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F. No. 15/06/2016-DGAD

Government of India

Ministry of Commerce & Industry

Department of Commerce

Directorate General of Anti-Dumping & Allied Duties

Jeevan Tara Building, New Delhi-110001

Dated 19th July, 2017

NOTIFICATION

(Final Findings)

Subject: Sunset Review of Anti-dumping duty imposed on the imports of Sodium Nitrite originating in or exported from China PR.

F. No. 15/06/2016/DGAD: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

A. Background of the Case

1. Whereas having regard to the above Act and the Rules, the Designated Authority (hereinafter referred to as the Authority) initiated an antidumping investigation against import of Sodium Nitrite originating in or exported from China PR vide Notification No.39/1/99-DGAD on 4th November, 1999 and preliminary findings were issued by the Authority on 6th April, 2000. Provisional duties were imposed on 23rd May, 2000 vide notification no. 76/2000-Customs. The Authority notified final findings on 3rd November, 2000 recommending imposition of definitive duties on imports of Sodium Nitrite originating in and exported from China. The definitive anti-dumping duties on the subject goods imported from the subject country were imposed by the Department of Revenue vide Customs Notification No. 147/2000 dated 19th December, 2000.
2. The imposition of duty has been reviewed from time to time and the second sunset review final finding was notified by the Authority vide Notification No. 15/4/2010 - DGAD dated 30th June, 2011 recommending continued imposition of the anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country. As per the recommendations of the Authority, the anti-dumping duty was imposed by the Central Government vide Notification No. 76/2011-Customs dated 17th August, 2011.
3. After the mid-term review conducted at the behest of the petitioner requesting for change in the form of antidumping duty from the existing benchmark form to fixed form and enhancement in the quantum of anti-dumping duties, the Authority notified final findings

recommending change in the form of anti-dumping duty vide Notification No. 15/2/2013-DGAD dated 15th October 2014. The anti-dumping duty was in force up to 16th August 2016 in accordance with Notification No. 76/2011-Customs dated 17th August, 2011 and the quantum of duty was modified in accordance with Notification No. 15/2/2013-DGAD dated 15th October 2014.

4. 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.
5. And, notwithstanding the above 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 the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
6. And whereas, M/s. Deepak Nitrite Limited (hereinafter also referred to as “Petitioner” or “Applicant”) filed an application in the present case before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules for initiating sunset review of the anti-dumping duty on imports of Sodium Nitrite (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country) and requested for extension of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country.
7. And whereas, the Authority on the basis of sufficient evidence submitted by the applicant to justify initiation of sunset review investigation issued a public notice vide Notification No. 15/06/2016-DGAD dated 27th July, 2016 to examine whether the expiry of the said duties on the import of the above goods originating or exported from the subject country is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The validity of the antidumping duty on the imports of the subject goods from the subject country was extended by the Central Government up to 16th August, 2017, vide Notification No. 39/2016-Customs (ADD), dated 8th August, 2016.
8. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from China PR.

B. PROCEDURE

9. Procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority:
 - i. The Authority notified the Embassies/Representatives of the subject country in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.

- ii. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, 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 applicants and requested them to make their views known in writing within 40 days 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 the subject country in India in accordance with Rule 6(3) of the Rules supra.
- iv. The Embassy of the subject country in India was also requested to advise the exporters/producers from China 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 China PR.
- v. The Authority sent Exporter's Questionnaire and Market Economy Questionnaire to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
 - a. Hebei Jingxing Bureau of Mines
 - b. Shanxi Jiaocheng Hongxing Chemical Co., Ltd.
 - c. Shandong Zhucheng Zhongtai Chemical Co. Ltd.
 - d. Qingdao Hengyuan Chemicals Co. Ltd.
 - e. China National & Chemicals I/E Corpn.
 - f. Wuhan Chemicals I/E Corp.
 - g. Yunnan Provincial Chemicals I/E
 - h. Jiangmen Chemicals I/E Company of Guangdong
 - i. Kunming Imports & Export Corpn.
 - j. China Hunan Chemicals Imp. & Exp. Corpn.
 - k. Shanxi Jiaocheng Hongxing Chemical Co. Ltd.
 - l. Weifang Longstar Chemicals Inc.
- vi. In response to the above notification, none of the exporters/ producers has responded or submitted questionnaire responses.
- 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. Ahmadabad Chemicals, Ahmadabad
 - b. Asiatic Industries, Ahmadabad
 - c. Aries Dyechem Inds., Ahmadabad

- d. Bakul Aromatics & Chemicals Limited, Mumbai
 - e. B.I. Mehta, Mumbai
 - f. Caffil Pvt. Ltd., Mumbai
 - g. Dintex Dyechem Limited, Ahmadabad
 - h. Dynamic Industries Limited, Ahmadabad
 - i. Enzel Chem (I) Pvt. Ltd., Mumbai
 - j. Farmson Pharmaceuticals, Vadodara
 - k. Indocol Chem Ltd., Ahmadabad
 - l. Island Veer Chemie Pvt. Ltd., Hyderabad
 - m. Jansons Limited, Mumbai
 - n. Ketul Chem Pvt. Ltd., Mumbai
 - o. Metrochem Industries, Ahmadabad
 - p. Manish Chemicals, Ahmadabad
 - q. Parsin Chemicals Limited, Hyderabad
 - r. Prabava Exports, Hyderabad
 - s. Ravi Dyewear Co. Ltd., Mumbai
 - t. Roha Dyechem, Mumbai
 - u. Savakashi Dye – O – Fab, Ahmadabad
 - v. SU – Vi Chemicals Ltd., Solapur
 - w. Suven Pharmaceuticals Limited, Hyderabad
- viii. None of the importers of the subject goods has filed any questionnaire response in this matter. However, one of the importers of the subject goods, M/s. Sandeep Organics Ltd. has submitted a letter opposing the imposition of anti-dumping duty.
- ix. The Authority made available non-confidential version of the evidence presented by various 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) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping 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.

- xii. The Authority held an oral hearing on 27th September, 2016 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry only. The representatives of domestic industry who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally at the time of oral hearing.
- xiii. Due to change in the incumbency of the Designated Authority and in line with the judgment of the Hon'ble Supreme Court in the ATMA case, another oral hearing was conducted by the new Designated Authority on 6th February, 2017, which was attended by the representatives of domestic industry only. The representatives of domestic industry who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally.
- xiv. On the spot verification of the data of the domestic industry was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of this finding.
- xv. The Period of Investigation (POI) for the purpose of the present review investigation is April, 2015 to March, 2016 (12 months). The examination of trends in the context of injury analysis covered the periods April 2012-March 2013, April 2013-March 2014, April 2014-March 2015 and the POI.
- xvi. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.
- 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, parties providing information on confidential basis 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 accordance with the Rules the Authority issued a disclosure statement containing all essential facts of the case on 21st June 2017 for the comments of the interested

parties. The comments of the interested parties, to the extent they are relevant, have been addressed in this finding in appropriate places.

xx. ‘***’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

xxi. The exchange rate for the POI has been taken by the Authority as Rs.65.91 = 1 US\$.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1 View of the Domestic industry

10. The views of the domestic industry are as follows:

- i. The present review investigation is a sunset investigation. The product involved in the original investigation and in the present sunset review investigation is Sodium Nitrite. The product under consideration in the present sunset review is the same as has been held by the Designated Authority in the original investigation. Sodium Nitrite is a white crystalline powder mostly used in pharmaceutical industries, dye industries, lubricants, construction chemicals, rubber blowing agent, heat transfer salts, meat processing, textiles etc.
- ii. Sodium Nitrite is classified under heading 2834.10 of the Customs Tariff Act, 1975. However, the customs classification is indicative only and in no way binding on the scope of the subject investigation.
- iii. There is no difference in the technology employed and the quality of the domestic and imported product. Present investigation is a review investigation. The Designated Authority has examined the issue of product under consideration and like article in the original investigation, which is relied upon.

C.2 Views of the other interested parties

11. None of the importers, consumers, exporters and any other interested party has filed any comment or submissions with regard to product under consideration, and like articles.

C.3 Examination by the Authority

12. The product under consideration is Sodium Nitrite. Sodium Nitrite is an oxidizing as well as reducing agent. It is a white crystalline powder mostly used in pharmaceutical industries, dye industries, lubricants, construction chemicals, rubber blowing agent, heat transfer salts, meat processing, textiles etc. The subject goods are produced by using nitric acid obtained from nitrous oxide (nox gas) or ammonia at high temperature in presence of catalysts. The nitrous oxide is further absorbed in caustic soda/soda ash to get sodium nitrite. The product is odourless and soluble in water.

13. The present investigation being a sunset review investigation and anti-dumping duties, as earlier recommended by the Authority, being in force on the imports of the subject goods from the subject country, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigations, as per Rule 2(d) of Anti-Dumping Rules.
14. Sodium Nitrite is classified under heading 2834.1010 of the Customs Tariff Act, 1975. However, the customs classification is indicative only and in no way binding on the scope of the subject investigation.
15. 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;
16. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject product produced by the domestic industry is comparable to the Product under consideration 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.
17. Thus, the Authority holds that the subject product produced by the applicant domestic industry is like article to the Product under consideration exported from the subject country, in accordance with the AD Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1 Views of the domestic industry

18. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
 - i. The petition was filed by M/s Deepak Nitrite Ltd. as a domestic producer of the product under consideration and supported by M/s. Punjab Chemicals & Crop Protection Ltd. (earlier known as Punjab Chemicals & Pharmaceuticals Limited or PCPL). There are two more producers of the product in the country – National Fertilizers Ltd. and Rashtriya Chemicals & Fertilizers Limited.
 - ii. Production of petitioner constitutes a major proportion in Indian Production (both after including and excluding support by PCPL) and therefore, the petitioner should be treated as “domestic industry” within the meaning of the Rules.
 - iii. The petitioner has not imported the subject goods during the period of investigation,

and further, is not related to any exporter or producer of the subject goods in China or any importer or user of the product under consideration in India within the meaning of Rule 2(b).

D.2 Views of the other interested parties

19. None of the producers/exporters/importers/other interested parties have made any submissions in this regard.

D.3 Examination by the Authority

20. The application has been filed by M/s. Deepak Nitrite Limited and was supported by M/s. Punjab Chemicals & Crop Protection Ltd. Further, there are two other producers of the subject goods apart from the applicant and supporter, namely, National Fertilizer Ltd. and Rashtriya Fertilizer and Chemicals Limited.
21. As per the Anti-dumping Rules, the Authority is required to examine whether (a) domestic producers expressly supporting the application account for more than twenty five percent of the total production of the like article by the domestic industry; and (b) the application is supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition to the application. The applicant constitutes 88% of the total domestic production; and, with support of PCPL, the applicant constitutes 90% of the total Indian production. Further, the petitioner has not imported the subject goods during the period of investigation, and, is not related to any exporter or producer of the subject goods in subject country or any importer or user of the product under consideration in India within the meaning of Rule 2(b).

INDIAN PRODUCTION

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Petitioner's Production	MT	100	131	155	187
Supporter's Production	MT	100	114	143	114
Petitioner including supporter	MT	100	131	154	184
Other Producers' Production	MT	100	131	155	187
Total Indian Production	MT	100	131	154	184
Share of Petitioner	%	100	100	100	101
Share of Supporter	%	100	87	93	62
Petitioner including Supporter	%	100	100	100	100
Share of Other Producers	%	100	100	100	101
Total	%	100	100	100	100

22. 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. Market Economy Treatment (MET), Normal Value, Export Price and Determination of Dumping Margin

Normal Value under the Rules:

23. According to Section 9A (1) (c) of the Customs Tariff Act, 1975, 'Normal Value' in relation to an article means: -

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

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):

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.

E.1. Views of the Domestic industry

24. The domestic industry inter alia submitted as follows:

- a. One of the provisions of Accession protocol has expired on 11th December, 2016. The Designated Authority should proceed with present investigation considering Chinese producers as producers operating in non-market economy conditions due to reasons given below.
- b. The investigation period considered by the Authority in the present case is April 2015 to March 2016 (12 months). The injury investigation period has been considered as the period 2012-13, 2013-14, 2014-15 and POI.
- c. The purpose of fixation of POI is to consider a period when the existence of dumping causing injury is claimed and established. The date of determination is not relevant to the moot question of dumping causing injury to the domestic industry. Since the factum of dumping causing injury to the domestic industry is established

based on investigation period, the conditions prevalent during the investigation period alone should be considered relevant, appropriate and necessary for the purpose.

- d. 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 to Annexure-I specifies the parameters which should be considered for grant of market economy status. This also implies that unless these conditions are not fulfilled/ satisfied, the Chinese costs and prices cannot be adopted.
- e. The consideration of market economy status is based on parameters prevailing during investigation period. Since the reason for rejection of Chinese costs and prices is distortion in the costs and prices in China due to the factors listed in Para 8 to Annexure-I, petitioner submits that it is the investigation period that is relevant to decide consideration of Chinese producers as market economy companies.
- f. Since Chinese companies have been denied market economy status for the reasons mentioned in Para 8 of Annexure-I till December, 2016, petitioner submits that the Chinese producers are required to be treated as non-market economy companies till such time the investigation period includes the period specified in Accession Treaty protocol.
- g. In the context of rule 2(b), it is well established legal position that the imports by a domestic producer or its relationship with an exporter or importer are examined with reference to the investigation period. If POI alone is relevant for standing purposes, POI alone should be relevant for normal value determination.
- h. Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- i. Normal value could not be determined on the basis of price or constructed value in a 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.
- j. The dumping margin from China is not only significant, but also substantial, thus establishing existence of significant dumping of the product under consideration in India. The import volume of China has remained significant throughout the present injury period, despite anti-dumping duty in force.
- k. Considering the production capacities available with Chinese producers and their high export orientation, dumping would continue and even intensify in the event of cessation of anti-dumping duty.

E.2 Views of the interested parties

- 25. None of the importers, consumers, exporters and other interested parties has made any submissions with regard to normal value, export price and dumping margin.

E.3 Examination by the Authority

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

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

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

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

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

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

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

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market

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

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

E.3.1 Examination of Market economy claims

29. As per Paragraph 8 of Annexure I of the Anti-dumping Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provides information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People’s Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:
- a. The decisions of concerned firms in China PR 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.

30. None of the exporter/producers have responded and filed questionnaire response. In view of the above position and in the absence of rebuttal of non-market economy presumption by any Chinese exporting company, the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and to proceed with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.

E.3.2 Determination of Normal Value for producers and exporters in China PR

31. Normal value for the subject product imported from China PR into India has been constructed considering optimum consumption norms of the domestic industry for major raw materials and utilities, international prices of major raw materials (Caustic Soda and Ammonia), conversion cost, interest, SGA, etc. at the levels allowed for the domestic industry. 5% of cost of sales excluding interest has been allowed towards reasonable profit as per DGAD practice.

E.3.3 Determination of Export Price

32. None of the exporters from the subject country has provided any information giving details of export price. Therefore, the Authority has determined the export price for producers/exporters of China PR on the basis of the DGCI&S transaction wise data. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from China PR has been determined after making due adjustments for Ocean Freight, Marine Insurance, Commission, Bank Charges, Port Expenses and Inland Freight Charges on the basis of best available information and the same has been mentioned in the dumping margin table.

E.3.4 Determination of Dumping Margin

33. The export price to India (net of all the adjustments accepted by the Authority) has been compared with the normal value to determine dumping margin. The dumping margin during the POI for all exporters/producers from subject country has been determined as provided in the table below:

Dumping Margin

Particular	Unit	POI
Normal Value	US\$/MT	***
Net Export Price	US\$/MT	***
Dumping Margin	US\$/MT	***
Dumping Margin	%	***
Dumping Margin	Range	30-40

F. INJURY AND CAUSAL LINK

F.1 Views of the Domestic industry

34. As regards injury and causal link, the domestic industry has submitted as follows :

- i. The demand/apparent consumption of the subject goods have increased over the injury period including the POI. Imports from subject country have remained significant despite anti-dumping duty, both in absolute terms and in relation to production/consumption in India.
- ii. Landed price of imports (after including basic customs duties) have been significantly below the selling prices of the domestic industry, thus resulting in significant price undercutting. Under the circumstances, should the present anti-dumping duty cease, the imports would further undercut the prices of the domestic industry, which would prevent price increases to a significant degree.
- iii. The landed price of imports from China is materially below the cost of the domestic industry.
- iv. Market share of subject imports has declined as a result of anti dumping duty being in force. However, the market share of subject imports is still very significant.
- v. The domestic industry enhanced its capacity during the injury period. The enhancement in capacity was fully justified by the present and potential demand for the product in the Country. Domestic sales volume has also increased over the injury period.
- vi. However, given the level of price undercutting, it is evident that the demand for the imported product would substantially increase in the event of cessation of anti dumping duties. This would directly imply decline in the demand of the domestic product, which is likely to result in decline in production of the domestic industry.
- vii. Performance of the domestic industry in terms of price parameters such as profits, cash profits and return on capital employed has also shown improvement in the POI. The domestic industry has come out from the situation of financial losses and has been making nominal profits after modification in the form of ADD from reference price basis to fixed form.
- viii. Presence of significant dumped imports would result in continued dumping leading to recurrence of injury in the absence of anti-dumping duty.
- ix. Both dumping margin and injury margin in the current POI are positive and significant.
- x. Considering the capacities with the exporters in the subject country and their export orientation, there is likelihood of intensified imports in case existing anti-dumping duties is allowed to cease.
- xi. Resultantly, the domestic industry is likely to suffer injury in the event of cessation of anti-dumping duty.
- xii. The anti-dumping duty is required to be continued. The form of measure is required to be kept as fixed quantum in terms of US\$.

F.2 Views of other interested parties

35. There are no co-operating exporters or importers. However, there is a letter from an interested party opposing the investigations. Submissions made by this party are as under:
- i. The import price is directly related with crude, currency and freight.
 - ii. Imports from China have reduced.
 - iii. There is safeguard duty also.
 - iv. There is cut throat competition between the domestic producers.
 - v. There is less demand.
 - vi. Domestic industries face high cost of production.
 - vii. Domestic industries are making profit.
 - viii. Domestic industries get government subsidy.
 - ix. Import duties are higher.
 - x. Current exchange rate of currency is higher.
 - xi. Old duties should be re-worked.

F.3 Examination by the Authority

36. The Authority has taken note of the submissions made by the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Antidumping Rules and considering the submissions made by the other interested parties appropriately.
37. With regard the contention of other interested parties that import price of the product is directly related to crude, currency and freight; the Authority notes that the pricing of the product has no relationship with crude prices at all. Fluctuation in exchange rate of currency is a general phenomenon and not product specific and freight is also governed by inflationary effects.
38. As regards the presence of safeguard duty on the import of subject goods, the Authority notes that the safeguard duty imposed vide Notification No. 01/2014-Customs (SG) dated the 26th February, 2014 has already expired on 25th May, 2015 and there is no safeguard duty in force at present.
39. The injury analysis made by the Authority here under addresses the various other submissions made by the interested parties.
40. 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.

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

42. As regards the impact of the dumped imports on the domestic industry, Para (iv) of Annexure-II of the Anti-dumping Rules states as follows:

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

43. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

44. For the examination of the impact of the imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

45. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.

F.3.1 Volume Effect of dumped imports and impact on domestic industry

a) Demand and Market Share

46. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product 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 and Market Share

Particulars	Unit	2012-13	2013-14	2014-15	POI
Sales of Domestic Industry	<i>MT-Indexed</i>	100	136	159	194
Captive Consumption of DI	<i>MT-Indexed</i>	100	110	92	131
Sales of Other Indian Producers	<i>MT-Indexed</i>	100	127	152	168
Subject Country-China PR	<i>MT-Indexed</i>	18,510	14,971	11,432	12,688
Country attracting ADD - EU	<i>MT-Indexed</i>	3,508	1,561	1,706	1,869
Other Countries	<i>MT-Indexed</i>	-	-	-	213
Demand including Captive	<i>MT-Indexed</i>	100	108	112	134
Demand excluding Captive	<i>MT-Indexed</i>	100	107	113	134
Market Share in Demand including Captive					
Domestic Industry	<i>%-Indexed</i>	100	127	142	146
Captive Consumption of DI	<i>%-Indexed</i>	100	103	82	98
Other Indian Producers	<i>%-Indexed</i>	100	118	135	125
Subject Country-China PR	<i>%-Indexed</i>	100	75	55	51
Country attracting ADD - EU	<i>%-Indexed</i>	100	41	43	40
Other Countries	<i>%-Indexed</i>	-	-	-	100

47. The Authority notes that the demand for the product under consideration has increased in the POI as compared to base year as well as previous year, both including and excluding captive consumption by the domestic industry.

48. It is noted that the market share of the domestic industry, both including and excluding captive consumption, has increased; whereas the market share of the subject country has declined over the injury period, however, it is still very significant. The market share of imports from European Union, also attracting anti-dumping duty, has declined from 2013-14 and is very low.

b) Import volumes and share of subject country

49. 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 have been analysed as under:

Imports and Market Share

Import Volume	Unit	2012-13	2013-14	2014-15	POI
Subject Country-China	MT	18,510	14,971	11,432	12,688
Country attracting ADD – EU	MT	3,508	1,561	1,706	1,869
Other Countries	MT	-	-	-	213
Total Imports	MT	22,018	16,532	13,138	14,770
Market Share in Imports					
Subject Country-China	%	84.07	90.56	87.02	85.90
Country attracting ADD – EU	%	15.93	9.44	12.98	12.65
Others	%	-	-	-	1.44
Total Imports	%	100.00	100.00	100.00	100.00
Production	<i>MT-Indexed</i>	<i>100</i>	<i>131</i>	<i>154</i>	<i>184</i>
Demand including Captive	<i>MT-Indexed</i>	<i>100</i>	<i>108</i>	<i>112</i>	<i>134</i>
Imports in relation to-					
Production	<i>%-Indexed</i>	<i>100</i>	<i>62</i>	<i>40</i>	<i>37</i>
Consumption including Captive	<i>%-Indexed</i>	<i>100</i>	<i>75</i>	<i>55</i>	<i>51</i>

50. It is noted that the import volume from China has remained quite significant in both absolute terms throughout the injury period, despite anti dumping duty imposed. Though, the market share of subject imports in relation to production and consumption in India has declined over the injury period; it is still very significant.

F.3.2 Price Effect of dumped imports and impact on domestic industry

a) Price Undercutting

51. 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. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level.

52. Price undercutting has been assessed by comparing the landed price of imports with the domestic selling price in India of the subject goods during the period of investigation. It would be seen that the landed price of imports without anti-dumping duty is lower than the selling price of the domestic industry and would result in significant price undercutting should the present anti-dumping duty be allowed to expire, as shown in the following table:

Price Undercutting

Particulars	Unit	2012-13	2013-14	2014-15	POI
Landed price of imports	Rs/MT	29,501	30,835	31,213	31,596
Net Selling Price	<i>Rs/MT-Indexed</i>	****	****	****	****
Price Undercutting	<i>Rs/MT-Indexed</i>	****	****	****	****
Price Undercutting	<i>%-Indexed</i>	****	****	****	****
Price Undercutting	Range	5-25%	5-25%	5-25%	5-25%

b) Price Underselling

53. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules.

Price Underselling

Particular	Rs./MT	US\$/MT
Exchange Rate		65.91
Non Injurious Price (NIP)	***	***
Landed Price	***	***
Injury Margin	***	***
Injury Margin-%	***	***
Injury Margin (Range)	10-20	10-20

54. It is seen that the landed price of the subject goods from China was significantly lower than the NIP determined for the domestic industry.

c) Price suppression and depression effects of the dumped imports

55. In order to determine whether the dumped imports are suppressing or 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 to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

Price Suppression/ Depression

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of Sales	Rs./MT	***	***	***	***
<i>Trend</i>	Index	<i>100</i>	<i>96</i>	<i>96</i>	<i>94</i>
Selling Price	Rs./MT	***	***	***	***
<i>Trend</i>	Index	<i>100</i>	<i>101</i>	<i>112</i>	<i>116</i>
Landed Price	Rs./MT	29,501	30,835	31,213	31,596
<i>Trend</i>	Index	<i>100</i>	<i>105</i>	<i>106</i>	<i>107</i>

56. It is seen that:

- i. The landed price of imports is significantly below the selling price of the domestic industry throughout the injury period including the period of investigation.
- ii. The landed price of imports is also significantly below the cost of sales of the domestic industry throughout the injury period including the period of investigation.
- iii. There is no price suppression or depression effect in the POI. However, the petitioner has claimed that in the absence of antidumping duty, subject imports would result in decline in the domestic prices leading to deterioration in the performance of the domestic industry.

F.3.3 Examination of Economic Parameters relating to Domestic Industry

57. 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.

58. Accordingly, various economic parameters of the domestic industry are analysed herein below:

a) Actual and potential impact on Production, Capacity, Capacity utilization and Sales

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

Production, Capacity, Capacity utilization and Sales

Particulars	Unit	2012-13	2013-14	2014-15	POI
Capacity Plant	MT	***	***	***	***
<i>Trend</i>	Index	100	135	146	161
Production - Plant	MT	***	***	***	***
<i>Trend</i>	Index	100	126	150	175
Production - PUC	MT	***	***	***	***
<i>Trend</i>	Index	100	131	155	187
Production - SNA	MT	***	***	***	***
<i>Trend</i>	Index	100	111	134	139
Capacity Utilization	%	***	***	***	***

<i>Trend</i>	Index	100	93	102	109
Domestic Sales excluding Captive consumption	MT	***	***	***	***
<i>Trend</i>	Index	100	136	159	194
Domestic sales including Captive consumption	MT	***	***	***	***
<i>Trend</i>	Index	100	134	153	189
Total Demand including Captive	MT	***	***	***	***
<i>Trend</i>	Index	100	108	112	134

60. The Authority notes that:

- i. The domestic industry enhanced its capacity over the injury period. The petitioner has claimed that such enhancement in capacity is fully justified by the present and potential demand for the product in the Country.
- ii. Production and sales volume of the domestic industry have also increased over the injury period.
- iii. Cessation of anti-dumping duties would result in increased importation of the imported product. This would directly imply decline in the demand of the domestic industry's product, which is likely to result in decline in production of the domestic industry.

b) Market Share

61. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Market share in Demand

Particulars	Unit	2012-13	2013-14	2014-15	POI
Market Share in Demand including Captive					
Domestic Industry	<i>%-Indexed</i>	100	127	142	146
Captive Consumption of DI	<i>%-Indexed</i>	100	103	82	98
Other Indian Producers	<i>%-Indexed</i>	100	118	135	125
Subject Country-China PR	<i>%-Indexed</i>	100	75	55	51
Country attracting ADD - EU	<i>%-Indexed</i>	100	41	43	40
Other Countries	<i>%-Indexed</i>	-	-	-	100

62. It is noted that the market share of the domestic industry, both including and excluding captive consumption, has increased; whereas the market share of the subject country has declined over the injury period, however, it is still very significant. Market share of imports from European Union, also attracting anti-dumping duty, has declined from 2013-14 and is very low.

c) **Inventories**

63. From the information given below, the Authority notes that the average inventory levels of the domestic industry significantly declined in the year 2014-15, and then have increased again in the period of investigation.

Inventories

Particulars	UOM	2012-13	2013-14	2014-15	POI
Average Stock	MT	***	***	***	***
<i>Trend</i>	Index	100	98	27	53

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

64. Performance of the domestic industry with regard to profit, return on investment and cash flow is as follows:

Profitability, Profits, Cash Profits & Return on Investment

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of Sales	Rs./MT	***	***	***	***
<i>Trend</i>	Index	100	96	96	94
Selling Price	Rs./MT	***	***	***	***
<i>Trend</i>	Index	100	101	112	116
Profit / Loss	Rs./MT	***	***	***	***
<i>Trend</i>	Index	(100)	(66)	(11)	26
Profit / Loss	Rs. Lacs	***	***	***	***
<i>Trend</i>	Index	(100)	(91)	(18)	51
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	Index	(100)	(81)	13	104
Profit before Interest & Tax	Rs. Lacs	***	***	***	***
<i>Trend</i>	Index	(100)	(80)	15	101
Return on Capital Employed	%	***	***	***	***
<i>Trend</i>	Index	(100)	(32)	5	31

65. It is noted that the domestic industry was incurring losses upto 2014-15 on account of the presence of dumped imports in the domestic market. The domestic industry posted some nominal profits in the POI. Similarly, profit before interest, cash profit and return on investment have become positive in the POI, but the return on capital employed is much below the benchmark return of 22%.

e) **Productivity**

66. From the information given below, Productivity in terms of productivity per day as well as per employee has increased over the injury period, which is in line with the movement

of production:

Productivity

Particulars	Unit	2012-13	2013-14	2014-15	POI
Productivity Per Employee	MT/Nos	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>126</i>	<i>151</i>	<i>177</i>
Productivity Per Day	MT/Day	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>131</i>	<i>155</i>	<i>187</i>

f) Employment and wages

67. It is noted from the table below that the employment with the domestic industry has increased over the injury period, except a decline in 2014-15. Wages paid have also increased, except a decline in 2013-14. The Authority notes that these parameters are dependent on a number of other parameters and not reflective of impact of dumping on the domestic industry.

Employment & Wages

Particulars	Unit	2012-13	2013-14	2014-15	POI
Employment	Nos.	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>104</i>	<i>102</i>	<i>106</i>
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>66</i>	<i>209</i>	<i>263</i>

g) Growth

68. The table below shows that the domestic industry has registered positive growth in terms of both volume and price parameters, such as, sales volume, production, capacity utilization, market share, profits, return on investment, cash profits etc. in the Period of Investigation, as an effect of anti-dumping duty being in place.

Growth

Growth % (Year by year)	Unit	2012-13	2013-14	2014-15	POI
Production	MT	-	***	***	***
Domestic Sales	MT	-	***	***	***
Capacity Utilization	%	-	***	***	***
Market share	%	-	***	***	***
Profit/ Loss per unit	Rs./MT	-	***	***	***
Cash Profits	Rs. Lacs	-	***	***	***
Return on investment	%	-	***	***	***

h) Ability to raise Capital Investment

69. The domestic industry has enhanced capacity for production of product under consideration considering the present and potential demand for the product in the country. However, dumping has continued and would affect the domestic industry's ability to raise capital in case of cessation of anti-dumping duty.

i) Level of dumping & dumping margin

70. It is noted that imports from the subject country are entering the country at dumped prices and that the margin of dumping is significant.

j) Factors affecting domestic Prices

71. Both dumping margin and injury margin in the POI are positive and significant. Performance of the domestic industry has shown improvement in terms of production and sales volumes. Performance of the domestic industry has also shown improvement in terms of price parameters as the domestic industry has made some profits in the POI.

G. Other Known Factors & Causal Link

72. The Authority has examined other factors listed under the Antidumping Rules which could have contributed to injury to the domestic industry for examination of causal link between dumping and material injury to the domestic industry.

a) Volume and prices of imports from third countries:

73. The Authority notes that imports entering into the country from European Union are also attracting anti-dumping duty. Imports from all other countries are negligible and could not have caused claimed injury to the domestic industry.

b) Contraction of demand

74. There has been rise in demand of the product concerned over the injury period. Possible decline in demand could not have caused injury to the domestic industry.

c) Changes in the pattern of consumption

75. The pattern of consumption with regard to the product under consideration has not undergone any change. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the Domestic Industry.

d) Developments in technology

76. Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor causing injury to the domestic injury.

e) Conditions of competition and trade restrictive practices

77. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.

f) Export performance of the domestic industry

78. The performance of the domestic industry and injury thereto has been examined with respect to the domestic performance to the extent possible. Possible deterioration in the export performance of the domestic industry is, therefore, not a possible cause of injury to the domestic industry.

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

79. The performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

h) Productivity of the domestic industry

80. The Authority notes that the productivity of the domestic industry has followed the same trend as production and increased. Deterioration in productivity is not a cause of injury to the domestic industry.
81. The known other factors listed above do not appear to have caused the injury determined. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has improved as a result of imposition of anti-dumping duty. However, significant volumes of imports from the subject country at dumped prices continue to enter the country.

H. Likelihood of continuation or recurrence of dumping and injury

82. The Authority observed that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if the anti-dumping duties were to be allowed to expire even if there is no current injury. It is noted that the subject imports are still entering into the domestic market at dumped and injurious price.

H.1 Submissions made by the Domestic Industry

83. The domestic industry submitted as under in support of its claim of likelihood of continuation or recurrence of dumping and injury:
- i. Significant dumping margin during POI establishes that dumping is likely to continue and intensify in the event of cessation of present anti-dumping duty. Dumping existed during the entire injury period. Also, high dumping margins existed during the previous anti-dumping investigations. This clearly leads to a conclusion that in case of cessation of antidumping duty, there is every likelihood of injury to the Domestic Industry..
 - ii. Anti-dumping and anti-subsidy measures are in force on exports of subject goods in US also. The volume of imports reported in the country increased after imposition of anti-dumping and anti-subsidy duty by US.
 - iii. Product under consideration continues to be exported to India at dumped prices from the subject country.
 - iv. Producers from subject country have significant capacity which establishes that in the event of cessation of duties, exports to India will intensify.
 - v. The exports of the product under consideration from subject country have been significant, both to India as well as to third countries. Further, the export prices have declined sharply.
 - vi. Both dumping margin and injury margin in the current POI are positive and significant.
 - vii. The price undercutting without prevailing anti-dumping duties is positive. The return on investment and cash profit would be significantly negative in the event of cessation of anti-dumping duty.
 - viii. The import prices are materially below the selling price of the domestic industry. The consumers would therefore switch to imported product in the event of cessation of anti-dumping duty which will lead to significant increase in imports of the product. In case of cessation of anti-dumping duty, the domestic industry shall have to reduce their selling price to compete with dumped imports, forcing them to sell even below the cost of sales, leading to severe price injury.
 - ix. The foreign producers are intensely focused on exports. In the event of cessation of anti-dumping duty, these exporters are likely to increase their exports to India at dumped prices.
 - x. The Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Such being the case, availability of low priced imports from the subject country in the market shall definitely cause an adverse impact on the domestic industry. So dumping and consequent injury to the domestic industry is likely to continue/increase in the event of cessation of anti dumping duty.

H.2 Submissions made by producers/exporters/importers/other interested parties

84. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

H.3 Examination of the Authority

85. The Authority examined the likelihood of continuation or recurrence of injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules. Clause (vii) of Annexure II to the rules provides for four factors which are required to be taken into consideration, viz.:

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

86. Considering the dumping margin determined by the Authority in the previous investigations and the dumping margin now assessed, it is quite evident that the exports were continued to be made at dumped prices and are likely to continue with cessation of anti-dumping duties. Despite the imposition of anti-dumping duty, the imports of the subject goods from the subject country still continue at dumped prices. Further, the volume of dumped imports is likely to increase further in the event of cessation of anti-dumping duty, given the level of price undercutting effects from the imports of subject goods from China PR.

(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

87. This parameter for ascertaining the threat of material injury requires evaluation of existing surplus capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market. Domestic industry has claimed that the producers in subject countries are already faced with significant surplus capacities. Further, these producers are exporting the product to a large number of countries, a very significant proportion of which is being exported at a price below the prices in respect of India, thus showing likelihood of diversion of these exports to India in the event of withdrawal of Anti-Dumping duty. Interested parties have not provided any verifiable evidence and information with regard to existing surplus capacities, and consequent 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

88. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the Indian market. Therefore, in case of expiry of duty, exporters from the subject country would further channelize their output in the Indian market in view of significant capacity with them. This clearly would result in likelihood of injury to the domestic industry. Imports from subject country are likely to undercut the prices of the domestic industry.

(d) inventories of the article being investigated

89. Inventories of the Domestic industry have reduced compared to the base year.

I. Magnitude of Injury and Injury Margin

90. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the imports from the subject country for determination of injury margin during the POI and the injury margin so worked out is as under:

Particulars	US\$/MT
Exchange Rate	65.91
Non Injurious Price (NIP)	***
Landed Price	***
Injury Margin	***
Injury Margin-%	***
Injury Margin (Range)	10-20

J. POST-DISCLOSURE COMMENTS

J.1 Submissions made by the Domestic Industry

91. The petitioner inter alia has submitted as follows: –

- a. The product under consideration is Sodium Nitrite. Since the customs classification is indicative only, the Designated Authority may kindly specify the same in duty table and that the product under consideration should attract duty regardless of the customs classifications under which goods are being cleared by the importers.
- b. Both dumping margin and injury margin in the POI are positive.
- c. Performance of the domestic industry has shown improvement in terms of volume as well as price parameters as a result of continued imposition of anti-dumping duty and more because of change in the form of anti-dumping duty from benchmark to fixed form.
- d. The domestic industry has not suffered continued injury, but dumping has continued.
- e. Likelihood of intensified dumping and consequent injury is imminent as significant dumping was found by the Authority in previous investigations, volume of imports has remained significant since inception and even in present investigations, Chinese producers have significant surplus capacities as against Indian demand, Chinese product is attracting anti-dumping and anti-subsidy duty in US since long, exports to other countries are at dumping and injurious prices.

- f. Indian market being highly price sensitive, cessation of anti-dumping duty would result in flooding of Indian market with dumped goods undercutting the domestic prices and causing material injury to the domestic industry.
- g. While the petitioner does not agree with the requirement of Annexure-III itself, without prejudice, at least, the Authority may kindly re-determine the non-injurious price in accordance with Annexure III to the Rules.
- h. The Authority may kindly consider extension of existing anti-dumping duties as there is no material injury. No injury implies that calculation of injury margin is not required and same duties should be extended.
- i. Anti-dumping duty may be continued in existing quantum and fixed form expressed in terms of US\$.

J.2 Submissions made by producers/exporters/importers/other interested parties

92. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

J.3 Examination of the Authority

93. The Authority notes that post-disclosure comments/submission made by the domestic industry are mostly reiterations of earlier submissions, which have already been examined suitably and adequately and properly addressed in the disclosure statement or relevant paras of the present finding. The authority further considers as follows with regard to fresh issues raised by the domestic industry.
- i. As regards the submissions of the domestic industry concerning determination of non-injurious price (NIP), the Authority notes that the detailed guidelines for computation of NIP is laid down under Annexure III of the Anti-dumping Rules and the same has been adopted while determining NIP in the present investigation.
 - ii. As regards the submission of the domestic industry concerning continuation of the existing quantum and form of duty, the Authority notes that injury margin as well as dumping margin is positive in the present case. The mandate of the Designated Authority is to determine the existence, degree and effect of the alleged dumping and to recommend adequate quantum of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry. Accordingly, the quantum and form of the anti-dumping measures is decided by taking in to consideration the facts of a case.

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

94. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the

general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

95. It is recognized that the imposition of anti-dumping duties 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 measures, 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 measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

L. CONCLUSIONS

96. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/ recurrence/ intensification of dumping and injury, the Authority concludes that:
- i. There is continued dumping of the product concerned from China PR, causing injury to the domestic industry.
 - ii. Imports are significantly undercutting and underselling the prices of the domestic industry.
 - iii. Cessation of antidumping duty is likely to lead to continuation and recurrence of dumping and injury to the domestic industry.

M. RECOMMENDATIONS

97. Accordingly, the Authority recommends that revised anti-dumping duties be continued to be imposed from the date of issue of notification by the Central Government on all imports of Sodium Nitrite falling under chapter 28 of Custom Tariff Classification Act 1975, originating in or exported from China PR. The anti-dumping duty shall be the amount mentioned in Column No. 8 of the following table:

Duty Table

S N	Sub-heading or Tariff Item	Description of Goods	Country of origin	Country of Export	Producer	Exporter	Duty Amount	Unit of Measure	Currency
1	2	3	4	5	6	7	8	9	10
1	2834.1010	Sodium Nitrite	China PR	China PR	Any	Any	72.95	MT	US\$
2	-Do-	-Do-	China PR	Any country Other than China	Any	Any	72.95	MT	US\$
3	-Do-	-Do-	Any Country other than China	China PR	Any	Any	72.95	MT	US\$

N. Further Procedures

98. An appeal against this notification, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

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