

Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
Udyog Bhawan

Notification

Final Findings (MTR)

New Delhi 13th November 2009

Subject: Mid-term Review of Anti-Dumping duties on imports of ‘Sodium Nitrite’ originating in or exported from China PR – Final Findings.

No. 15/24/2008 -DGAD – Whereas the Designated authority having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter 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 referred to as the AD Rules) recommended imposition of provisional Anti-dumping duty on imports of Sodium Nitrite (hereinafter referred to as subject goods) originating in or exported from China PR (also referred to as subject country) falling under Sub-heading 2834.10.10 The preliminary findings were published vide Notification No 39/1/99-DGAD dated 6th April 2000 and provisional duty was imposed on the subject goods vide Customs notification No. 76/2000-Customs dated 23rd May 2000. The Designated Authority notified the final findings on 3rd November 2000 and definitive anti dumping duty was imposed by Customs as per notification No. 147/2000-Customs dated 19th December 2000.

2. The Designated Authority initiated the sunset review investigation of anti-dumping duty imposed on imports of Sodium Nitrite (SNI) originating in or exported from China PR vide notification No. 39/1/1999-DGAD dated 2nd December, 2004 in accordance with Section 9A (5) of the Act, read with Rule 23 of Antidumping Rules, to review the need for continued imposition of duties in force and whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The Designated Authority came out with final findings in the sunset review investigation on 1st December 2005 and anti dumping duty was imposed by Government as per notification No. 3/2006-Customs dated 17/01/2006.

3. The Designated Authority, in terms of section 9A (5) of the Act and Rule 23 of the AD Rules, received a duly substantiated application from M/s. Deepak Nitrite Ltd., Pune, requesting for review and enhancement of the anti-dumping duty in force on subject goods on the grounds that the dumping margin and injury margin determined earlier have significantly increased and therefore the existing duty is not sufficient to address the injury to the domestic industry. The Applicant claimed with prima facie evidence in this regard, and requested for review and enhancement of the anti dumping duty in force.

4. Having satisfied on the basis of positive evidence submitted by the domestic industry substantiating the need for a review, the Designated Authority issued a Public Notice No. 15/24/2008 dated 17th November 2008 published in the Gazette of India, Extraordinary, initiating Mid-term Review of the anti-dumping duties.

B. PROCEDURE

5. In these proceedings the procedure described below has been followed:

(i) The Embassy of the subject country in New Delhi was informed about the initiation of the investigation in accordance with Rule 6(2).

(ii) The Designated Authority sent copies of initiation notification dated 17th November 2008 to the Embassy of the subject country in India, known exporters from the subject country, known importers and other interested parties, and the domestic industry, as per the information available with it. Parties to this investigation were requested to file questionnaire responses and make their views known in writing within the prescribed time limit. Copies of the letter, application and questionnaire sent to the exporter were also sent to the Embassy of the subject country along with a list of known exporters/ producers with a request to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time.

(iii) Copy of the non-confidential version of the application filed by the domestic industry was made available to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra.

(iv) Questionnaires were sent to the following known exporters from subject country in accordance with the rule 6(4) to elicit relevant information:

1. BORI International Enterprise (Nanjing) Co. Ltd. China.
2. Jiangsu International Economic-Technical Cooperation Corp. China.
3. Nanjing Chemical Reagent Co. Ltd. China.
4. Jiang Su Jincheng Reagent Co. Ltd. China.
5. Jiangsu Chem & Bldg. Ltd China.
6. Lianyungang Yuantal International Trading Co. Ltd. China.
7. Wuxi Feipeng Fine Chemical (Group) Co. Ltd. China.
8. Jiangsu Qlangsheng Chemical Co. Ltd. China.
9. Jiangsu Fangzhou Chemical Co. Ltd. China.
10. Hongze Yinzhu Chemical Group Co. Ltd. China.
11. Wuxi ZhanWang Chemical Co. Ltd. China.
12. Jiangsu Bohan Industry Trade Co. Ltd
13. Changzhou JiaYe Chemical Co. Ltd. China.
14. Ninbo Huaxun Chemical Co. Ltd. China.
15. Wenzhou Dongsheng Chemical Reagent Factory. Wenzhou City.
16. Hangzhou Longshan Chemical Co. Ltd. China.
17. Ningbo Free Trade Zone Chemical & Light Industry Co. Ltd China.
18. Wenzhou Chemical Material Factory, China.
19. Zhejiang Zhongxing Chemical Reagent Co. Ltd. China.
20. Hangzhou Xinlong Chemical Co. Ltd.
21. Wenzhou Huaqiao Chemical Reagent Co. Ltd China.
22. Laxi yida Chemical Reagent Co. Ltd. China.
23. Lanxi Xincheng Fine Chemicals Co. Ltd.
24. Hangzhou Colorful Pigment Co. Ltd. China.
25. Wentong Group, China.
26. Shanghai Luyuan Fine Chemical Factory, China.

27. Shanghai Experimental Reagent Co. Ltd.
28. Shanghai Early-Bird Chemical Co. Ltd. China.
29. Shanghai Qingfeng Chemical Factory.
30. Shanghai Liming Industrial & Trade Co. Ltd. China.
31. Shanxi Dongxing Chemical Co. Ltd. China.
32. Shanxi Fengxi Fertilizer Industry (Group) Ltd.
33. Jiaocheng Knian Chemical Co. Ltd. China.
34. Wenhui Zhenxing Fertilizer Co. Ltd. China.
35. Guangzhou Jinhua Chemical Reagent Co. Ltd. China.
36. Guangdong Xilong Chemical Co. Ltd. China.
37. Hinc Group, China.
38. Shenzhen Juzhi Chemical Co. Ltd, China.
39. Shenzhen Jinrisheng Chemical Co. Ltd. China.
40. SinoChem Gangzhou Import & Export Corporation, China.
41. Chiyuen International Trade Company, China.
42. Jichang Holding Ltd. China.
43. China National Chemical Construction Shenzhen Company, China.
44. Dongguan Siwei Chemical Co. Ltd. China.
45. Shandong Lunguang Chemical Factory.
46. Shandong Tianxin Chemical Co. Ltd. China.
47. Heze Chenggong Chemical Co. Ltd, China.
48. Zibo Defeng Chemicals Co. Ltd. China.
49. Shandong Liaherd Chemical Industry Co. Ltd. China.
50. Zibo Chemical Reagent Factory Co. Ltd. China.
51. Shandong Jinneng Coal Gasification Co. Ltd. China.
52. Acroyali Holdings Qingdao Co. Ltd. China.
53. Qingzhou Ailitong Chemicals Technical Co. Ltd. China.
54. Tianjin Chemical Reagent No. 1 Plant China.
55. Tianjin Xinxin Chemical Plant, China.
56. Tianjin Kernel Chemical Reagent Co. Ltd. China.
57. Jinboke (Tianjin) International Co. Ltd. China.
58. Tianjin Youngshining Chemicals Co. Ltd. China.
59. Damao Chemical Reagent Factory China.
60. Beijing hengye Zhongyuan Chemical Co. Ltd. China.
61. China National Chemical Construction, China
62. Beijing Huateng Chemical Co. Ltd. China.
63. Hebei Smart Chemical Co. Ltd. China.
64. Sinochem hebei Qinhuangdao Import & Export Corporation, China.
65. Shijiazhuang Jihua Chemical Textile Co. Ltd. China.
66. Dahua Group Dalian Chemical Industry Co. Ltd. China.
67. Dahuachem International Economic & Trade Corp. China
68. Mudanjiang Fengda Chemicals Imports & Export Corporation, China.
69. Chongqing Fuyuan Chemical Co. Ltd. China.
70. Xiamen Meddi Chemical industry Co. Ltd. China.
71. Allway Chem-Pharm Int'l, China
72. Huan Xinyu Native Produce & Animal By-Products Import & Export Co. Ltd. China.
73. Ronas Chemicals Ind. Co. Ltd. China.

None of these exporters responded to the questionnaire in response to the above notification.

(v) Questionnaire was sent to the following known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4):

1. Ahmedabad Chemicals, Ahmedabad.
2. Asitic Industries, Ahmedabad.
3. Aries Dyechem Inds, Ahmedabad.
4. Bakul Aromatics & Chemicals Ltd, Bombay.
5. Caffil Pvt Ltd, Mumbai.
6. Dintex Dyechem Ltd, Ahmedabad.
7. Dynamic Industries Ltd, Ahmedabad.
8. Enzel Chem (I) Pvt. Ltd, Mumbai.
9. Farmson Pharmaceuticals, Baroda.
10. Indocol Chem Ltd, Ahmedabad.
11. Island Veerchemie, Hyderabad.
12. Jansons Ltd, Mumbai.
13. Ketul Chem Pvt Ltd, Mumbai.
14. Metrochem Industries, Ahmedabad.
15. Manish Chemicals Ltd, Ahmedabad.
16. Parsin Chemicals Ltd, Hyderabad.
17. Prabava Dyewear Co. Ltd, Mumbai.
18. Ravi Dyewear Co. Ltd, Mumbai.
19. Roha Dyechem, Mumbai.
20. SU-Vi Chemicals Ltd, Solapur.
21. Savakashi Dye-O-Fab, Ahmedabad.
22. Suven Pharmaceuticals Ltd, Hyderabad.

None of the importers / interested parties have filed the questionnaire or any information in this regard.

(vi) Imports data for the period of investigation and preceding three years was called from Directorate General of Commercial Intelligence and Statistics (DGCI&S).

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

(viii) M/s. Deepak Nitrite Ltd., Pune being domestic industry, has submitted the information/data. The Authority examined the information furnished by the domestic industry to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to examine the injury suffered, to work out optimum cost of production, cost to make and sell the subject goods in India and so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to domestic industry. The company has maintained all statutory books of accounts. Since information relied upon is from the books of accounts, the Authority has adopted the information verified from the books of accounts maintained by the company.

(ix) In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 29th July, 2009. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally.

(x) The arguments made in the written submissions/ rejoinders received from interested parties have been considered, wherever found relevant in these findings;

(xi) Investigation was carried out for the 12 months period starting from 1.04.2007 to 31.3.2008 (POI) and the Injury analysis has been done for the period 2004-05, 2005-06, 2006-07, and 2007-08.

(xii) In accordance with Rule 16 of the AD Rules, the essential facts considered by the Authority were disclosed to the known interested parties and comments received on the same have been duly considered in these final findings.

(xiii) Information provided by 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.

(xiv) 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 recorded these findings on the basis of the facts available.

(xv) *** in this notification represents information furnished by the interested parties on confidential basis and so considered by the authority under the AD Rules.

C. PRODUCT UNDER CONSIDERATION AND DOMESTIC ‘LIKE ARTICLE’

C.1 VIEWS OF THE DOMESTIC INDUSTRY

6. Following issues have been raised by the domestic industry with regard to product under consideration and Domestic like article:

6.1. Present review investigation being a mid-term review investigation requesting for enhancement of the Anti-dumping duty in place, product under consideration remains the same as has been defined in the previous investigations.

6.2. The product involved in the previous investigation and the present review investigation is ‘Sodium Nitrite’. Sodium Nitrite is an oxidizing as well as a reducing agent also. It is a white crystalline powder mostly used in pharmaceuticals industries, dye industries, lubricants, construction chemicals, rubber blowing agent, heat transfer salts, meat processing, textiles, etc. Major raw material for production of Sodium Nitrite is ammonia, which is converted into nitrous oxide at high temperature in presence of catalyst. The nitrous oxide is then absorbed in caustic soda to get Sodium Nitrite. Sodium Nitrite is primarily used in dyes industries for producing various types of intermediates, pharmaceuticals industry for production of Analgin, Theophylline, Caffeine etc.

6.3. Sodium Nitrite is classified under custom sub-heading 2834.00 of Schedule 1 of the Customs Tariff Act, 1975 and within 2834.1010 of the ITC. The classification is, however, indicative and in no way binding on the scope of the present investigation.

6.4. The goods produced by the domestic industry are like article to the imported product. The Designated Authority in the previous investigations examined the Issue of product under consideration and like article in detail.

C.2 Views of the importers, consumers, exporters and other interested parties

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

C.3 Examination by the Authority.

8. The product under consideration in the present investigation is Sodium Nitrite (also referred to as subject goods hereinafter), classified under Chapter 28 under Sub-heading 2834.1010.

9. There is no significant difference in Sodium Nitrite produced by the Indian industry and Sodium Nitrite exported from China PR, which can have an impact on price. Sodium Nitrite produced by the Indian industry and originating in or exported from the China PR are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing policy, distribution and marketing and tariff classification of the goods. In view of the similarity in manufacturing process and substitutability, the Authority therefore holds that the two are required to be treated as alike and one product for the purpose of this investigation as per Rule 2(d) of the AD Rules.

D. Standing and scope of the Domestic Industry

D.1. Views of Domestic Industry

10. In the previous investigations, Deepak Nitrite Ltd., Pune, filed the application before the Authority and the Authority considered that the applicant as domestic industry, as it accounted for a major proportion of the production of the 'Like Article' in India, in accordance with the Rules.

11. M/s Deepak Nitrite Ltd., Pune, has filed the Application for review and enhancement of anti dumping duty. The Applicant has submitted that it continues to be a major producer of the subject goods in India and accounts for significantly more than 50% of the total Indian Production.

12. Therefore, for the purposes of this review, the Applicant satisfies the standing requirement (even though the same is not mandatory in a mid-term review) and constitutes domestic industry within the meaning of the AD Rules.

D.2 Views of the importers, consumers, exporters and other interested parties

13. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to "domestic industry" and the 'Standing thereof.

D.3. Examination by the Designated Authority

14. The Application for review and enhancement of anti dumping duty has been filed by M/s Deepak Nitrite Ltd., Pune and it has provided relevant information in respect of changed circumstances with regard to dumping and consequent injury to the domestic industry. The Production by M/s Deepak Nitrite Ltd., Pune commands more than 50% share in Indian production.

15. Rule 2(b) under the Rules provides as follows:-

"(b)“domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry"

16. Considering that the applicant M/s Deepak Nitrite Ltd., Pune accounts for a major proportion of the total domestic production of the domestic like article and having regard to the legal provisions and facts available on record, the Authority holds that M/s Deepak Nitrite Ltd., Pune constitutes ‘domestic industry’ for the purpose of the present investigation within the meaning of the AD Rules.

E. DUMPING MARGIN

E.1. Views of Domestic Industry

17. Since in this mid-term review investigation, none of the exporters/ producers from China PR has responded and filed any submission with regard to their claim of market economy treatment; the normal value may be determined for all exporters/producers from China PR as per rules applicable for non-market economy country.

18. It has been contended by the applicant that in order to arrive at normal value on the basis of “comparable price” of market economy third country, the Designated Authority shall require complete & exhaustive verifiable information on all domestic sales made by a cooperating producer in such third country, along with its cost of production and all other associated information and evidences (including all information in the ordinary course of trade). The Applicant has requested to consider India as an appropriate surrogate country for Chinese producers, because the accurate and adequate information for India is easily accessible. Other Investigating Authorities have been considering India as appropriate surrogate country and there is no factual basis which restricts the same.

19. It has been contended by the applicant that the normal value in China PR can thus be determined on the basis of (a) price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. Accordingly, the normal value has been determined by them on the basis of cost of production in India, duly adjusted, in view of the fact that the selling price is a loss making price. The calculations of normal value were enclosed with the application.

E.2 View of exporters/importers and other interested parties

20. None of the exporters, importers, users and other interested parties has filed any comment or submissions with regard to export price, normal value and determination of dumping margin

E.3 Examination by the Authority

21. Under Section 9A(1)(c) of the Act, normal value in relation to an article means:

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

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

(a) comparable representative price of the like article when exported from the exporting country or territory 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);

E.4. Normal Value in China PR

22. In anti-dumping investigations concerning imports originating in China PR, normal value is required to be determined in accordance with Paras 7 & 8 of Annexure I of the AD Rules. The Authority notes that Para 7 of Annexure 1 of AD Rules provides that:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin...”

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

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

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the Designated Authority or by the competent authority of any WTO

member country during the three year period preceding the investigation is a non-market economic country;

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

E.4.1. Examination by the Authority

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

- a. the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials cost of technology and labour, output sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values:
- b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts:
- c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
- d. the exchange rate conversions are carried out at the market rate;

24. The Authority, in view of non-cooperation of Chinese exporters/producers cannot grant market economy status to any individual company and finds it appropriate to determine the normal value as per Para 7 of Annex-I of the AD Rules treating China PR as a non-market economy country. The Authority notes that the Applicant did not provide information regarding the evidence of price or constructed normal value in a market economy third country. The information regarding the price from a market economy third country to other countries was also not made available. Besides, the prices from market economy third country to India could not be adopted since majority of imports to India were either by China PR or transhipped subject goods of Chinese origin from third countries. In view of the above, the Authority finds it appropriate to construct the normal value considering the cost of production in India, duly adjusted, reflecting the raw material prices and conversion costs, selling, general administrative expenses and reasonable profit. The raw materials for manufacturing Sodium Nitrite at the international price, the consumption norms of the domestic industry and reasonable profit have been considered for constructing the normal value for all exporters/producers of China PR.

25. The normal value is therefore determined as US\$ *** / MT for all exporters/producers from China PR.

E.5. EXPORT PRICE

E.5.1. Views of Domestic industry:

26. According to the WTO Agreement on Anti Dumping and Indian Rules, comparison of normal value and export price should be done at same level of trade. Therefore, the export price has been adjusted for the following expenses, which may have been incurred by the exporter for exporting the subject goods to India (i)Ocean Freight; (ii)Marine Insurance; (iii)Port Expenses and Handling Charges; (iv)Inland Freight; (v)Bank Commission; (vi)VAT difference.

E.5.2. Examination by the Authority

27. The Authority notes that neither the exporters/ producers nor importers/ users have responded in this investigation. The Authority on the basis of import statistics collected from DGCI&S has determined the import volumes and export price for the subject goods from China PR. The adjustments based on facts available in respect of inland freight, handling, insurance, overseas freight etc. have been considered to arrive at ex-factory export price to India. The Authority has thus determined the ex-factory export price as US\$ *** / MT of subject goods for all exporters/producers from China PR.

E.6. DUMPING MARGIN

E.6.1. Views of Domestic Industry:

28. The dumping margin is not only more than de-minimis, but also significantly high, causing material injury to the Indian industry.

29. Continued dumping and likelihood of continued dumping:

The present investigation is a mid-term review investigation and the Designated Authority is required to examine whether quantum of anti dumping duty is required to be modified (enhanced). The Designated Authority is required to examine the need for the continued imposition of the anti-dumping duty and whether the quantum of anti dumping duty is required to be modified. Though the Designated Authority is not required to examine likelihood of continuation of recurrence of dumping, nevertheless, the Applicant has provided information to show that dumping is likely to continue and cause injury to the domestic industry in case the present anti dumping duties are not enhanced appropriately. Followings are relevant in this regard –

- a. Volume of exports have remained significant vis-à-vis original investigations, as would be seen from the table below –

Year	Imports from China PR (in MT)
1996-97	611
1997-98	3095

1998-99(POI original case)	2024
1999-00	3422
2000-01	1287
2001-02	2000
2002-03	2202
2003-04(POI sunset)	3740
2004-05	2,519
2005-06	5,138
2006-07	6,032
2007-08(POI MTR)	4,365
2008-09	8,212
2009-10 (Apr-June)	2,654
2009-10 (Apr-June) annualized	10,616

- b. The dumping margin determined in the original investigation and last SSR were significant, as would be seen from the table below. The dumping margin estimated by the Applicant in the present petition is also quite significant

	Dumping Margin (in%)	Benchmark
Original Investigation	75.78%	524.63US\$ pmt.
SSR investigation	55.74%	481US\$ pmt.
Present investigation	68.32%	Approximately 638 US\$ pmt

- c. The volume of exports in the post POI period is also quite significant. In fact, the volume of imports declined somewhat only because of Olympics (because a number of plants were directed to suspend production). Once the Olympics were over, the production resumed to normal levels and Indian market is once again witnessing spiralling imports from China PR.
- d. Continued exports even after imposition of duty at significantly dumping levels clearly show the need for enhancement in the benchmark.

E.6.2. Examination by the Authority

30. Considering the normal value and export price determined as detailed above, dumping margin has been determined in respect of imports reported in India during the investigation period. The dumping margin has been determined as US\$ ***Per MT and 60.94%.

Particulars	Unit	Price/MT
Normal Value	US\$/MT	***
Export Price	US\$/MT	***
Dumping Margin	US\$/MT	***
Dumping Margin %	%	60.94

F. INJURY AND CAUSAL LINK DETERMINATION

F.1. Views of the Domestic Industry

31. The proper interpretation and understanding of Article 11.2 of the ADA, Section 9A (5) of the Act and Rule 23 of the AD Rules is that the main intent behind the mid-term review is to consider whether (a) anti-dumping duty in force is required to be withdrawn, (b) anti dumping duty in force is required to be enhanced or reduced. The focus in the mid-term review, that too where the application is for enhancement in the quantum of anti dumping duty should to on (a) justification for continuation of anti dumping duty, and (b) justification for enhancement in the quantum of anti dumping duty. In the present case:

- a. the domestic industry has suffered continued injury inspite of existing anti dumping duty thus establishing the need for continuation of anti dumping duty.
- b. The injury would be likely to continue in the event of revocation or reduction in the quantum of duties.
- c. the current benchmark duty is no longer sufficient to address the injury to the domestic industry; the non-injurious price of the domestic industry has substantially

increased; and therefore the quantum of anti dumping duty is required to be modified/enhanced.

- d. While the costs of production have increased over the period, resulting in some increase in the import prices (however it is disproportionate to the increase in input costs), the benchmark has remained the same. Resultantly, almost from August 2007, imports have been reported at such prices that the landed price of imports were higher than the benchmark. Thus, while the imports continue unabated without payment of anti dumping duty at dumped and injurious prices, the domestic industry suffered heavily.

F.2 Views of exporters, importers, users etc

32. There has been no response from any producer/exporter in China PR. Nor has any arguments been advanced on any aspect of the present investigation by any interested party, including on injury & causal link.

F.3. Examination by the Authority

33. The investigation is for review, continuance and enhancement of anti-dumping duty in force in view of the claim of the domestic industry of continued dumping and consequent injury and likelihood of continued dumping and consequent injury.

34. Annexure-II of the AD Rules provides 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 article; and (b) the consequent impact of these imports on domestic producers of such articles. 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 term 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 article 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.

35. As regards the impact of the dumped imports on the domestic industry Para (iv) of Annexure-II of the AD 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.”

36. The Authority has taken note of the arguments of the interested parties on injury examination and addressed the issues raised at appropriate places. The Authority has examined the injury parameters objectively taking into account the facts and the arguments of the interested parties.

37. For the purpose of assessing present state of injury, the Authority has examined the volume and price effects of dumped imports of the subject goods from subject country on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between the dumping and injury, if any. Accordingly the volume and price effects of dumped imports have been examined as follows:

A. Volume Effect

a) Assessment of Demand

For the purpose of assessment of the domestic consumption/demand of the product under consideration, the Authority added the sales volume of the domestic industry and other Indian producers to the total imports into India, which has been summarized as under:

Demand		2004-05	2005-06	2006-07	2007-08
Sale of Domestic Industry	MT	17,061	17,715	18,538	21,276
Sale of Other Indian Producers	MT	6,463	6,034	6,262	6,313
Captive consumption	MT	1,358	1,105	657	665
Import from China PR (Subject country)	MT	2,519	5,138	6,032	4,365
Import from EU (Territory attracting duty)	MT	2,706	3,506	2,336	2,423
Import from Other Countries	MT	699	359	2	200
Demand	MT	30,086	33,857	33,828	35,241

The Authority notes that the demand has generally shown a positive trend over the injury period except a marginal fall during 2006-07.

b) Import Volume & market share

Annexure-II (ii) of the AD Rules provides that 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 Authority has determined the volume of imports based on DGCI&S data, as shown in the following table:

Imports	Units	2004-05	2005-06	2006-07	2007-08
• China PR	MT	2,519	5,138	6,032	4,365
• EU (Territory attracting AD duty)	MT	2,706	3,506	2,336	2,423
Other Countries	MT	699	359	2	200
Total Imports	MT	5,924	9,003	8,371	6,987
Market share in Imports					

China PR	%	42.51	57.07	72.07	62.47
EU (attracting AD duty)	%	45.69	38.94	27.91	34.68
Other Countries	%	11.80	3.99	0.02	2.86
Market share in Demand					
Domestic Industry	%	55.38	52.32	54.80	60.37
Other Indian producers	%	20.98	17.82	18.51	17.91
Captive Transfer	%	4.41	3.27	1.94	1.89
Imports from China PR	%	8.18	15.17	17.83	12.39
Imports from EU (attracting duty)	%	8.79	10.36	6.91	6.88
Imports from Other Countries	%	2.27	1.06	0.01	0.57
Production of domestic Industry	MT	21,087	21,035	20,800	22,757
Imports in relation to production of Indian Industry as %					
• China PR (Subject country)	%	11.94	24.42	29.00	19.18
• EU (Country attracting ADD)	%	12.83	16.67	11.23	10.65
Other Countries	%	3.32	1.71	0.01	0.88

It is evident from the above that

- i. The volume of imports from China PR has increased both in absolute and relative terms as compared to the base year inspite of anti-dumping duties in force.
- ii. The Share of imports from China PR has increased in terms of imports of the subject goods in India as compared from the base year.
- iii. The market share in demand in respect of subject goods from subject country, which was only 8.18% during 2004-05 reached to level of 12.39% in the period of investigation. At the same time, share of EU, which is already attracting anti dumping duties, has declined over this period. As a result, share of Indian industry (including captive), which was 80.77% during 2004-05 declined to 80.17% during POI.
- iv. Imports from China PR have increased in relation to Indian production.

It has also been contended by the domestic industry that there was a fall in imports of the subject goods from China PR as some of the polluting industries in China PR, including those of Sodium Nitrite manufacturers were asked to shut down their plants before start of Olympics in China PR.

c) Production, capacity and capacity utilization

Particulars	Units	2004-05	2005-06	2006-07	2007-08
Installed capacity	MT	27,000	27,000	27,000	27,000
Production	MT	21,087	21,035	20,800	22,757
Capacity Utilization	%	78.10	77.91	77.04	84.29

The Authority notes that Production and capacity utilization of the domestic industry fell in 2005 -06 and 2006-07 but increased in the POI. It is observed that the domestic industry has been able to improve its volumes during the POI. The Domestic industry has stated that Chinese producers had to curtail their production due to Olympics. Further, the domestic industry has been making efforts to improve its production to the extent possible to offset its fixed costs and then sell the product, even at financial losses.

d) Sales:

Sales volumes of domestic industry are given in the following table: -

Particulars	Units	2004-05	2005-06	2006-07	2007-08
Domestic Sales	MT	17,061	17,715	18,538	21,276
Sales Indexed	Trend	100	104	109	125

It is noted that sales volume of the domestic industry also shows an increasing trend over the injury period. It is also noted that the increase in sales is also due to increase in demand of the product concerned in India.

B) Price Effect of the Dumped imports on the Domestic Industry

i) The impact on the prices of the domestic industry on account of imports from the subject country have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry (worked out on the basis of the costing information of the domestic industry) have been compared with landed value of imports from the subject country.

ii) A comparison for subject goods during the period of investigation was made between the landed value of dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission offered by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry by appropriately considering the cost of production for the product under consideration during the POI. The position is as follows:

Particulars	Units	2004-05	2005-06	2006-07	2007-08
Landed price	Rs./MT	18,161	17,832	16,906	19,070
Net selling price	Rs./MT	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***
Price undercutting	% Range	5 to 15	15 to 25	15 to 25	10 to 20
Non injurious price	Rs./MT	-	-	-	***
Price underselling	Rs./MT	-	-	-	***
Price underselling	% Range	-	-	-	30 to 35

(iii) Since the anti-dumping duties are in force on the subject goods, the price undercutting has also been computed with reference to the benchmark price recommended by the Authority in the previous investigation:

	Units	2004-05	2005-06	2006-07	2007-08
Reference Price	USD/MT	524.63	524.63	481.00	481.00
Exchange Rate	Rs./USD	45.22	44.41	45.60	40.75
Reference Price	Rs/MT	23,722	23,298	21,934	19,601
Landed Price	Rs/MT	18,161	17,832	16,906	19,070
Antidumping duty	Rs/MT	5,765	5,665	5,214	755
Landed price with ADD	Rs/MT	23,932	23,497	22,120	19,825
Net selling price	Rs./MT	***	***	***	***
Price undercutting amount- With ADD	Rs/MT	(***)	(***)	(***)	***
Price undercutting % - With ADD	% Range	(-)15 to 25	(-)5 to 15	(-)1 to 5	10 to 20

The Authority notes from the above that:

- a. The imports from China PR are significantly undercutting the prices of the domestic industry during POI as well as in the previous years.
- b. The applicable benchmark price was lower than the selling price of the domestic industry during the period of investigation. Thus, imports were cheaper even after the addition the of prevailing Anti-dumping duty..

Price suppression

	Unit	2004-05	2005-06	2006-07	2007-08 (POI)
Net Selling price	Rs/Mt	***	***	***	***
Trend	Indexed	100	106	105	111
Cost of sales	Rs/Mt	***	***	***	***
Trend	Indexed	100	112	127	112

(iv) In order to assess whether the imports from the subject country were suppressing/ depressing the prices of the domestic industry, the Authority compared the trends in selling prices and cost of production, as seen in the table above. It is noted that the increase in the selling price was marginally less than increase in the cost of production over the injury period. The imports were thus marginally suppressing the prices of the domestic industry.

(v) The Authority notes that (a) landed price of imports are significantly below the selling price of the domestic industry, thus resulting in significant price undercutting; (b) the landed price of imports are significantly below the non-injurious price of the

domestic industry, thus resulting in price underselling; besides (c) the imports from subject country were also marginally suppressing the prices of domestic industry.

C. Examination of other Injury Parameters

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

(a) **Profit/loss, return on investment and cash flow** – The return on investment, profit/loss before and after interest, return on investment and cash profit has moved as shown in the table below:

	Unit	2004-05	2005-06	2006-07	2007-08
Profit /(Loss)					
Cost of Sales	Rs/MT	***	***	***	***
Indexed	Trend	100	112	127	112
Selling price	Rs/MT	***	***	***	***
Indexed	Trend	100	106	105	111
Profit/(Loss)	Rs/MT	***	***	***	***
Indexed	Trend	(100)	(196)	(418)	(119)
Profit/(Loss)	Rs/Lacs	***	***	***	***
Indexed	Trend	(100)	(203)	(454)	(148)
PBIT	Rs/Lacs	***	***	***	***
Indexed	Trend	(100)	(324)	(960)	(49)
Cash Profit	Rs/Lacs	***	***	***	***
Indexed	Trend	(100)	(306)	(877)	(110)
Return on Capital Employed-NFA	%	***	***	***	***
Indexed	Trend	(100)	(231)	(604)	(32)

The Authority notes that:

i. The domestic industry has been incurring losses throughout the injury period. The profitability declined till 2006-07 with continuous increase in imports volumes from subject country but it improved in the period of investigation. Though the losses reduced during the period of investigation but still remained higher than the base year indicating the overall deterioration in profitability over the injury period.

ii. In order to analyze the impact of dumped imports on cash flow, the Authority has examined the trends in cash profits over the injury period as shown in the above table. The cash profit has been determined by addition of amount of depreciation to the profit (profit before tax). The domestic industry was faced with negative cash flows over the injury period. Cash losses however reduced during the period of investigation in line with the profitability.

(b) **Inventories:**

Inventories with the domestic industry have been as under:

	Unit	2004-05	2005-06	2006-07	2007-08
Average stock	MT	220	498	766	442
Indexed	Trend	100	226	348	201

The Authority notes that the inventories with the domestic industry increased till 2006-07 but declined during the POI.

(c) **Employment, wages and productivity**

	Unit	2004-05	2005-06	2006-07	2007-08
Employment	Nos.	***	***	***	***
Trend	Indexed	100	89	88	89
Production	MT	21,087	21,035	20,800	22,757
Productivity per day	MT	58	58	57	62
Productivity Per Employee	MT	***	***	***	***
Productivity per Employee	Indexed	100	112	112	121
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	89	43	92

The Authority noted no significant changes in employment and wages level. Productivity, expressed in terms of production per employee shown improvement in view of increase in production.

(d) **Growth**

Large number of the injury parameters show positive trend during the period under examination. While there was positive growth, an adverse price effect has been seen in terms of price undercutting, price underselling and price suppression. Losses reduced during the period of investigation but still remained higher than the base year indicating the overall deterioration in profitability over the injury period.

(e) **Dumping margin** – The Authority notes that the dumping margin determined against the subject country is significant, even when the anti-dumping duty is in force.

(f) **Ability to raise capital investments** – The Authority notes that the Applicant Company is a multi-product company and may not have difficulty in raising fresh investment. However, adverse performance of the product may hinder the ability to raise fresh investments in future.

39. Other Known factors and Causal Link

- a. Volume and value of imports not sold at dumping prices: - Imports from other countries are either at higher prices or the volume of imports is de-minimis or these imports are already attracting anti dumping duties. Imports from other countries are, therefore, not causing injury to the domestic industry or the sources are already attracting anti dumping duties
- b. Contraction in demand:- Demand of the product under consideration has not registered any negative growth. Thus, there is no contraction in demand, which could have contributed to injury to the domestic industry.
- c. Changes in the patterns of consumption:- The pattern of consumption with regard to the product under consideration has not undergone any change. The changes in the pattern of consumption could not have contributed to the injury to the domestic industry.
- d. Trade restrictive practices of and competition between the foreign and domestic producers: - There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- e. Developments in technology:- Technology for production of the product has not undergone any change. Thus, development in technology is not a factor of injury.
- f. Export performance:- The Applicant does not have significant export activity. Injury to the domestic industry cannot be due to exports of the subject goods by the Applicant.
- g. Performance of other products produced and sold by the domestic industry:- Domestic industry is a multi-product company. However, the information with regard to the product under consideration has been segregated and the information relied upon is not in respect of other products. Performance of other products did not cause any impact over injury to the domestic industry.

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

D. Likelihood of continuation or recurrence of injury

41. The Authority notes that dumping is continuing from China PR in spite of the antidumping duty in force and the domestic industry continues to suffer material injury due to such dumped imports. Therefore, further examination of the likelihood of recurrence of dumping and injury is not required.

H. CONCLUSIONS

42. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of

interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current and likely dumping and injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:

- i. The subject goods are entering the Indian market at dumped prices and dumping margins of the subject goods imported from China PR is significant and above de-minimis limits prescribed. The subject goods continue to be exported to India at dumped prices inspite of existing anti dumping duties.
- ii. Considering the facts available on record, the subject goods are likely to enter Indian market at dumped prices, should the present measures be withdrawn.
- iii. The situation of domestic industry deteriorated further in spite of existing anti dumping duties. Further, should the present anti dumping duties be revoked, injury to the domestic industry is likely to continue and intensify.
- iv. The deterioration in the performance of the domestic industry is because of dumped imports from China PR.
- v. The current level of anti dumping duty is insufficient to address continued dumping and consequent injury to the domestic industry and thus the anti-dumping duty is required to be modified.

I. RECOMMENDATIONS

43. Having concluded that the product continues to be exported at dumped prices, the current dumping margin and injury margin establishes the need for revision in the anti-dumping duty in force, the situation of the domestic industry continues to be fragile and there is likelihood of continuation or resumption of dumping and injury on account of imports from China PR, if the duties are revoked, the Authority is of the opinion that the measure is required to be extended and the quantum of Anti-dumping duty is required to be modified in respect of imports from China PR as specified in the duty table below. For the purpose of determining injury, the landed value of imports is compared with the non-injurious price of the petitioner company determined for the period of investigation.

44. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the difference between the amount indicated in Col 8 of the table below and the landed value is recommended to be imposed on all imports of subject goods originating in or exported from China PR.

Duty Table

S. No.	Sub-heading of tariff item	Description of goods	Country of origin	Country of Export	Producer	Exporter	Anti-dumping duty	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10

(1)	2834.10.10	Sodium Nitrite	People's Republic of China	People's Republic of China	Any	Any	617.42	MT	US\$
(2)	2834.10.10	Sodium Nitrite	People's Republic of China	Any	Any	Any	617.42	MT	US\$
(3)	2834.10.10	Sodium Nitrite	Any	People's Republic of China	Any	Any	617.42	MT	US\$

44. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

45. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

R. Gopalan
The Designated Authority