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**F. No. 7/2/2018-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Trade Remedies)  
4<sup>th</sup> Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated 13<sup>th</sup> December, 2018

**NOTIFICATION**

**FINAL FINDINGS**

**Sub: Sunset Review of anti-dumping investigation on the imports of “Metaphenylene Diamine” originating in or exported from China PR.**

**A. BACKGROUND OF THE CASE**

1. **F. No. 7/2/2018-DGAD:** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the **Act**) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the **Rules**) thereof;
2. Whereas having regard to the above Act and the Rules, the Designated Authority (hereinafter referred to as the "**Authority**") initiated an anti-dumping investigation against imports of Metaphenylene Diamine originating in or exported from the China PR vide Notification No.14/4/2012-DGAD on 19<sup>th</sup> June, 2012. Provisional duties were imposed vide Notification No. 02/2013 - Customs dated 22<sup>nd</sup> March, 2013. The final findings were published by the Authority vide Notification No. 14/4/2012 - DGAD, dated the 17<sup>th</sup> December, 2013, subsequent to which the Ministry of Finance imposed definitive anti-dumping duty vide Notification No. 11/2014-Customs, dated 11<sup>th</sup> March, 2014 on imports of Metaphenylene Diamine originating in or exported from China PR.
3. Whereas, in terms of the Act and the Rules, the anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such

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

4. And whereas, M/s Aarti Industries Ltd. (hereinafter referred to as the "**Petitioner**") filed an application before the Authority in accordance with the Act and the Rules alleging continuation of dumping of Metaphenylene Diamine (hereinafter also referred to as the "**subject goods**") originating in or exported from the China PR (hereinafter also referred to as the "**subject country**"). The Petitioner has requested the Authority for review and continuation of the anti-dumping duties on the imports of the subject goods from China PR.
5. And whereas, in view of the duly substantiated application filed in accordance with Section 9A(5) of the Act read with Rule 23 of the Rules, and on finding that prima facie evidence of dumping of the subject goods, originating in or exported from China PR injury to the domestic industry and causal link between the alleged dumping and injury exists to justify initiation of the review investigation; the Authority issued a Notification No. F.No.7/2/2018-DGAD dated 26<sup>th</sup> February, 2018 to examine whether the expiry of the anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
6. The scope of the present review covers all aspects of the original investigation concerning imports of the subject goods, originating in or exported from the subject country.

**B. GENERAL PROCEDURE**

7. The procedure described below has been followed with regard to this investigation, after issuance of the public notice of initiation of the above investigation by the Authority:
  - i. The Authority notified the Embassy of China PR in India about the receipt of the anti-dumping application before proceeding to initiate the sunset review investigation in accordance with sub-rule (5) of Rule 5.
  - ii. The Authority sent a copy of the initiation notification to the Embassy of China PR in India, known producers/exporters from the subject country, known importers/users in India, and the domestic industry as per the addresses made available by the Petitioner and requested them to make their views known in writing within 40 days of the date of the initiation notification.

- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of China PR in India in accordance with Rule 6(3) of the Rules.
- iv. The Embassy of China PR in India was also requested to advise the exporters/producers from its respective country 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.
- v. The Authority sent Exporter's Questionnaire to elicit relevant information from the following known producers/exporters in accordance with Rule 6(4) of the Rules:
  - a. Norino Group Sichuan North Hongguang Special Chemical Co. Ltd;
  - b. Shanghai Amino-Chem Co., Ltd;
  - c. Jiangsu Tianjiayi Chemical Co., Ltd;
  - d. China Sun Speciality Products Co. Ltd.,
- vi. The following producers/exporters from the subject country responded to the Authority:
  - a. Jiangsu Tianjiayi Chemical Co. Ltd.
  - b. Sichuan North Hongguang Special Chemical Co. Ltd.
  - c. Zhejiang Amino-Chem Co., Ltd.
  - d. Buipo International
  - e. Changshan Haicheng Chemical Co., Ltd.
  - f. Inchem Co., Ltd. (Exporter)
  - g. Furion International (Exporter)
- vii. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
  - a. Aaishwariya Chemicals Pvt. Ltd.
  - b. Anil Colours Industries Pvt. Ltd.
  - c. Ankur Chemicals
  - d. Aries Dye Chem Industries;
  - e. Aries Orgranics Pvt. Ltd.
  - f. Bodal Chemicals Ltd. Unit-1;
  - g. Chemworld Inc;
  - h. Chhatariya Dye Stuff P. Ltd.
  - i. Hexone Interchem Pvt. Ltd.
  - j. Indo Colchem Ltd.;

- k. Jainik Industries;
  - l. Krishna Industries;
  - m. Loxim Industries Limited;
  - n. Macsen Laboratories;
  - o. Monica Industries;
  - p. Novacid Pvt. Ltd.;
  - q. Orjet Intermediates Pvt. Ltd.;
  - r. Prashant Industries
  - s. Rohan Dyes and Intermediates Ltd;
  - t. Shree Pushkar Petro Products Ltd.;
  - u. Shreeji Organics
  - v. Solar Dye Industries;
  - w. Synthopharma Chemicals;
  - x. Hindprakash International;
  - y. Chemex Cehmicals;
  - z. Yash Chemex Inc.
- viii. The following importer of the subject goods has responded by filing an Importer questionnaire response.
- a. Rohan Dyes and Intermediates Ltd.
- ix. The Authority made available non-confidential version of the evidence and submissions presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- x. 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 required analysis after due examination of the transactions.
- xi. The Non-Injurious Price (NIP) 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, based on the optimum cost of production and cost to make & sell the subject goods in India and a reasonable amount of return on capital employed. The optimum cost of production and cost to make & sell the subject goods has been based on the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules.

- xii. The Authority held an oral hearing on 29<sup>th</sup> June, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6). The hearing was attended by the representatives of the domestic industry and other interested parties who presented their views orally and were subsequently advised to file written submissions of the same with the Authority.
- xiii. Verification of the data of the interested parties was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon by the Authority.
- xiv. The Period of Investigation (POI) for the purpose of the present review investigation is 1<sup>st</sup> October, 2016 to 30<sup>th</sup> September, 2017 (12 months). The injury investigation period will cover the years April 2014-March 2015, April 2015- March 2016, April 2016- March 2017 and the POI.
- xv. In accordance with Rule 16 of the Rules, the essential facts which formed the basis for these findings were disclosed to known interested parties on 13<sup>th</sup> November 2018 and comments received on the same have been considered in these Final Findings.
- xvi. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- xvii. 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, the interested parties were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xviii. 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 findings on the basis of the facts available.
- xix. ‘\*\*\*’ in this document represents information furnished to the Authority on confidential basis and so considered by the Authority under the Rules.
- xx. The exchange rate for the POI has been taken by the Authority as Rs.66.07 = 1 US\$.

## **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **C.1 Views of the Domestic industry**

8. The views of the domestic industry are as follows:
- i. The present investigation is a sunset review investigation. The product involved in the original investigation and in the present sunset review investigation is Metaphenylene Diamine (hereinafter also referred to as the "**subject goods**" or "**PUC**"). The PUC in the present sunset review investigation is the same as has been defined by the Authority in the original investigation.
  - ii. The PUC in the present sunset review investigation is 'Meta Phenylene Diamine', also referred to as MPDA. Other names of the PUC are m- Phenylene Diamine; 1,3-diaminobenzene; 1,3-Benzenediamine; m-Aminoaniline; m-Benzenediamine, m-Diaminobenzene; 1,3-Phenylenediamine; 3-Aminoaniline, m-Fenylendiamin, Phenylenediamine, m; and Phenylenediamine, m. Commercially it is also called MPD or MPDA.
  - iii. Under normal (room) conditions, it is a colourless or white colour solid, which tends to turn red, purple (dark colour) in air, on storage.
  - iv. Meta Phenylene Diamine functions as a chemical intermediate. It is used for manufacturing dyes, engineering polymer, aramid fiber and also in photography & medical applications.
  - v. Metaphenylene Diamine is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act, 1975, under customs tariff item 29215120. The customs classification is indicative only and in no way binding on the scope of the present investigation.

### **C.2 Views of other Interested Parties**

9. None of the interested parties has made any submissions in this regard.

### **C.3 Examination by the Authority**

10. The PUC in the present sunset investigation is 'Meta Phenylene Diamine', also referred to as MPDA. Other names of the PUC are m- Phenylene Diamine; 1,3-diaminobenzene; 1, 3-Benzenediamine, m-Aminoaniline; m-Benzenediamine, m-Diaminobenzene; 1,3-

Phenylenediamine; 3-Aminoaniline, m-Fenylendiamin, Phenylenediamine, m; and Phenylenediamine, m. Commercially it is also called MPD or MPDA.

11. Metaphenylene Diamine is classified under Chapter 29 (Organic Chemical) of the Customs Tariff Act, 1975, under customs tariff item 29215120. The customs classification is indicative only and in no way binding on the scope of the present investigation.
12. The present investigation being a sunset review investigation and anti-dumping duties, as recommended earlier by the Authority, being in force on the imports of the subject goods from the subject country, the Authority considers that the scope of the subject goods in the present investigation remains the same as that in the original investigation.
13. With regard to like article, Rule 2(d) of the Anti-Dumping Rules provides as under:

*"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*

14. After considering the information on record, the Authority holds that there is no known difference between the PUC exported from the subject country and the product produced by the domestic industry. The subject product produced by the domestic industry is comparable to the PUC in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
15. Thus, the Authority holds that the subject product produced by the applicant domestic industry is like article to the PUC exported from the subject country, in accordance with the AD Rules.

## **D. SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **D.1 Submissions by the domestic industry**

16. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
  - i. The petition has been filed by M/s Aarti Industries Ltd., which is the only producer of the PUC in India. There is no other producer of the subject goods in India. The following are the details of the PUC as produced by the Petitioner:

S.No	UOM	UOM	2014-15	2015-16	2016-17	October 2016- September 2017
1.	Aarti Industries Ltd.	MT	***	***	***	***
	Share of Petitioner	%	100	100	100	100

- ii. The Petitioner has not imported the subject goods during the POI and it is also not related to any exporter of the subject goods in the subject country or any importer of the PUC in India within the meaning of Rule 2(b).

#### **D.2 Views of other Interested Parties**

17. None of the interested parties has made any submissions in this regard.

#### **D.3 Examination by the Authority**

18. The application has been filed by M/s Aarti Industries Ltd. As per the information provided by the Applicant, there is no other producer of the subject goods in India. The production of the subject goods by the Petitioner is as shown in the table below.

#### **Statement of Domestic Production**

S.No	UOM	UOM	2014-15	2015-16	2016-17	October 2016- September 2017
1.	Aarti Industries Ltd.	MT	***	***	***	***
	Share of Petitioner	%	100	100	100	100

19. Further, as per the information submitted by the Applicant, it is not found to have imported the subject goods during the POI and it is also not found to be related to any exporter of the subject goods in the subject country or any importer of the PUC in India within the

meaning of Rule 2(b).

20. In view of the above and after due examination, the Authority holds that the Applicant satisfies the standing requirements and constitutes domestic industry under Rule 2(b) and Rule 5(3) of the AD Rules.

**E. ISSUES RELATING TO CONFIDENTIALITY**

**E.1 Views of the domestic industry**

21. Submissions made by the domestic industry are as follows:
- i. Section VI of the anti-dumping proforma contains vital information regarding the costing of the applicant industry. Disclosure of actual information with regard to same can jeopardize the future business in the product.

**E.2 Views of the other interested parties**

22. Submissions made by the other interested parties are as follows:
- i. The domestic industry has claimed excessive confidentiality and filed an incomplete petition. In response to Section-VI (Costing Information) of the Petition, the domestic Industry has not furnished any information at all.
  - ii. The petition filed does not contain information about various important parameters for the period of investigation.

**E.3 Examination by the Authority**

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

*“Confidential information”*

*(1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*

*(2) The designated authority may require the parties providing information on*

*confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*

*(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”*

24. 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 evidences submitted by various interested parties in the form of public file.

## **F. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN**

### **F.1 Views of the domestic industry**

25. The domestic industry has made following submissions :

- a. Out of the 7 Exporter Questionnaire responses filed, all of the producers/exporters have held the information regarding the domestic or export sales of the PUC as confidential and one of the responding exporters, namely Zhejiang-amino Chem, has abstained from fully providing the value chain information, thus, hampering the opportunity of the domestic industry to make comments on its parent company's total capacity and sales channel.
- b. One of the provisions of Accession Protocol expired on 11<sup>th</sup> December, 2016. The Authority should however proceed with present investigation considering Chinese producers as producers operating in non-market economy conditions due to reasons given below.

- i. The investigation period considered by the Authority in the present case is October 2016 to September 2017 (12 months).
- ii. The Chinese producers are required to be treated as non-market economy companies for the reason that the costs and prices in China do not reasonably reflect the market forces. Para 8 of Annexure-I specifies the parameters which should be considered for grant of market economy status.
- iii. Since Chinese companies have been denied market economy status for the reasons mentioned in Para 8 of Annexure-I till December, 2016, the petitioner submits that the Chinese producers are thus required to be treated as non-market economy companies till such time the investigation period includes the period specified in Accession Protocol. The Authority may therefore proceed to determine the normal value on the basis of Para 7 of Annexure-I to the AD rules.
- iv. In case any of the interested parties contend that provisions of Article 15(a) (ii) have ceased to exist and cannot be applied to the present case, the petitioner submits that the provisions of Article 15(a) (i) shall still be considered for determination of Normal Value.
- v. Normal value could not be determined on the basis of price of like article in an appropriate market economy third country for the reason that the relevant information is not publicly available. The petitioner has claimed consideration of normal value on the basis of cost of production in India duly adjusted.

## **F.2 Views of other interested parties**

26. The following submissions have been made with regard to normal value, export price and dumping margin:
  - i. China PR had been treated as a Non-Market Economy country by India in the past. In accordance with relevant provisions of China's Accession Protocol, the surrogate country treatment does not have international legal validity since 11<sup>th</sup>

December 2016. Such practice is bound to expire from then on.

- ii. After 11<sup>th</sup> December 2016, the Indian anti-dumping legal framework cannot contain any provisions allowing for the construction of normal value for Chinese producers apart from their domestic prices and costs.

### **F.3 Examination by the Authority**

#### **F.3.1 Determination of Normal Value for Producers and Exporters in China**

27. The provisions pertaining to normal value are given in Section 9A(1)(c) of the Act and Annexure - I to AD Rules. According to Section 9A (1) (c) of the Customs Tariff Act, 1975, 'Normal Value' in relation to an article means:

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

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

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

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

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

28. Annexure-I to the AD Rules states as herein under:

*7. 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.*

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

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

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

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

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

*substantially reflect market values;*

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

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and (d) the exchange rate conversions are carried out at the market rate.*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph".*

29. The Authority notes that the conditions prevalent during the investigation period are relevant for the purpose of the present investigation. The POI for the purpose of the present investigation is 1<sup>st</sup> October, 2016 to 30<sup>th</sup> September, 2017. Section 15(a) (ii) of the Protocol of Accession of People's Republic of China was very much in existence during the POI. Accordingly, the Authority advised the producers/exporters in China PR to provide relevant information to demonstrate prevalence of market conditions related to manufacture, production and sales of the subject goods in the domestic market and in exports to India and other countries. Accordingly, copies of supplementary questionnaire were sent to all the known producers/ exporters for providing information in regard to the criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested the Government of China PR to advise the producers/ exporters in China PR to provide the relevant information. However, none of the exporters from China PR submitted the supplementary questionnaire providing the requisite information.
30. Normal value for the subject goods imported from China PR into India has accordingly been constructed on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

### **F.3.3 Determination of Export Price for producers and exporters in the subject country**

31. The Authority notes that three producers from China PR have furnished information to the Authority which could be used for determination of export price and individual dumping margin. These are:

- a. Jiangsu Tianjiayi Chemical Co. Ltd.
- b. Sichuan North Hongguang Special Chemical Co. Ltd.
- c. Zhejiang Amino-Chem Co., Ltd.

Therefore, the Authority has analysed the response made by the producers/exporters as follows:

**Jiangsu Tianjiayi Chemical Co. Ltd. (Tianjiayi) (Producer) and M/s Buipo International, China PR (Exporter), Changshan Haicheng Chemical Co., Ltd. (Exporter), and Inchem Co., Ltd. (Exporter)**

32. The Authority notes that Tianjiayi has exported \*\*\* MT of the subject goods to India directly and through unrelated traders. Out of these unrelated traders only Buipo International, Changshan Haicheng Chemical Co., Ltd. and Inchem Co., Ltd have filed the response. Further, quantity reported by Tianjiayi as Inchem's exports to India does not match with the quantity reported by Inchem as exports to India. Since, the quantity exported through non-participating traders is quite significant (almost 42%), the authority is not in a position to determine the export price for the above-mentioned producer and trader. Accordingly, the Authority rejects the response filed by Tianjiayi and its traders and instead determines the export price on the basis of facts available.

**Sichuan North Hongguang Special Chemical Co. Ltd. (Hongguang) (Producer) and Furion International (Exporter)**

33. The Authority notes that Hongguang has exported \*\*\* MT of the subject goods to India directly and through an unrelated trader, namely Furion International. All sales were made to unrelated customers in India. Hongguang has claimed adjustments on account of inland freight, ocean freight, marine insurance, credit cost and bank charges. Accordingly, the Authority has determined the ex-factory export price as \*\*\* US\$/MT.

**Zhejiang Amino-Chem Co., Ltd. (Producer/Exporter) (Zhejiang)**

34. The Authority notes that Zhejiang has exported \*\*\* MT of the subject goods to India directly. Zhejiang has claimed adjustments on account of inland freight, ocean freight, marine insurance, packing, handling, credit cost and bank charges. Accordingly, the Authority has determined the ex-factory export price as\*\*\*US\$/MT

**F.3.4 Export Price for non-cooperating producers/exporters**

35. The Authority has determined the export price for producers/exporters in the subject country on the basis of the DGCI&S transaction -wise data. The export price has been adjusted on account of Freight, Marine Insurance, Bank Charges, Port Expenses to arrive at the net export price at ex-factory level. Accordingly, the normal value and net export price at ex-factory level for exports from the subject country is as shown in the dumping margin table below.

**F.4 Determination of dumping margin for producers and exporters in the subject country**

36. Considering the normal value and export price as above, the dumping margin for all exporters of the subject goods from the subject country is determined as below:

S.No	Producer	Exporter	Constructed Normal Value (USD/MT)	Net Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Dumping Margin (Range)
1.	Sichuan North Hongguang Special Chemical Co. Ltd.	1. Sichuan North Hongguang Special Chemical Co. Ltd. 2. Furion International	***	***	***	***	30-40

2.	Zhejiang Amino-Chem Co., Ltd	Zhejiang Amino-Chem Co., Ltd	***	***	***	***	20-30
3.	Others	Others	***	***	***	***	40-50

## **G. INJURY AND CAUSAL LINK**

### **G.1 Views of the Domestic industry**

37. The following are the injury related submissions made by the Petitioner during the course of the present investigation and considered relevant by the Authority:
- i. Demand for the subject goods has increased over the injury period with some decline in the POI.
  - ii. Imports have increased significantly in absolute terms over the injury period with some decline in the POI.
  - iii. Though imports in relation to production and consumption in India have declined in the POI, they remain significant in the POI despite imposition of anti-dumping duty.
  - iv. Import prices have declined drastically without a corresponding decline in the raw material costs.
  - v. Landed price of imports is significantly below the selling price of the domestic industry. It is in fact much below the level of costs from 2015-16 onwards.
  - vi. Landed price of imports is far below the selling price and also the cost of production of the domestic industry. Significant imports at low price have forced the domestic industry to lower its selling price. Cessation of anti-dumping duty will lead to significant depressing effect on domestic selling prices.
  - vii. The Petitioner increased capacity for the PUC considering the current and potential growth in demand.
  - viii. Production declined between 2014-15 and 2015-16 and increased thereafter. The increase is however much less as compared to the demand and capacities created.

- ix. Capacity utilization declined sharply over the injury period, not due to addition of capacity, but due to absence of market caused by dumping.
  - x. Though Petitioner was able to increase its sales by selling goods at low price, the increase in sales is however much below the expected level.
  - xi. Domestic industry's market share increased only marginally and the market share of subject imports remained significant. The domestic industry holds a mere 37% market share whereas imports from China PR hold 63%.
  - xii. Cash profit and profit before interest earned by the domestic industry declined drastically over the injury period.
  - xiii. Return on capital employed earned by the domestic industry, though positive, declined sharply throughout the injury period.
  - xiv. Imposition of anti-dumping duty initially led to improvement in the domestic industry's profitability. However profitability again started to deteriorate in view of dumped imports at prices much below the level of cost of sales and selling price of the domestic industry.
  - xv. The average inventories increased sharply in the POI.
  - xvi. Productivity per day has increased over the injury period in consonance with movement of production.
  - xvii. Level of employment and wages paid has also increased over the injury period.
  - xviii. While production and sales show a positive growth, the capacity utilization and inventories showed a negative growth. Growth in parameters such as profit, cash profit and return on capital employed was negative.
  - xix. Decline in profits is not due to increase in capacities but largely due to steep decline in selling price as a result of price undercutting.
  - xx. The domestic industry had increased its capacity keeping in view the growing demand in the domestic and export markets. The increase in net fixed assets is a result of the increased capacities.
38. The domestic industry made following submissions regarding the presence of causal link:
- i. Once it is shown that there is an adverse volume and price effect from dumped imports and the effects of injury caused by dumped imports are demonstrated in

terms of the parameters set out in para (iv) of Annexure II, then the only basis to conclude that the injury is caused or not caused by the dumped imports is through non-attribution analysis.

- ii. The pattern of consumption with regard to the PUC has not undergone any change.
- iii. There is no trade restrictive practice which could have contributed to injury to the domestic industry.
- iv. Technology for production of the product has not undergone any change.
- v. Listed known other factors also do not establish that injury has been caused by these other factors.

## **G.2 Views of other interested parties**

39. The submissions made by other interested parties during the course of investigation with regard to injury and causal link, which have been considered relevant by the Authority, are as under:

- i. Imports have increased with the increase in demand and vice versa. Thus, it cannot be said that there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.
- ii. Injury is mainly caused to the domestic industry because of undue/unjustified capacities. The domestic industry is not able to stabilize its capacities which has resulted in economic injury to it.
- iii. Despite having huge unutilized capacities, the domestic industry further increased the capacity during the POI, resulting in inefficient capacity utilization. There was no need of increasing the capacity by the petitioner.
- iv. The Petitioner's domestic sales have increased substantially during the POI as compared to the base year 2014-15. It appears that the Petitioner is focusing on the exports rather than selling the subject goods in Indian market.
- v. Inventory level should not be examined in isolation, but in relation to sales or production.
- vi. Cost of sales has declined during the POI as compared to base year 2014-15. Landed price also declined with the decrease in the cost of sale.
- vii. Price undercutting should not be seen in isolation. Despite there being positive

price undercutting, domestic Industry has improved its performance.

- viii. The petition shows that the domestic industry's profitability has reduced during the POI when compared to 2014-15. However as per Annual Report of Aarti Industries Ltd., the total profitability of the company is improving significantly.
- ix. Net fixed assets and working capital have increased substantially during the POI as compared to the base year 2014-15.
- x. No. of employees has increased during the POI as compared to the base year 2014-15.
- xi. Any injury allegedly suffered by the domestic industry is due to factors other than imports from the subject country. The Petition deliberately fails to address a number of crucial issues which had an impact on the domestic industry independent of the subject imports.

### **G.3 Examination by the Authority**

- 40. The submissions made by the interested parties during the course of investigation with regard to injury and causal link, which have been considered relevant by the Authority, are examined and addressed below.
- 41. The Authority has assessed injury by examining both volume effect and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on the domestic industry.

#### **G.3.1 Volume effect of dumped imports**

##### **a) Assessment of demand**

- 42. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the PUC in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed is given in the table below.

### Demand for the PUC in India

Particulars	Unit	2014-15	2015-16	2016-17	POI
Sales of Domestic Industry	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	95	91	137
Imports from the subject country	MT	2,475	3,148	4,549	3,383
<b>Total Demand</b>	<b>MT</b>	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	115	149	137

43. The Authority notes that the demand for the PUC increased continuously and significantly from 2014-15 to 2016-17 but declined slightly in the POI.

**b) Import volumes and share of subject country**

44. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject country has been analysed as under:

#### Imports and Market Share

S.No	Particulars	Unit	2014-15	2015-16	2016-17	POI
1.	Imports from China PR	MT	2,475	3,148	4,549	3,383
2.	Total consumption in India	MT	***	***	***	***
3.	Total production in India	MT	***	***	***	***
	Volume of imports from subject country in relation to					
4.	Demand in India	%	***	***	***	***
	Indexed		100	111	124	100

5.	Production in India	%	***	***	***	***
	Indexed		100	156	142	74

45. From the above table, it can be seen that:

- i. The imports from the subject country have increased continuously over the injury period, except for a decline in the POI.
- ii. The share of subject imports in relation to consumption in India has increased over the injury period, except for a decline in the POI.
- iii. The share of subject imports in relation to production in India increased from 2014-15 to 2015-16. It thereafter declined in 2016-17 and further declined in the POI.

### **G.3.2 Price effect of dumped imports**

46. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

#### **a) Price Undercutting**

47. In this regard, a comparison has been made between the landed value of the PUC from the subject country and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The price of the domestic industry was determined at the ex-factory level. The margin of undercutting is shown as per the table below:

#### **Price Undercutting**

S.No	Particulars	Unit	2014-15	2015-16	2016-17	POI
1.	Landed price of imports	Rs./kg	240	189	185	191
2.	Net Sales Realisation of domestic industry in India	Rs./kg	***	***	***	***
3.	Price undercutting	Rs./kg	***	***	***	***

4.	Price undercutting	%	***	***	***	***
5.	Price undercutting	Range	0-10	10-20	20-30	10-20

48. Price undercutting by imports of subject goods from China PR is positive.

**b) Price Underselling**

49. 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 NIP determined for the domestic industry has been compared with the landed price of imports from the subject country. Comparison of the NIP of the domestic industry with weighted average landed price of imports shows as follows:

**Price Underselling**

S.No	Particulars	Unit	China PR
1.	Landed price of imports	Rs./kg	***
2.	Non-Injurious Price	Rs./ kg	***
3.a	Price underselling	Rs./ kg	***
3.b	Price underselling	%	***
3.c	Price underselling	Range	15-25

50. It is noted from the above table that imports are coming into India below the NIP of domestic industry.

**c) Price suppression and depression effects of the dumped imports**

51. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority has considered the changes in the costs and prices over the injury period.

### Price Suppression/ Depression

Particulars	Unit	2014-15	2015-16	2016-17	POI
Landed value	Rs./kg	240	189	185	191
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>79</i>	<i>77</i>	<i>80</i>
Cost of sales per unit – domestic sales	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>88</i>	<i>106</i>	<i>100</i>
Selling price per unit – domestic sales	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>82</i>	<i>91</i>	<i>86</i>

52. From the above table, it can be seen that:

- i. The landed value of imports from the subject country has declined in the injury period, having only marginally increased in the POI.
- ii. The cost of sales of the domestic industry has remained the same in the POI as compared to the base year.
- iii. Selling price of the domestic industry has declined by 14 indexed points in the POI as compared to the base year.

53. Thus, imports have caused price suppression and depression in the domestic market.

#### **G.3.3 Examination of Economic Parameters relating to Domestic Industry**

54. Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the AD 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.

55. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.
56. Accordingly, various economic parameters of the domestic industry are analyzed herein below:

**a) Capacity, Production, Capacity Utilization and Domestic Sales**

57. The performance of the domestic industry with regard to production, capacity, capacity utilization, and domestic sales was as follows:

S.No	Particulars	Unit	2014-15	2015-16	2016-17	POI
1.	Capacity	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>180</i>	<i>308</i>	<i>400</i>
2.	Production	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>82</i>	<i>129</i>	<i>185</i>
3.	Capacity Utilisation	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>45</i>	<i>42</i>	<i>47</i>
4.	Domestic Sales	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>95</i>	<i>91</i>	<i>137</i>

58. From the above table, it can be seen that:
- i. Capacity has substantially and continuously increased over the injury period.
  - ii. Production declined from 2014-15 to 2015-16, however it significantly and continuously increased thereafter in 2016-17 and also during the POI.
  - iii. Capacity utilization decreased continuously in the injury analysis period though it marginally increased in the POI.
  - iv. Domestic sales volume decreased slightly during 2015-16 and 2016-17 and thereafter it substantially increased in the POI.
59. It thus noted that despite sufficient capacity available with the domestic industry, the domestic industry not able to produce and sell at optimum level in view of existence of dumped imports.

**b) Market Share**

60. The effect of the dumped imports on the market share of the domestic industry has been examined as below:

**Market share in Demand**

<b>Particulars</b>	<b>Unit</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
Share of subject country	%	62	69	77	62
Share of domestic industry	%	38	31	23	38
Total	%	100.00%	100.00%	100.00%	100.00%

61. From the above table, it can be seen that:
- i. Market share of imports from the subject industry during the POI is same as that in the base year of the injury period.
  - ii. Market share of the domestic industry during the POI is same as that in the base year of the injury period.

62. It is thus seen that subject imports constitute a major share in the domestic market despite domestic industry having sufficient capacity.

**c) Inventories**

63. The data relating to inventory of the subject goods is shown in the following table.

**Inventory**

<b>Particulars</b>	<b>UOM</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
Inventory	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>82</i>	<i>77</i>	<i>111</i>

64. From the above table, it can be seen that:

- i. The average inventory has declined in the injury period, except for a steep increase in the POI.

**d) Profits, return on investment and cash flow**

65. The profit/loss, cash profits and return on investment of the domestic industry has been analysed as follows:

**Profits, return on investment and cash flow**

<b>Particulars</b>	<b>UOM</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
Profit/loss-per unit	Rs. MT	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	<i>100</i>	<i>10</i>	<i>-66</i>	<i>-63</i>
Profit/loss	Rs. lacs	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	<i>100</i>	<i>9</i>	<i>-60</i>	<i>-87</i>
Profit before interest	Rs. lacs	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	<i>100</i>	<i>35</i>	<i>-0.49</i>	<i>-28</i>

Cash Profits	Rs. lacs	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	28	-14	-21
Return on Capital Employed	%	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	32	-0.14	-7

66. From the above table, it can be seen that:

- i. The profitability of the domestic industry have declined significantly over the injury period.
- ii. PBIT for domestic sales has declined substantially and continuously over the injury period.
- iii. Cash profits made by the domestic industry have declined substantially and continuously in the injury period.
- iv. The domestic industry earned healthy ROCE in 2014-15. It however declined continuously in the injury period.

**e) Employment and Productivity**

67. The number of employees engaged by the Petitioner and the position with regard to productivity is as follows:

**Employment and Productivity**

Particulars	UOM	2014-15	2015-16	2016-17	POI
No of Employees	Nos	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	121	232	221
Productivity Per Day	MT/Day	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	100	82	129	185

Productivity Per employee	MT/Employee	***	***	***	***
<i>Indexed</i>	<i>Trend</i>	<i>100</i>	<i>68</i>	<i>56</i>	<i>84</i>

68. From the above table, it can be seen that:

- i. The number of employees engaged by the domestic industry has increased significantly over the injury period.
- ii. Productivity per employee declined significantly in the injury period. It however increased steeply in the POI.

**f) Growth**

<b>Particulars</b>	<b>UOM</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>POI</b>
Production volume	%	-	-18%	58%	43%
<i>Indexed</i>	<i>Trend</i>		<i>(100)</i>	<i>420</i>	<i>336</i>
Capacity utilization			-55%	-8%	10%
<i>Indexed</i>	<i>Trend</i>		<i>(100)</i>	<i>(86)</i>	<i>119</i>
Domestic sales volume	%	-	-5%	-4%	50%
<i>Indexed</i>	<i>Trend</i>		<i>(100)</i>	<i>(85)</i>	<i>1025</i>
Profits(PBT)	%	-	-91%	-755%	-44%
<i>Indexed</i>	<i>Trend</i>		<i>(100)</i>	<i>(831)</i>	<i>(49)</i>
ROCE	%		-68%	-99%	-4891%
<i>Indexed</i>	<i>Trend</i>		<i>(100)</i>	<i>(147)</i>	<i>(7166)</i>
Cash profits	%		-72%	-149%	-53%
<i>Indexed</i>	<i>Trend</i>		<i>(100)</i>	<i>(206)</i>	<i>(73)</i>

69. The Authority notes the following regarding the growth of the aforesaid parameters of the domestic industry:

- i. Production, capacity utilization, and domestic sales have improved. However, they remain much below the optimum level.
- ii. Profits (PBT), Cash profits and return on capital employed have consistently declined.

#### **H. MAGNITUDE OF INJURY MARGIN**

70. The determined non-injurious price of the subject goods produced by the domestic industry has been compared with the landed value of the imports from the subject country of each participating producer for determination of injury margin during POI as under:

<b>S.No</b>	<b>Producer</b>	<b>Exporter</b>	<b>NIP (USD/MT)</b>	<b>Landed Value (USD/MT)</b>	<b>Injury Margin (USD/MT)</b>	<b>Injury Margin (%)</b>	<b>Injury Margin (Range)</b>
1.	Sichuan North Hongguan Special Chemical Co. Ltd.	a) Sichuan North Hongguan Special Chemical Co. Ltd.  b) Furion International	***	***	***	***	25-35
2.	Zhejiang Amino-Chem Co., Ltd	Zhejiang Amino-Chem Co., Ltd	***	***	***	***	15-25

3.	Others	Others	***	***	***	***	45-55
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**I. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

71. The Authority notes that this is a sunset review investigation and the focus of this investigation is to examine the likelihood of continuation or recurrence of dumping and injury if the anti-dumping duties were to be allowed to expire.

**I.1 Views of the domestic industry**

72. The domestic industry made the following submissions in support of its claim of likelihood of continuation or recurrence of dumping and injury:

- i. The requirements under Trade Notice No 02/2017 issued by the Authority does not appear relevant to the present case.
- ii. There is a history of continued dumping of Metaphenylene diamine in India. The Indian industry faces the consequence of continued dumping. Imports have increased significantly at low price, in spite of imposition of anti-dumping duty. There has been significant decline in the import price without corresponding decline in the raw material thus indicating intensified dumping from the subject country.
- iii. Despite imposition of anti-dumping duty, the subject goods concerned continues to be imported in significant volumes.
- iv. Producers in the subject country are having excessive production capacities. The aggregate capacities of all producers of the subject goods in China PR is approximately 1,20,000 MT.
- v. From a perusal of the Annual Reports of the Zhejiang Longsheng Group over the years, it is evident that the exporters from China PR have very high export orientation worldwide. The operating income of one of the producers in China PR from export sales has increased whereas the same from their domestic sales have declined. The Annual Report of the exporter clearly states that one of the key export market is India. This clearly establishes the likelihood of increased imports

in case the anti-dumping duty is allowed to cease.

- vi. Continued presence of dumped imports has prevented the domestic industry from recovering from the past effects of dumping. In the event of cessation of current antidumping duty, the domestic industry will have to either decrease the selling price by the amount of anti-dumping duty or maintain the current selling price. In either case, it will suffer material injury by way of significant losses.
- vii. The prices at which subject imports are entering the India market are substantially lower than the domestic selling prices. Therefore, in case of expiry of anti-dumping duty, exporters would further channelize their output into the Indian market as they are already holding excessive capacities.
- viii. Should the present anti-dumping duty cease to exist, price undercutting would increase further.
- ix. The responding exporters must establish that dumping is unlikely to continue or recur in the event of revocation of anti-dumping duties.
- x. Chinese producers have enhanced their exports to India and are still commanding 62% of demand for the PUC in India.
- xi. A perusal of the Annual Reports of the producers in China shows that there are numerous incentives/grants/subsidies given to the producers/exporters by the Chinese government. This establishes unfair play.
- xii. The Annual Reports of Zhejiang Longsheng Group clearly shows that the Chinese producers are very much keen to export to the Indian market, but the presence of anti-dumping duties is acting as a barrier.

## **I.2 Views of other interested parties**

73. Submissions made by other interested parties regarding likelihood of continuation or recurrence of dumping and injury are as under:
  - i. Claims of the petitioner that the responding exporters must establish that dumping is unlikely to continue and recur in the event of revocation of anti-dumping duties are factually and legally incorrect. The present investigation has been initiated based on the petition filed by the domestic industry and onus of proving this fact lies on them and not on exporters.

- ii. Dumping is unlikely to continue or recur in the event of revocation of anti-dumping duties.

### **I. 3 Examination by Authority**

74. The Authority has examined the contentions of the domestic industry in regard to likelihood of continuation or recurrence of dumping and injury with specific reference to the threat of material injury in terms of Annexure II (vii) of the Rules.

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

75. The volume of subject imports in the current injury period has increased continuously except for decline during the POI. Even after decline, the level of imports during POI is higher than the level of import during 2014-15 and 2015-16.

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

76. This parameter for ascertaining the threat of material injury/likelihood of recurrence of injury requires evaluation of existing surplus capacities with foreign producers and capacity addition by them, if any, to explore the possibility of diversion of disposable quantity to Indian market.

77. The domestic industry has provided information regarding demand, production, sales of the subject goods in the subject country based on the Annual Reports of producers of the subject goods in China PR.

78. The Authority, on the basis of information submitted by the Petitioner, notes that the aggregated capacities of all producers of the subject goods in China PR is approximately 1,20,000 MT. The capacities available with cooperating producers alone total to 46000 MT.

79. On the basis of information submitted by the Petitioner, it is further noted that Chinese producers of the subject goods are keen on exporting to India.

80. It is also noted from the response filed by participating producers that there exist significant surplus capacities with them. There is consequently likelihood /possibility of increased dumped exports to Indian market.

**(c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports**

81. The landed value of imports from the subject country has declined in the injury period, having only marginally increased in the POI.
82. The cost of sales of the domestic industry has increased by 2 indexed points in the POI as compared to the base year.
83. Selling price of the domestic industry has declined by 14 indexed points in the POI as compared to the base year.
84. All these parameters point to the presence of depressing and suppressing effect on the domestic price.

**(d) inventories of the article being investigated**

85. It is also noted from the response filed by participating producers that they have significant inventories of the subject goods.

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

**Examination by the Authority**

86. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

**(a) Volume and prices of imports from third countries**

87. The Authority notes, as per information, submitted by the Petitioner, that the subject goods are not being imported from any country other than China PR. Therefore, volume and prices of imports from third countries is immaterial for this investigation.

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

88. There has been an increase in demand/apparent consumption of the subject goods over the injury period except for a slight decline during the POI.

**(c) Developments in technology:**

89. Technology for production of the product concerned has not undergone any change.

**(d) Trade restrictive practices of and competition between the foreign and domestic producers**

90. There is no trade restrictive practice, which could have adversely affected the domestic industry.

**(e) Export performance of the domestic industry**

91. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis.

**(f) Productivity of the Domestic Industry**

92. Per day productivity of the domestic industry has shown significant improvement over the injury investigation period. Hence, it cannot be a criterion for adverse performance of the domestic industry.

**K. POST DISCLOSURE COMMENTS:-**

**Views of domestic industry**

93. Following are the post disclosure comments made by Domestic Industry:

- i. Chinese exporters and producers have not provided correct and certified information. Tianjiayi exports to India via traders -Buipo, Changshan and Inchem and other non-participating traders. The Authority has also noted that the response filed by Inchem underreports quantity of exports in comparison to what was filed in Tianjiayi's response. The quantity exported through non-participating traders also is quite significant at about 42% which does not allow for an accurate and reliable determination of the export price.
- ii. M/s Furion International has not filed SSR Questionnaire Part II and on this account itself it should be held as non-cooperative as the basis of an SSR investigation is SSR questionnaire Part II, which establishes the likelihood of continuation/recurrence of dumping/ injury.
- iii. Zhejiang Amino Chem has related parties engaged in the production/sales of the PUC. However, they have not participated in the investigation. It does not allow for a proper/reliable determination of the export price of the subject producer and hence distorts the dumping/injury margins arrived. Zhejiang Amino Chem should be treated as non-cooperative and its questionnaire response should be rejected.
- iv. The domestic industry's cost of sales has remained the same over the injury period while the selling price has declined significantly by 14 basis points and landed prices of the subject imports has also declined. The Authority has refrained from making

specific observation as to whether this results in price suppression or depression of the domestic industry's prices. The Petitioner has increased capacity to cater to US demand. Average US demand for the product is in the region of 700 MT per month. There is no domestic production for the PUC in US and the entire demand is met through imports in US.

- v. The market share of the subject imports is 62% whereas that of the domestic industry is 38% despite domestic industry having sufficient capacity to cater to the domestic market.
- vi. The NIP determined by the Authority is low. The Authority has normated the cost of the domestic industry by considering best achieved capacity utilization without considering the significant capacity addition made by the domestic industry. It is not appropriate to consider the past achieved capacity utilization, or to consider expenses charged to the PUC in the POI and normate the same on the basis of highest capacity utilisation achieved in the past. The Authority may recast Format C-II by considering optimum level of production and thereafter apportioning fixed expenses between PUC and other products in the ratio of revised turnover.
- vii. Despite existence of anti-dumping duty, import volumes have increased significantly over the injury period with a simultaneous decline in import prices, which are much below the NIP as well as the already reduced selling prices of the domestic industry.
- viii. Information provided by the domestic industry and responses filed by exporters from the subject country evidences surplus capacity.
- ix. Information provided by domestic industry shows high export orientation of the producers in China.
- x. Imports are suppressing and depressing the prices of the domestic industry indicating their likely behavior of suppressing and depressing the domestic prices.
- xi. Responding exporters have high level of inventories with them, thus establishing that they would want to export to favorable markets.

**Views of other interested parties:-**

- 94. Following are the post-disclosure comments made by the producer/exporter/ importers/ other interested parties:

- i. The Authority's rejection of the exporter's questionnaire response by Jiangsu Tianjiayi Chemical Co., Ltd., is not based on the facts of the case. Two traders, namely, Changshan Haicheng Chemical Co. Ltd and Buipo International, China PR have sold all the subject goods to India sourced from Jiangsu Tianjiayi Chemical Co., Ltd.
- ii. Jiangsu Tianjiayi Chemical Co., Ltd., Changshan Haicheng Chemical Co., Ltd., Buipo International and Inchem Co., Ltd., China PR, have fully cooperated with the Authority and they may hence be granted individual rate of duty.
- iii. The Authority has still adopted the "surrogate country" method of comparison on the ground that Article 15 of China's Accession Protocol was in existence during most of the POI. It is not reasonable to use the POI as an excuse for breaching Article 15. Producers and exporters in China PR should automatically obtain market economy status after 11<sup>th</sup> December 2016.

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

95. The post-disclosure comments made by the interested parties are mostly reiterations and have been addressed at appropriate places in the final findings. However, the specific comments considered relevant by the Authority are addressed below:
- i. As regards the submission of the domestic industry that the NIP determined is too low, the Authority notes that the NIP has been determined as per Annexure III of the AD Rules based on verified data and consistent practice of the Authority.
  - ii. With regard to the rejection of the response of Tianjiayi and its traders, the Authority notes that in this particular investigation unrelated traders, whose exports constitute 42% of Tianjiayi's total exports to India, have not participated. Therefore, the Authority is not in a position to determine an individual rate of duty for Tianjiayi.
  - iii. The Authority notes that determination of export price is a crucial step in anti-dumping investigations to ensure fair comparison. The Authority does this by considering the export price and normal value at the same level of trade. It is the established practice of the Authority to compare the export price and normal value at the ex-factory level. To arrive at a comparable export price, appropriate adjustments are required to be made in export price, depending upon how it is quoted - CIF/FOB/FOR etc.

- iv. Since determination of dumping margin is made for each co-operating producer, this requires determination of net export price for each of the channels of exports identified and a weighted average obtained thereof.
- v. Thus, it is mandatory for responding producers to file a complete response in respect of all its trade channels to India. In cases where the exports are through unrelated exporter/trader, the response from the unrelated entities are also required. This will be particularly so, in cases where the share of exports to India of unrelated exporters not participating in the investigation constitutes a significant proportion of the exports of the concerned producer to India. In such cases the responding producer would be considered non-cooperative in general and the entire response is liable to be rejected.

**L. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES:**

96. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still have access to two or even more sources of supply.
97. The purpose of imposing anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Further, imposition of anti-dumping duties, would not affect the availability of the product to the consumers.

**M. CONCLUSION:**

98. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in these final findings, and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:

- i. Imports from China PR continue to command a significant share in the domestic market.
- ii. There has been continued dumping of the subject goods from China PR and the dumping is likely to continue and increase if the anti-dumping duty is allowed to cease.
- iii. Even when the performance of the domestic industry improved in respect of volume parameters, the domestic industry was not able to improve its market share and was still holding a share much lower than imports. Further, its performance deteriorated in respect of price parameters to such an extent that the domestic industry was suffering financial losses, cash losses and negative return on investment. Growth of the domestic industry is adverse. The domestic industry has suffered continued injury.
- iv. There is likelihood of continuation of dumping and injury to the domestic industry.

**N. RECOMMENDATIONS:**

99. Having concluded there is likelihood of continuation and intensification of dumping and injury on account of imports of the subject goods from the subject country if the duties are allowed to cease, the Authority is of the view that the anti-dumping measure is required to be extended in respect of imports of the subject goods, originating in or exported from China PR, as specified in the duty table below.
100. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the anti-dumping duty equal to the amount indicated in Col. 7 of the duty table given below is recommended to be imposed on all imports of the subject goods originating in or exported from China PR for a period of five years

**DUTY TABLE**

SN	Heading/ Sub heading	Descriptio n of goods	Country of origin	Country of export	Producer	Amount of duty	Unit	Curre ncy
1	2	3	4	5	6	7	8	9
1.	29215120 & 29215190	'Meta Phenylene Diamine' (MPDA)*	China PR	Any country including China PR	Sichuan North Hongguang Special Chemical Co. Ltd.	716.13	MT	US\$
2.	- do -	- do -	China PR	Any country including China PR	Zhejiang Amino-Chem Co., Ltd	573.92	MT	US\$
3.	- do -	- do -	China PR	Any country including China PR	Any producer other than at 1&2	1015.44	MT	US\$
4.	- do -	- do -	Any Country other than China PR	China PR	Any	1015.44	MT	US\$

\*Meta Phenylene Diamine' (MPDA), also known as m- Phenylene Diamine, 1,3-diaminobenzene, 1, 3- Benzenediamine, m- Aminoaniline, mBenzenediamine, m-Diaminobenzene, 1,3-Phenylenediamine, 3- Aminoaniline, mFenylendiamin, Phenylenediamine, and m-Aminoaline, Phenylenediamine meta.

**O. FURTHER PROCEDURES**

101. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)  
Additional Secretary and Director General