Normal Value, the Authority notes that the domestic industry contended that product under consideration is produced mainly in India and China PR.

The contention has been examined and it is noted that there is no information available with regard to the normal value of the product under consideration in the market economy third country.

43. As regards the contention with respect to the disclosure of computation of normal value, the Authority notes that the normal value is constructed on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses an addition of reasonable profits, and the same cannot be revealed being a business sensitive information. The constructed normal value as determined is mentioned in the dumping margin table.

Determination of Export Price

44. M/s Shangyu Jingxin Pharmaceutical Co. Ltd. is a producer of the subject goods in China PR and has exported the product to India through related company i.e M/s Zhejiang Jingxin Pharmaceuticals Import and Export Co Ltd, (Exporter). Following the receipt of response, a deficiency letter was sent to cooperating producer and exporter asking them to submit replies to the deficiencies. The cooperating producer and exporter has submitted replies to deficiencies, and response has been examined. It is noted that during the POI, M/s Shangyu Jingxin Pharmaceutical Co., Ltd., China PR has exported *** MT of subject goods through related company i.e. M/s Zhejiang Jingxin Pharmaceuticals Import and Export Co Ltd, (Exporter). The Authority has examined the details of the exports given in the questionnaire response filed by the producers/exporters. The adjustments towards inland freight, ocean freight, handling and customs charges, insurance, commission, port expenses, bank charges, and VAT refund has been examined through desk verification to the extent feasible, and accordingly the export price for the PUC at ex-factory level of the Producer i.e. M/s Shangyu Jingxin Pharmaceutical Co., Ltd has been determined, and shown in the dumping margin table.

M/s Zhejiang Guobang Pharmaceutical Co., Ltd, China PR

45. M/s Zhejiang Guobang Pharmaceutical Co., Ltd. is a producer of the subject goods in China PR and has exported the subject goods directly to unrelated customers in India. The responding producer/exporter has given details of the exports of subject goods to India in Appendix 3A of the exporters' questionnaire response. The responding producer/exporter has also clarified that Appendix 3B and Appendix 3C are not applicable in their case because there are no sales to related Indian customers and the responding producer/exporter has not exported the subject goods to India through a trading company. It is noted that during the POI, M/s Zhejiang Guobang Pharmaceutical Co., Ltd, China PR has exported *** MT of subject goods directly to unrelated customers in India. The responding producer/exporter has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost, bank charges and non-refundable VAT. The export price along with the adjustments have been examined through desk verification to the extent feasible and accordingly, the export price for the PUC at ex-factory level of the Producer i.e., Zhejiang Guobang Pharmaceutical Co., Ltd has been determined which is mentioned in the dumping margin table.

M/s Zhejiang Langhua Pharmaceutical Co, China PR

46. M/s Zhejiang Langhua Pharmaceutical Co., Ltd. is a producer of the subject goods in China PR and has exported the subject goods directly to unrelated customers in India. The responding producer/exporter has given details of the exports of subject goods to India in Appendix 3A of the exporters' questionnaire response. The responding producer/exporter has also clarified that Appendix 3B and Appendix 3C are not applicable in their case because there are no sales to related Indian customers and the responding producer/exporter has not exported the subject goods to India through a trading company. It is noted that during the POI, M/s Zhejiang Langhua Pharmaceutical Co., Ltd., China PR has exported *** MT of subject goods directly to unrelated customers in India. The responding producer/exporter has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost, bank charges and non-refundable VAT. The export price along with the adjustments have been examined through desk verification to the extent feasible, and accordingly, the export price for the PUC at ex-factory level of the Producer i.e. Zhejiang Langhua Pharmaceutical Co, has been determined which is mentioned in the dumping margin table.

Export Price for all other producers/exporters from China PR

47. The export price for other non-cooperating exporters from China PR has been determined as per facts available, taking into account the data of the co-operating exporters from that country.

G.3.2 Dumping Margin

48. On the basis of normal value and export price, as determined above, the dumping margin for producers/exporters from China PR has been determined and the same is mentioned in the table below:

Dumping margin table

Country	Producer	Normal Value / CNV (US$/Kg)	Export Price (US$/Kg)	Dumping Margin (US$/Kg)	Dumping Margin %	Dumping Margin Range
China PR	Shangyu Jingxin Pharmaceutical Co., Ltd.	***	***	***	***	20-40
	Zhejiang Langhua Pharmaceutical Co., Ltd.	***	***	***	***	0-20
	Zhejiang Guobang Pharmaceutical Co., Ltd.	***	***	***	***	0-20
	Others	***	***	***	***	20-40

H. INJURY AND CAUSAL LINK

H.1 Views of the domestic industry

49. The submissions made by domestic industry with regard to injury and causal link are summarized as follows:

a. The volume of imports has shown significant increase in absolute terms as well as in relation to production & consumption in India.

b. Imports from the subject country have increased throughout the injury period.

c. While the market share of the imports has increased, the market share of the domestic producers as a whole has declined.

d. The imports significantly are undercutting the prices of the domestic industry in the Indian market.

e. The dumped imports have suppressed the prices of the domestic industry.

f. The domestic industry enhanced its capacity for the product in view of present and potential demand for the product in India and globally. However, the production and sales of the domestic industry have declined over the injury period, despite increase in demand.

g. Due to increasing imports, additional capacity with the domestic industry has remained largely unutilized, resulting in decline in capacity utilization over the injury period.

h. Profitability of the domestic industry with respect of product under consideration has declined consistently over the injury period and the domestic industry is suffering losses in the period of investigation.

i. The domestic industry is suffering cash losses and negative return on capital employed in the period of investigation.

j. Market share of domestic industry declined over the injury period despite existence of sufficient capacities in the Country.

k. Inventories have shown significant increase throughout the injury period. Inventories in the period of investigation were 4.2 times of inventories in the base year.

l. Productivity has declined in absolute as well as relative terms despite addition in capacities made by the domestic industry.

m. The Applicant produces few other goods as well and therefore employment and wages are not solely dependent on the subject goods performance.

n. The dumping margin is not only more than de-minimis but also substantial. The impact of dumping on the domestic industry is adverse.

o. Growth of the domestic industry in terms of the majority of parameters such as, production, sales, market share, profits, return on investment, cash profits, etc. is adverse.

p. Given the state of affairs of the domestic industry where manufacture and sale of the product is consistently not performing well because of persistent dumping over last few years, substantial fresh investments cannot even be imagined.

q. There is no inaccuracy in the data. The interested party lacks appreciation of the data.

r. Applicant is one of the major drug producers in India and it produces several Bulk Drugs (API) having production of about 50 products. In a large number of products, India and China PR are the only producers globally. The Chinese producers wish to eliminate production in India to acquire a global monopoly.

s. The profits in the annual report are not reflective of the product under consideration. Having a 7-10% profit before tax cannot be considered as extremely high profit.

t. The Authority recommends anti-dumping duty after verification of all data & taking into consideration import quantities and import prices and presently, Aarti has an anti-dumping duty only on one product - Ofloxacin. Thus, the opposing parties' claims are baseless and not in the interest of the nation.

u. The data provided by the applicant has been verified by the Authority. The overall performance of the domestic industry has been adversely impacted due to dumped imports

v. Under Anti-dumping rules, 3% of dumped imports to total is considered as significant and the affected domestic industry can seek relief under antidumping law and in the present case, the imports from the subject country are significantly higher percentage of demand as compared to the percentage considered under rules. The imports from the subject country have increased by about 28% during the injury period which cannot be considered as insignificant.

w. It is without basis that export sales price is lower than the domestic sale price. The domestic industry has claimed the injury suffered by it based on its domestic performance. Possible adverse profits in exports cannot affect profits in domestic operations. Further, the domestic industry is exporting at sub-optimal prices not out of choice or preference, but out of compulsion created by dumping practices.

x. The exporter is trying to defy the figures which have been verified and considered by the Authority. The increase in inventory has been upheld by the Authority. As far as employment and wages are concerned, the domestic industry has not claimed injury on these accounts. It is important to provide information on all injury parameters. It is not important to show injury in all injury parameters.

y. The demand for subject goods has not fallen and there is no basis with the interested party for making such statements about the domestic industry.

z. The domestic industry expanded its capacity to meet the Indian demand and despite an increase in capacities, the applicant was in profits.

aa. The price ceiling imposed under the Drugs (Price Control) Order, 2013 ("DPCO") is for formulation and not on API or Bulk drugs.

bb. The issue of public health emergency due to coronavirus justifies imposition of antidumping duty up to full extent of margin of dumping. The Designated Authority should not leave the country to the mercy of Chinese producers for such products. The domestic industry is supplying these essential drugs even at the time of this pandemic without any break.

cc. The cost of the product under consideration for treating one patient is a meagre Rs. 12, considering the selling price of Rs. 2000 per kg. and consumption of 5.81 grams product by one patient over a period of seven days. Thus, the Designated Authority may kindly ascertain the impact of the proposed ADD per patient. It would not be even the lowest price of one cup of tea on a street.

dd. Larger public interest demands existence of viable and vibrant domestic industry. The imposition of duty is to re-establish a situation of open and fair competition in the Indian market while seeking the balance the injured domestic industry and the consumers. Authority need to check what is in the general interest of the country.

ee. The present case is a fit case for imposition of anti-dumping duty up to full extent of dumping margin as the Chinese producers are operating under non-market economy situation and the injury margin is not sufficient to provide level playing field to the domestic industry.

ff. The dumping and the injury margins claimed by the applicant were quite significant whereas the dumping margin and injury margin determined by the authority in the provisional findings are

far lower than the margins claimed. The NIP determined is unduly low leading to unduly low margins and needs a reconsideration.

gg. None of the country globally follow lesser duty rule in the manner it is applied in India and the domestic industry has received duty, de-facto, based on "least duty rule".

H.2. Views of the other interested parties

50. The submissions made by other interested parties with regard to injury and causal link are summarized as follows:

a. The data provided is inaccurate for various economic parameters as the indices are same for the POI as well as the Annualized POI. The petition did not meet the accuracy and adequacy test established under AD Rules and has several deficiencies as per Trade Notice 15 of 2018 checklist.

b. The Petition cannot be relied on, and no submissions can be made concerning the injury caused due to inaccurate data provided by the applicant. The Authority should ask the Petitioners to provide a revised Petition, to make the required submissions.

c. Aarti Drugs Ltd. is a regular user of Trade remedial measures (TRM) and is not suffering any injury.

d. As per annual report, Applicant is making extremely high profits and giving out handsome dividends. Such a high level of profitability, while also simultaneously suffering an injury in so many products indicates that Applicant intends to create an unfair market space for itself through such measures.

e. Domestic industry is not suffering a material injury due to subject imports.

f. Mere 28% increase in imports is not sufficient to determine a significant increase in imports, particularly in the face of such humungous production by the domestic producers.

g. The subject imports occupy a very small market share in India.

h. The trend for Imports in relation to Production and consumption is misleading.

i. No price suppression or depression caused by imports from the subject country. The sales realization from domestic sales is much higher than the sales realization from export sales.

j. The import price has also moved commensurate to the cost of production.

k. No causal link between the low sales realization of the domestic industry and subject imports. The gap between the cost and sales realization from domestic sales is not high.

l. The prices for the subject goods are low globally and not only in India which cannot be attributed to any price pressure exerted by imports from the subject country.

m. There is an improvement in relevant economic parameters of the domestic industry.

n. The fall in domestic sales is attributed to the sharp decline in demand in 2017-18, and the business decisions administered by the domestic industry.

o. Other producers have been able to retain their position in the market despite the decline in demand in 2017-18.

p. The claims of increased inventory by four fold seems to be inaccurate and unreliable as there has been a decrease in production and increase in the total sales being made.

q. No injury in terms of employees since there has been an increase of employees from the base year.

r. The fall in productivity per day can be linked to the reduction in production, owing to the fall in demand and questionable business decisions relating to enhancement of capacity made by the domestic industry.
s. A deep plunge in profit for the domestic industry in the year 2017-18 and the POI, considering that the margin between the cost price and sales price is very slight.
t. The difference between PBT and PBIT is that of the interest costs. The gap between the two are widening, but it is not reflected in the interest cost.
u. Increase in capacity and fall in capital employed has also bound to affect the returns earned by the company.
v. The Authority needs to verify the profitability claims made by the domestic industry, as the data does not appear to be accurate.
w. Injury, if any, is attributable to sources other than subject imports such as increase in capacity in the time of decline in demand and sharp increase in costs of the product made domestic industry face a heavy losses which affected the profitability of the domestic industry in the POI.
x. The difference in PBT and PBIT does not match the trend of the interest costs.
y. The high-interest costs due to capacity expansion might being concealed.
z. Injury is self-inflicted and cannot be attributed to the subject imports.
aa. Huge losses due to high costs, and low export price of DI. The delta between the export price and the cost of production for exports is huge.
bb. The domestic industry is not cost-efficient as reflected by the price pressure it is facing in the international market. It would be unfair for the subject imports to bear the burden of the inefficiency of the domestic industry.
cc. The causal link between imports and performance of the domestic industry in terms of profit is broken. Price undercutting has remained constant during the injury period, but the profits have fallen by significant margins.
dd. The Authority should not recommend anti-dumping duty and determine that there is no evidence of dumping; injury and causal link.
ee. There is a public health emergency due to the spread of coronavirus and Ciprofloxacin HCL is one of the main chemical components of the drug used for curing various infections and pneumonia is a major component of the wide-spread and fatal coronavirus.
ff. It would not be in the public interest to impose a duty on imports which could save the lives of people of the country. The domestic industry has hiked up high costs, and the drug could be left unavailable to the Indian masses.
gg. Due to the epidemic, the domestic industry is unable to purchase enough raw materials from China PR resulting in a jack of domestic supply. Therefore, the imposition of anti-dumping duty will not prove to be beneficial for India's local downstream pharmaceutical companies.
hh. The imposition of preliminary duty was not warranted as there exists no injury, and no causal link between the imports from the subject country
ii. Reliance placed on the *investigation conducted on "Polyester Staple Fibre from China PR, Indonesia, Malaysia and Thailand*, wherein the Authority had terminated the investigation as other producers in India were doing well.
jj. The injury to the DI is fabricated and not substantiated with corroborative evidence as high profits recorded in financial statements during the entire injury analysis period and POI and the production and sale has significantly increased

kk. The Authority has not considered all the injury parameters pursuant to Rule 11 read with Annexure-II AD Rules and the analysis does not satisfy the requirements provided in Article 3.4 of WTO which directs the Applicant to not only establish an actual decline but also the effects of potential decline must be demonstrated.

ll. There is no Price Underselling since the NIP will be lower the landed value. The raw material inefficiency on the procurement of raw material is also accepted in Annual Report.

mm. The NIP computed by the authority disregard the inability of the DI to a) procure raw materials at an internationally competitive price, and b) Manufacture the goods using the optimum resources (best production utilization ratio) across all producers of the subject goods in India. This calculation of NIP is inconsistent with the decision of the Hon'ble Supreme Court of India in Reliance industries Limited vs Designated Authority and Ors.

nn. The cost of production of subject goods may be recalculated based on the cost of manufacturing at least 3 producers in India including Neuland Laboratories Ltd and Dr Reddys Laboratories' as these companies are not incompetent.

oo. The supporter Industry is running into exceptionally high profits during the entire injury analysis period and the period of investigation.

pp. Injury being self-inflicted and the increase in sales value, constant raw materials cost and increased profitability of the supporter industry indicate that the domestic industry has internal inefficiencies.

H.3. Examination of the Authority

51. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...*". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

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

H.3.1 Volume effect of the dumped imports

a. Assessment of demand/apparent consumption

53. For the purpose of the present investigation, the Authority has taken into consideration the demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources.

Particulars	UoM	2015-16	2016-17	2017-18	POI	POI (A)
Domestic Industry Sales	MT	908	810	648	1007	806
Supporters Sales	MT	***	***	***	***	***
Sales of Other Producers	MT	***	***	***	***	***
Total imports from the subject country	MT	117	171	217	347	278
Imports from other countries	MT	-	-	-	8	6
Total Demand/Consumption	MT	2,730	2,837	2,475	3,444	2,755

54. It is seen that while the demand for the product under consideration declined in 2017-18, it has increased during the period of investigation. As compared to the base year, the demand for the subject goods has marginally increased.

b. Import volumes from subject country

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

Import Volume	UOM	2015-16	2016-17	2017-18	POI	POI(A)
Subject Country-China PR	MT	117	171	217	347	278
Other Countries	MT	-	-	-	8	6
Total Imports	MT	117	171	217	355	284
Total Demand/Consumption	MT	2,730	2,837	2,475	3,444	2,755
Production	MT	3,236	3,530	3,001	3,835	3,068
Imports of subject goods from subject country in relation to						
Total Indian Production	%	3.62%	4.85%	7.23%	9.06%	9.06%
Demand/Consumption	%	4.29%	6.04%	8.77%	10.09%	10.09%

56. It is noted that:
    a. The volume of dumped imports has increased significantly in absolute terms over the injury period.
    b. The imports have shown a significant increase in relation to domestic production and consumption.

H.3.2 <u>Price effect of the dumped imports</u>

57. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price

undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

a. Price undercutting

58. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject country. While computing the net selling price of the domestic industry, all taxes, rebates, discounts and commissions have been deducted and sales realization at ex-works level has been considered for comparison with the landed value of the dumped imports. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows:

Price Undercutting

Particulars	Units	China PR			
		2015-16	2016-17	2017-18	POI (A)
Landed price of imports	Rs/Kg	1743	1295	1447	1819
Net Selling Price	Rs/Kg	***	***	***	***
Price Undercutting	Rs/Kg	***	***	***	***
	%	***	***	***	***
	Range	(0-10)	0-10	0-10	0-10

59. It is seen that the landed prices of the subject goods were below the selling price of the domestic industry. Further, marginal price undercutting is indicative of stiff competition between the foreign producers and domestic industry.

b. Price suppression and depression

60. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared as below:

Price Suppression and Depression

	Unit	2015-16	2016-17	2017-18	POI-A
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	84	97	127
Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	84	93	115
Landed Price-China PR	Rs/Kg	***	***	***	***
Indexed	Indexed	100	74	83	104

61. It is seen that while the landed price of imports from subject country were above the cost of sales of domestic industry in the year 2015-16 and 2016-17, it declined thereafter to a level lower than the cost of sales. During the period of investigation, the landed price of imports is significantly

below the cost of sales. As a result, even though the selling price of the domestic industry has increased in the period of investigation, as compared to the base year, the increase is much less than the increase in cost of sales during the same period. Thus, the imports have prevented price increases, which otherwise would have occurred. The domestic industry has suffered price suppression on account of import of subject goods from subject country.

c. Price underselling

62. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject country. For this purpose, the non-injurious price for the domestic industry has been compared with the landed price of imports as obtained from the DGCI&S import data.

Price Underselling		
Particulars	Unit	Price Underselling
Landed Price	Rs/Kg	***
Non-Injurious Price	Rs/Kg	***
Price Underselling	Rs/Kg	***
Price Underselling	%	***
Price Underselling	Range	0-20

63. It is noted that the landed value of subject imports was below the non-injurious price of the domestic industry, thus resulting in significant price underselling.

H.3.3 <u>Economic parameters of the domestic industry</u>

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

a. Production, capacity, sales and capacity utilization

65. Capacity, production, sales and capacity utilization of the domestic industry over the injury period is as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI	
					Actual	Annualized

Capacity	MT	***	***	***	***	***
Trend	Indexed	100	100	107	140	112
Total Production	MT	***	***	***	***	***
Trend	Indexed	100	102	92	115	92
Capacity Utilization	%	***	***	***	***	***
Trend	Indexed	100	102	85	82	82
Domestic Sales	MT	***	***	***	***	***
Trend	Indexed	100	89	71	111	89
Export Sales	MT	***	***	***	***	***
Trend	Indexed	100	118	102	134	107
Total Sales	MT	***	***	***	***	***
Trend	Indexed	100	100	83	119	96

66. It is seen that:

a. The domestic industry has increased its capacity during the injury period.

b. While capacity with the domestic industry increased, its production has declined post 2016-17. As a result, the capacity utilization of the domestic industry has declined.

c. The sales of the domestic industry have declined from the base year till the year 2017-18. Though there has been increase in the period of investigation, the same remained materially lower than the volumes registered in 2015-16, even though the demand/consumption was slightly higher.

b. Market Share in Demand

67. Market share of the domestic industry and of imports was as shown in table below:

Particulars	UoM	2015-16	2016-17	2017-18	POI (A)
Domestic Industry Sales	%	***	***	***	***
Trend	Indexed	100	88	79	88
Supporters Sales	%	***	***	***	***
Trend	Indexed	100	100	107	100
Sales of Other Producers	%	***	***	***	***
Trend	Indexed	100	106	104	98
Total imports from the subject country	%	***	***	***	***
Trend	Indexed	100	150	225	250
Imports from other countries	%	***	***	***	***
Trend	Indexed	-	-	-	100
Total Demand/Consumption	%	100%	100%	100%	100%

68. It is noted that while the market share of subject imports has increased, the share of domestic

industry has declined over the period. Further, the market share of Indian industry as a whole has also declined. The decline in market share is despite increase in capacity.

c. Inventories

69. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2015-16	2016-17	2017-18	POI
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Inventories	MT	***	***	***	***
Trend	Indexed	100	139	345	418

70. It is seen that the inventories with the domestic industry have increased significantly over the injury period.

d. Profitability, return on investment and cash profits

71. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:

Particulars	UOM	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Selling price	Rs/Kg	***	***	***	***	***
Trend	Indexed	100	84	93	115	115
Cost	Rs/Kg	***	***	***	***	***
Trend	Indexed	100	84	97	127	127
Profit/ loss	Rs/Kg	***	***	***	***	***
Trend	Indexed	100	86	(35)	(246)	(246)
Profit/ loss	Rs Lacs	***	***	***	***	***
Trend	Indexed	100	77	(25)	(273)	(219)
Profit/ loss before Interest and Tax	Rs Lacs	***	***	***	***	***
Trend	Indexed	100	67	16	(72)	(57)
Cash Profit	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	78	10	(128)	(103)
Average Capital Employed	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	79	70	87	87
ROCE	%	***	***	***	***	***
Trend	Indexed	100	85	23	(66)	(66)

72. It is seen that

a. The profitability of the domestic industry with respect to the product under consideration declined continuously over the injury period and the domestic industry has incurred losses during the period of investigation.
b. Similarly, the cash and return on investment have declined, and become negative during the period of investigation.

e. Employment, productivity and wages

73. Performance of the domestic industry with regard to employment, productivity and wages over the injury period was as follows.

Employment, Productivity and Wages						
Particulars	Unit	2015-16	2016-17	2017-18	POI	POI
					Actual	Annualized
Employee	Nos.	***	***	***	***	***
Trend	Indexed	100	101	101	102	102
Productivity per Day	MT/Day	***	***	***	***	***
Trend	Indexed	100	102	92	92	92
Productivity per Employee	MT/Nos	***	***	***	***	***
Trend	Indexed	100	101	91	90	90
Wages	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	103	108	159	127

74. It is seen that the number of employees remained almost at the same level during the injury period, while wages have increased. Productivity has declined with decrease in production.

f. Growth

Growth	Unit	2015-16	2016-17	2017-18	POI-A
Production (MT)	%		2.42	(10.47)	0.18
Domestic Sales Volume (MT)	%		(10.75)	(19.99)	24.28
Capacity Utilization	%		2.15	(15.17)	(2.89)
Cost of Sales (Rs/Kg)	%		(16.22)	15.69	30.82
Selling Price (Rs/Kg)	%		(16.15)	10.56	23.89
Profit/ Loss (Rs/Kg)	%		(14.04)	(141)	(606)
Cash Profit	%		(21.58)	(87.75)	(1,167.69)
ROI	%		(1.88)	(7.56)	(10.89)

75. Growth of the domestic industry with regard to production, domestic sales and capacity utilisation were negative during 2017-18, though these improved to some extent in the period of investigation. However, profits, return on capital employed and cash profits showed negative growth throughout the injury period, especially during the period of investigation.

g. Ability to raise capital investments

76. The Authority notes that domestic industry is suffering low capacity utilization and losses. Further, the return on capital employed of the domestic industry has become negative. This suggests that the imports may impact the ability of the domestic industry to raise capital investments.

h. Magnitude of dumping

77. It is noted that the subject goods are being dumped into India, and the dumping margin determined is above de-minimis and significant.

i. Factors affecting domestic prices

78. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from subject country is the benchmark for the selling price of the domestic industry. In fact, the domestic industry is matching the price of imports, and has not increased its prices in proportion to the increase in costs. This shows that the landed prices of subject goods from subject countries are affecting the prices of the domestic industry.

79. As regards contentions with regard to accuracy of the data, the present findings are being recorded on the basis of data verified through desk verification. The fact that indexed figures for POI and annualised for the POI are the same does not imply that the figures adopted are inaccurate. Since previous years are of twelve months duration whereas the POI is of fifteen months duration, the index is required to appropriately reflect the same.

80. The Authority examined the reasons for increase in cost of production. It is observed that the primary reason for increase in cost of production is the increase in one of the major raw materials involved in production of the product under consideration.

81. As regards arguments of public interest, it is noted that the purpose of anti-dumping duty is only to address unfair practice of dumping. It is also noted that none of the interested parties barring the Domestic Industry have quantified impact of proposed ADD on the eventual end usage. Further none of the interested parties have brought any evidence in support of their argument that imposition of proposed ADD will have significant adverse impact on people of the country.

82. As regards profits of the Applicant reported in the annual report, it is noted that the Applicant is a multi-product company having a large number of products. Profits reported in annual report are not reflective of the performance of the domestic industry for the product under consideration.

83. As regards the contention that the domestic industry has suffered losses in exports, it is noted that the information with regard to profits, cash profit, and return on investment is based only on domestic operations and is, therefore, not impacted due to possible losses in exports.

84. As regards the contention that the domestic industry expanded capacity despite losses in the past, the Authority notes that the information on record shows that the Applicant domestic industry was in profit earlier before expansion of capacity, and even after expansion of capacity in 2017-18, the domestic industry was in profits.

85. As regards to the contention that NIP determined is unduly low leading to unduly low margins, and none of the country globally follow lesser duty rule in the manner it is applied in India and therefore, the Authority should recommend ADD upto full extent of dumping margin, the Authority notes that the rules require the Authority to recommend ADD considering dumping margin and injury margin. If the injury margin determined is lower than dumping margin, the Authority is required to consider such injury margin while recommending duty.

86. As regards the claim that the injury to domestic industry is fabricated and high profits are recorded in the financial statements, the Authority notes that the financial statements of the company are not reflective of the performance of product alone, and pertains to performance of the company for all its operations, in both domestic and export markets. Injury analysis is required to be done only for product under consideration and only in respect of domestic market operations.

87. As regards to the contention that all the injury parameters to be considered pursuant to Rule 11 read with Annexure-II AD Rules, it is clarified that the Authority has examined all parameters. Further, the Authority notes that it is not necessary that all parameters relating to the domestic industry show injury.

88. As regards the claim that applicant is the regular user of trade remedial measures, the Authority considers that antidumping duties have been recommended only after conducting investigations and finding that it was necessary to impose ADD to address injurious dumping.

89. As regards the submission that the injury to the domestic industry is self-inflicted and there is absence of causal link, the Authority has examined the claims of the domestic industry and interested parties. As regards contention that the domestic industry has increased capacity when demand has declined, the Authority notes that the demand of the subject goods has increased over the injury period. Further the Authority has examined the data provided by the domestic industry. The capacity of domestic industry has been enhanced in the light of increase in demand.

90. As regards to the contention that the cost of production may be calculated based on the cost of manufacturing of at least 3 producers in India including Neuland Laboratories Ltd and Dr Reddys Laboratries, the Authority notes that the information is required to be considered in respect of domestic industry. Further, since information relating to other domestic producers is not on record, the same cannot be considered for the purpose of present determination.

91. Regarding inconsistency in calculation of NIP, it is noted that the NIP has been calculated on the basis of principles laid down under the Rules. The non-injurious price of the product under consideration has been determined by adopting the information/data relating to the cost of

production provided by the domestic industry, duly certified by the practising cost accountant and examined by the Authority.

92. As regards the contention that supporter Industry is earning exceptionally high profits, the Authority notes that the performance of the company reported in the financial report is reflective of the performance of the company for all its operations, and not for the product alone.

I. INJURY MARGIN

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

94. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.

95. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is mentioned in the table below:

Country	Producer	Non-Injurious Price (US$/Kg)	Landed Value (US$/Kg)	Injury Margin (US$/Kg)	Injury Margin (%)	Injury Margin % (Range)
China PR	Shangyu Jingxin Pharmaceutical Co., Ltd.	***	***	***	***	0-20
	Zhejiang Langhua Pharmaceutical Co., Ltd.	***	***	***	***	0-20
	Zhejiang Guobang Pharmaceutical Co., Ltd.	***	***	***	***	0-20
	Others	***	***	***	***	0-20

I. 1 Examination of injury

96. The examination of the imports of the subject product and performance of domestic industry shows that the volume of imports has increased in absolute terms as well as in relation to production and demand in India. The imports are undercutting the prices of the domestic industry, and the price underselling is also positive. The imports of subject goods from subject country has prevented price increases which otherwise would have occurred due to increase in cost of production. The domestic industry has suffered price suppression on account of import of subject goods from subject country.

97. While the capacity of the domestic industry has increased over the period, the production and sales of the domestic industry has declined when compared to the base year. The market share of subject imports has increased, while the share of domestic industry has declined over the same period. The domestic industry has suffered a decline in its profits over the injury period, and is suffering losses. The cash profits and return on capital employed of the domestic industry has declined significantly and became negative during the POI. It is also noted that the dumping margin is positive and significant.

I.2 <u>Non-attribution analysis</u>

98. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, the Authority has examined whether injury to the domestic industry can be attributed to any factor, other than the dumped imports, as listed under the Rules.

a. Imports from other sources

99. Since China PR accounts for 97.76% of the total imports, and imports from other countries are negligible, the imports from other countries could not have caused injury to the domestic industry.

b. Contraction in demand

100. Although the demand for the product under consideration declined in 2017-18, it has rebounded in the period of investigation. Further, the domestic industry has lost market share to the subject imports, in the present demand. Thus, the injury to the domestic industry is not on account of any contraction in demand. In any case, there is no contraction of demand during the injury period.

c. Changes in the pattern of consumption

101. There is no evidence of any change in the pattern of consumption with regard to the product under consideration. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the Domestic Industry.

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

102. The import of the subject goods is not restricted in any manner and the same are freely

importable in the country. No evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

e. Developments in technology

103. None of the interested parties have furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry.

f. Export performance

104. The injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

g. Performance of other products being produced and sold by the domestic industry

105. The Authority has only considered data relating only to the performance of the subject goods. Therefore, performance of other products produced and sold are not a possible cause of the injury to the domestic industry.

I.3 Examination on causal link

106. It is thus noted that other known factors listed under the Rules do not show that the domestic industry could have suffered injury due to these other factors. The Authority has also examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that material injury to the domestic industry has been caused by dumped imports.

a. Imports of the subject goods have increased in absolute terms as well as in relation to production and consumption.
b. The market share of subject imports has increased, while the share of domestic industry has declined over the same period.
c. The price undercutting is positive. The imports of subject goods from subject country has had a suppressing effect on the prices of the product in the market.
d. As a result, the production and sales of the domestic industry have declined over the period.
e. The domestic industry has suffered financial losses, cash losses and negative return on investment.

107. The essential facts of the investigation gathered by the Authority during the course of the investigation and analyzed by the Authority in the present final findings are being disclosed to the interested parties in order to enable them to offer their comments on these facts.

J. POST DISCLOSURE COMMENTS

108. Post-disclosure submissions have been received from the interested parties. The Authority has

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

J.1. Views of the domestic industry

109. The following post-disclosure submissions have been made by the domestic industry:

a. There is no merit in the argument that the supporter industry is earning exceptionally high profits. The performance reported in the financial report is reflective of the performance of the company for all its operations, and not just for product. Further, the company is unable to fully utilize our capacities. Infact the balance sheet would make it amply clear that our company is barely making between 1.25% to 2% profit as compared to an industry average of about 7%.
b. No demand-supply gap, Indian Industry is totally AtmaNirbhar Industry. The most compelling reason for need of imposition of duty is that India has become self-reliant. In absence of imports domestic industry and the other domestic producers are capable of catering to the total demand of the country.
c. Estimated per annum combined capacity in India for the product under consideration is much higher than the demand/consumption in India.
d. Imposition of anti-dumping duty would not be against public interest. It is a redressal of unfair price discrimination by the producers in other countries, which is injurious to the industry in India. It is not a protection, but rather a means of price correction. It would not restrict imports and would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.
e. Currently there is antidumping duty only on Ofloxacin which is one out of around 50 Bulk Drugs that is manufactured by the domestic industry and contributing to the "Make in India" and Atmanirbhar Bharat" missions.
f. The Govt has launched a "Production Linked Incentive scheme" with an objective to reduce dependency on imports for certain Essential Bulk Drugs. Ciprofloxacin HCL is featuring in that list.
g. Due to lack of market in the presence of dumped imports, the producers are not able to perform in this product. Given the opportunity and the available market the domestic producers, not only has the capacity much more than the existing demand in the Country and cater the same, but also will be able to cater to any foreseeable increase in demand, as well as earn valuable foreign exchange for the country by undertaking exports from the surplus production, thereby truly fulfilling the vision of Aatmanirbhar Bharat insofar as the product is concerned.
h. The Authority should not leave the country to the mercy of Chinese producers for such products. The Authority is entitled to consider whether it is a fit case where the Govt. can ignore injury margin and impose ADD upto full extent of dumping margin. Given that the product is a pharma API, and concerns Country's health sector, with de-facto no adverse impact of proposed duty on the consumers, existence of viable and vibrant industry should be a bigger concern for the Country.

i. The product is mainly produced in China and India, and thus the domestic production is more important in the present product. Considering the relevance & importance of the product for India's healthcare, the Country needs domestic manufacturing unless Govt. of India is willing to leave the country at the hands of China for such essential drugs. Absence of domestic production in the product shall imply total dependency on China.

j. The Authority earlier recommended anti-dumping duty on Penicillin-G but the Government however rejected recommendations. The prices of the product plunged in last one decade following cheaper imports from China with business becoming unviable and Indian manufacturers like Max-GB, HAL, JK Pharma and TGBL closed down the production. Alembic too had closed the Pen-G facility, but it restarted later. Contrary to the fate of Penicillin-G, in case of Metronidazole and Diclofenac Sodium, support granted by the Government led to a viable and vibrant Domestic Industry in the Country now. Country is no more dependent on imports and If required the domestic producers are having sufficient capacity to cater Indian demand. The Authority need to consider the importance of the drugs in the present time of pandemic and make nation self-sustainable.

k. Absence of opposition from consumers shows consumers are not adversely impacted.

l. The trade remedial measures are applied to eliminate unfair practices such as dumping due to which the domestic industry is injured. The imposition of duty is to re-establish a situation of open and fair competition in the Indian market while seeking the balance between injured domestic industry and the consumers.

J.2. Views of the other interested parties

110. The following post-disclosure submissions have been made by the other interested parties:

a. The exporters have duly complied with Annexure II of the Trade Notice No. 10/2018 dated 7 September 2018 in all the responses and submissions made by them.

b. The law does not grant any discretion to the Authority in recommending a duty based on the full margin of dumping. Therefore, it is not legal for the Authority to recommend a duty based on the higher margin in the subject investigation.

c. The law for calculating the non-injurious price is also envisaged in Annexure III to the Anti-Dumping Rules and cannot be curtailed. The anti-dumping regime of India has existed since 1995 and has sufficiently protected various domestic industries of various products, including Aarti Drugs Ltd. in several investigations.

d. In 2015, Sun Pharmaceuticals Industries Limited who is a domestic producer of the PUC filed a petition against Notification S.O. No. 1882(E) dated 13.07.2015 issued by the National Pharmaceutical Pricing Authority fixing the ceiling price of Ciprofloxacin 250 mg. The issue raised by the company was concerning the correct methodology to calculate the ceiling price the scheduled formulation. A similar issue also arose in 2018, when Sun Pharmaceuticals Industries Limited again filed two petitions against Notification S.O. No. 2401(E) dated 28.07.2017 issued by the National Pharmaceutical Pricing Authority fixing the ceiling price of Ciprofloxacin 250 mg and Ciprofloxacin 500 mg tablets.

e. The unwarranted imposition of preliminary Anti-dumping duty. The Authority has, without evaluating all parameters in the petition, hastily recommend interim duties and issued preliminary finding vide Notification No. 6/36/2019- DGTR dated 15th June 2020.

f. The Authority has incorrectly evaluated that the Domestic Industry constitutes "major proportion of the total domestic production of that article" pursuant to Article 4.1 of Agreement on Antidumping and Rule 2(b) of the AD Rules. The Respondents relied on the decision of the Appellate body in EC-Fasteners (China).

g. The Domestic Industry has been in the consistent practice of requesting for the imposition of Anti-dumping duties on various range of its products since early '20s, and still continues to suffer injury. The other producers of the subject goods which have not participated in the investigation, have not been suffering any injury and doing better. In this regard, reliance is placed on DGTR investigation of Polyester Staple Fibre from China PR, Indonesia, Malaysia, and Thailand and investigation of Ball Bearings (up to 50 mm bore dia) from China PR, Poland, Russia, and Romania.

h. The determination of normal value by the Authority is against the Hon'ble Supreme Court decision in Shenyang Matsushita S. Battery Co. Ltd. v. Exide Industries Ltd. and others, (2005) 3 SCC 39. Geographically, global Ciprofloxacin production is segmented into seven key regions viz. North America, Latin America, Europe, East Asia, South Asia, Oceania, and Middle East & Africa. North America dominates the overall Global Ciprofloxacin Market. Some of the major key players competing in the global Ciprofloxacin Market are Novartis International AG, Allergan plc, Merck & Co Inc, Cipla Limited, Bayer AG, Cadila Healthcare, Glenmark Pharmaceuticals, Hexal, Sanofi Synthelabo, Pfizer, and Mylan Laboratories Ltd among others. Therefore, the conclusion that Ciprofloxacin is produced mainly in India and China PR has no substance and construction of normal value on the basis of cost of production in India does not have any merit.

i. The cost of production of Domestic Industry is too high due to unavailability of raw material from China PR.

j. The DI is continuously hiring employees and wages have increased from injury analysis period to the Period of investigation.

k. Production of the DI has increased by 54% when compared to the year 2015-2016 and has recorded a steady Y-o-Y growth of more than 10% each year since 2015-2016.

l. The Domestic Industry is self-claiming that it has achieved the highest revenue and Profit Before Tax (PBT). The growth in profitability of the Domestic Industry is 27.51% when compared to the year 2017-2018 on a standalone basis.

m. Godavari Drugs Ltd., Domestic Producer of Ciprofloxacin, mentioned that 91% to the total turnover of the company comes from Ciprofloxacin itself (Page No. 17 of annual financial statement of year 2018-19), and the company is running into profits of more than 50% during the POI i.e., they are doing exceptionally well.

n. The Godavari Drugs Ltd. has not been incurring any loss rather having positive PAT/EPS as given above during the previous financial years.

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

111. The Authority notes that most of the submissions by the domestic industry and other interested parties are repetitive in nature. These submissions have already been examined at appropriate places in this finding. Further, the Authority has examined additional/new relevant submissions of the interested parties as under

a. As regards confidentiality claims of interested parties, as stated above, the Authority has

considered the confidentiality claims of various interested parties including the foreign producers, and on being satisfied, allowed the same.

b. As regards the contention regarding the filing of petitions against Notification S.O. No. 2401(E) dated 28.07.2017 issued by the National Pharmaceutical Pricing Authority fixing the ceiling price of Ciprofloxacin 250 mg and Ciprofloxacin 500 mg tablets, the Authority notes that the price ceiling imposed under the Drugs (Price Control) Order, 2013 ("DPCO") is for formulation and not on API or Bulk drugs whereas the present investigation is for APIs falling under chapter 29 whereas ciprofloxacin formulation falls under chapter 30 of the Customs Tariff Act.

c. A number of interested parties have disputed existence of injury to domestic industry. The interested parties have pointed out at improvement in performance of the Domestic Industry in respect of few injury parameters. It is noted that the performance of the Domestic Industry has improved in respect of some parameters. However, it is well established legal position that it is not necessary that performance of domestic industry should show deterioration in respect of each injury parameter, and improvement in some parameters does not imply absence of injury. It is therefore held that so long as the performance of Domestic Industry shows deterioration in respect of some parameters and such deterioration outweighs positive developments in other parameters, it can be concluded that the Domestic Industry has suffered injury.

d. As regards the contention that the other producers of the subject goods which have not participated in the investigation, have not been suffering any injury and doing better, the Authority notes that information relating to other domestic producers is not on record, and the interested parties have not provided any evidence to support their contention. The Authority considers that it would not be appropriate to conclude anything regarding the existence or otherwise of injury suffered by other producers for the purpose of present determination.

e. As regards the contention regarding production of Ciprofloxacin globally and construction of normal value, it is noted that the product under consideration is Ciprofloxacin HCL APIs falling under chapter 29, which is mainly being produced in India and China. The interested parties have referred to ciprofloxacin formulation falling under chapter 30 of the Customs Tariff Act, which is beyond the scope of product under consideration in the present investigation.

f. As regards the contention regarding alleged high cost of production of Domestic Industry due to unavailability of raw material from China PR, the Authority has considered actual cost incurred by the domestic industry and reported in the records. The cost of production reported by the domestic industry have been verified by the Authority.

g. As regards alleged profits earned by the supporter company, the Authority notes that the present finding is on the basis of information of domestic industry.

h. As regards reference to the past investigations concerning Polyester Staple Fibre Ball Bearings, the Authority notes that even determination is based on facts of that particular case. It would not be appropriate to refer to any past determination without establishing its comparability to the present case.

i. As regards decision of Hon'ble Supreme Court decision in Shenyang Matsushita S. Battery Co. Ltd. v. Exide Industries Ltd., the Authority notes that none of the interested parties have provided any evidence with regard to cost or price of the product under consideration in a market economy third country, or price from such market economy third country to other countries including India.

j. As regards alleged increase in wages and employees, it is noted that there is no abnormal increase in costs on these accounts.

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

112. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The Interested parties have not established that imposition of duties is going to adversely impact the public interest.

113. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

O. CONCLUSION

114. After examining the submissions made by the interested parties and issues raised therein, and considering the facts available on record, the Authority concludes that:

a. The product under consideration has been exported to India from the subject country below its normal value.
b. The Domestic Industry has suffered material injury.
c. Material injury has been caused by the dumped imports of subject goods from the subject country.

P. RECOMMENDATIONS

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

116. In terms of provision contained in Rule 4(d) & Rule 17(1) (b) of the Rules, the Authority recommends impositions of anti-dumping duty equal to lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. The Authority, therefore, considers it necessary and recommends imposition of anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder from the date of issue of the notification of imposition of provisional duty by the Central Government vide Notification No. 28/2020-CUSTOMS (ADD) dated 2nd September, 2020. Accordingly, definitive anti-dumping duty equal to amount mentioned in column 7 of the duty table below is recommended to be imposed for five (5) years from the date of imposition of provisional duties, on all imports of goods described at Column 3 of the duty table, originating in or exported from China PR.

DUTY TABLE

Serial number	Tariff Heading*	Description Goods	Country Origin/ export	Country Export	Producer	Duty Amount	Currency	Unit
1	2	3	4	5	6	7	8	9
1	29419030	Ciprofloxacin Hydrochloride	China PR	Any country including China PR	Shangyu Jingxin Pharmaceutical Co., Ltd.	2.38	US$	Kg
2	29419030	Ciprofloxacin Hydrochloride	China PR	Any country including China PR	Zhejiang Langhua Pharmaceutical Co., Ltd.	0.91	US$	Kg
3	29419030	Ciprofloxacin Hydrochloride	China PR	Any country including China PR	Zhejiang Guobang Pharmaceutical Co., Ltd.	1.87	US$	Kg
4	29419030	Ciprofloxacin Hydrochloride	China PR	Any country including China PR	Any producer other than serial number 1, 2, and 3	3.27	US$	Kg
5	29419030	Ciprofloxacin Hydrochloride	Any country other than China PR	China PR	Any	3.27	US$	Kg

*Custom classification is only indicative.

117. Subject to the above, the Preliminary Findings notified on 15th June, 2020 is hereby confirmed.

FURTHER PROCEDURE

118. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Exercise and Service tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

(B.B. Swain)
Special Secretary and Designated Authority