

To be published in Part - I Section - I of the Gazette of India Extraordinary

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

NOTIFICATION

New Delhi 22nd November, 2013

Final Findings

Subject: Anti-dumping investigation concerning imports of 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) originating in or exported from China PR.

NO. 14/1/2012-DGAD:- Having regard to the Customs Tariff Act 1975 as amended in 1995 and thereafter (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 Rules) thereof:

A. Background of the case:

1. WHEREAS M/s Deepak Nitrite Ltd. (hereinafter also referred to as the domestic industry) filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules alleging dumping of 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) (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 initiation of anti-dumping investigation for levy of anti-dumping duties on the imports of the subject goods, originating or exported from the subject country.
2. AND WHEREAS, the Authority on the basis of sufficient prima facie evidence submitted by the applicant issued a public notice vide No. 14/1/2012-DGAD dated 26th July, 2012, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject good, originating in or exported from the subject country, in accordance with the sub-Rule 5(5) of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed:

- i. The Authority notified the embassy of the subject country in India about the receipt of the application in accordance with sub-Rule 5(5) of the Rules.
- ii. Copy of the initiation notification was sent to the known exporters from the subject country, known importers and other interested parties and the domestic industry along with relevant questionnaires, etc. The known interested parties were requested to file questionnaire responses and make their views known in writing within prescribed time limit.
- iii. Copy of the initiation notification was sent to the embassy of the subject country in India along with copy of the letter and the enclosures addressed to the known exporters of the subject goods in the subject country.
- iv. 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.
- v. Copy of the non-confidential version of the application filed by the domestic industry was also made available to the interested parties along with the relevant non-confidential version of the information/documents received from various interested parties in the form of a public file
- vi. The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject country in accordance with Rule 6(4) of the Rules:
 - a. Shanxi Xiangyu Chemical Co. Ltd.
Fengxi Industry Zone, Linye County, China PR. PC: 044100
 - b. HeBei HengShui DongGang Chemical Co. Ltd.,
East Daqing Road, Hengshui, China PR - 053000
 - c. Hebei Hua-Chem Group South DongGuang County,
HeBei, China PR – 061600
 - d. HengShui Jingheng Chemical Products Co. Ltd.
13 M.YuHua Road.,HengShui City,HeBei, China PR.

- e. Botou Tianhe Chemical co Ltd, 171 Nankang Street, Botou City, Hebei Province, China PR.
 - f. Yanshi Dongyuan Chemical Co Ltd, Dongdajiao Industrial Zone, Dianzhuang, Yanshi, Luoyang, Henan Province, China PR.
- vii. In response to the initiation notification, M/s Hua-Chem Dye Chemical Co., Ltd., Da Zhang Town, South Dongguang County, Hebei, China PR responded by filing the exporters questionnaire response.
- viii. Questionnaires were also sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
- Daikaffil Chemicals
 - Khyati Chemicals Pvt. Ltd.
 - Pranav Chemicals
 - Pragna Dye Chem
 - Jaysree Chemicals
 - J.B.Industries
 - Raghunath Dye Chem
 - Paramount Minerals & Chemicals Ltd
 - Aishwarya Chemicals
 - BASF India Ltd
 - Hind Prakash International Ltd
 - Itachem International
 - Anil Organics
 - Clariant Chemicals (India) Ltd
 - Paramount Minerals
 - CAMEX Ltd
 - Sanjay Sales Corporation
 - Modern Chemicals
 - The Dyestuffs Manufacturers Association of India
 - BASF, The Chemical Company
 - Eskay Dyestuffs & Organic Chemicals Pvt Ltd
 - The Gujarat Dyestuffs Manufacturers Association
 - Meghmani Dyes & Intermediates Ltd
- ix. In response to the initiation notification, the following importers have responded by filing importers questionnaire response:
- M/s Clariant Chemicals (India) Ltd
 - Khyati Chemicals Pvt. Ltd
 - BASF India Ltd
 - Eskay Dyestuffs & Organic Chemicals Pvt Ltd
 - Paramount Minerals & Chemicals Ltd
 - Sanjay Sales Corporation

- Daikaffil Chemicals India Ltd
- x. Submissions have been made by the following importers/users and other opposing interested parties:
- The Dyestuffs Manufacturers Association of India
 - Khyati Chemicals Pvt. Ltd
 - BASF India Ltd
 - Eskay Dyestuffs & Organic Chemicals Pvt Ltd
 - Paramount Minerals & Chemicals Ltd
 - Meghmani Dyes & Intermediates Ltd
 - Daikaffil Chemicals
 - All India Whiteners Manufacturers Association
 - Sanjay Sales Corporation
 - Whitex Chemicals
 - Raghunath Dye Chem
 - Vidaja Chemical Pvt Ltd
 - Delta Hydrocarbons
 - Varahi Chemicals
- xi. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis.
- xii. The Non-injurious Price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD 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;
- xiii. A Market Economy Treatment (MET) questionnaire was also forwarded to all the known exporters and embassy of China PR with a request to provide relevant information to the Authority within the prescribed time. While for the purpose of initiation the normal value in China PR was considered based on the cost of production of the subject goods in India, duly adjusted, the Authority informed known exporters that it proposes to examine the claim of the applicant in the light of para 7 and para 8 of

Annexure I of Anti-Dumping Rules, as amended. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 to enable the Authority to consider whether market economy treatment can be granted to cooperative exporters/ producers.

- xiv. The respondent producer/exporter from China PR M/s Hua-Chem Dye Chemical Co., Ltd has not claimed market economy treatment.
- xv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the injury period including POI.
- xvi. The Authority has relied upon the DGCI&S data in the present findings.
- xvii. The period of investigation (POI) proposed by the applicant was 1st January 2011 to 31st December 2011 (12 months). However, for enabling the Authority to make required analysis on the basis of more updated data, the Authority hereby determined the POI as 1st January 2011 to 31st March 2012 (15 months). The injury investigation period however covers the periods April 2008-March 2009, April 2009-March 2010, April 2010-March 2011 and the POI.
- xviii. The Authority held oral hearings on 10.06.2013 to hear the interested parties, which were attended by representatives of interested parties and the written submissions and rejoinder submissions made by the interested parties have been examined and addressed in this final finding to the extent considered relevant by the Authority.
- xix. The Department of Revenue vide their Office Memorandum No. 354/141/2013-TRU dated 30th July, 2013 allowed extension of time up to 25th November, 2013 for completing the investigation and notifying the final findings.
- xx. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xxi. The essential facts of the investigation were disclosed to the

interested parties vide disclosure statement dated 11th November, 2013 and the submissions made by the interested parties during the course of the investigation, including post-disclosure comments, to the extent considered relevant by the Authority, have been addressed in this finding;

- xxii. *** in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiii. The exchange rate has been taken by the Authority as Rs.47.66 = 1 US\$ for the POI.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions by the Domestic Industry

- 4. The following are the submissions made by the domestic industry with regard to product under consideration (PUC) and like article:
 - i. The product under consideration in the present petition is 4,4 Diamino Stillbene 2 , 2 Disulphonic Acid (DASDA), referred to as DASDA in the present petition.
 - ii. DASDA is also known as 2, 2'- (1, 2- Ethylenediyl) bis (5-aminobenzenesulfonic acid), 4, 4'-Diaminostilbene- 2, 2'- Disulfonic Acid, 2, 2'-ethene-1, 2-diylbis (5- amino benzene sulfonic acid), Amsonic Acid and DSD Acid.
 - iii. DASDA is a light yellow color powder/cream, which is used in synthesis of dye stuffs, like optical brightening agents, fluorescent brightening agents, etc. It mainly functions as a chemical intermediate for manufacturing optical brightening agent. It may also be used in pesticides.
 - iv. There is only one known grade of product under consideration. However, the product may be supplied in different concentrations, such as 95% or 98%, based on the requirements of the consumer.
 - v. The product is typically sold on the basis of weight (Kilograms), typically packed in woven bags.

- vi. DASDA is classified under residual category under the Customs Tariff classification Heading 29215990. The subject goods are also being imported under a number of other tariff headings.

Submissions by Producers/Exporters/Importers/Other Interested Parties

5. No relevant submission has been made by the other interested parties in this regard.

Examination by the Authority

6. The product under consideration in the present investigation is 4, 4-Diamino Stilbene 2, 2 Disulphonic Acid (also referred to as DASDA). It is also known as 2, 2'- (1, 2- Ethylenediyl) bis (5-aminobenzenesulfonic acid), 4, 4'-Diaminostilbene- 2, 2'-Disulfonic Acid, 2, 2'-ethene-1, 2-diylbis (5- amino benzene sulfonic acid), Amsonic Acid and DSD Acid. DASDA is a light yellow color powder/cream, which is used in synthesis of dye stuffs, like optical brightening agents, fluorescent brightening agents, etc. The subject goods are classified under chapter heading 29215990, although reportedly being imported under a number of other tariff headings such as 29214290, 29222190, 29222990, 29309099, etc. However, the customs classification is indicative only and in no way binding on the scope of this investigation.
7. The domestic industry has claimed that the subject goods imported from the subject country are like articles to the subject goods produced by the domestic industry. As claimed by the domestic industry, there is only one known grade of product under consideration. However, the product may be supplied in different concentrations, such as 95% or 98%, based on the requirements of the consumer. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the applicant. The two are technically and commercially substitutable and hence be treated as 'like article' under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicant in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.
8. With regard to like article, Rule 2(d) of the AD 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.

9. The petitioner has claimed that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject country. The subject goods produced by the domestic industry and the subject goods imported from the subject country are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods. The respondent exporter has also admitted that there is no difference in physical parameters, manufacturing, technical or chemical characteristics between the subject goods produced by the domestic industry and exported by them and subject goods sold in their home market and exported to other countries including India are identical and can be compared.
10. No argument has been received from any interested party on the scope of product under consideration or like article. Examination of the product and import data submitted by the applicant indicates that there is no difference between subject goods produced by the Domestic Industry and imported from China. In view of the similarity in manufacturing process and substitutability, the Authority holds that the two are required to be treated as alike and one product for the purpose of defining the 'product under consideration' in this case.

D. STANDING AND SCOPE OF DOMESTIC INDUSTRY

Submissions by the Domestic Industry

11. The domestic industry has not imported DASDA during the period of investigation. The Petitioner is the major producer of product under consideration. The production of subject goods by the petitioner constitutes a major proportion in Indian production and therefore, satisfies the requirement of standing under the Rules.

Submissions by Producers/Exporters/Importers/Other Interested Parties

12. Domestic industry has used imported Crude DASDA as the raw material in the production of DASDA. It is submitted that the Crude DASDA is nothing but DASDA only. The Authority may examine the issue of standing in the light of import of Crude DASDA by the petitioner during the POI.

Examination by the Authority

13. On the basis of verified data the Authority notes that the domestic industry has not imported crude DASDA during the POI.

14. The application has been filed by M/s Deepak Nitrite Ltd. on behalf of the domestic industry. As per the evidence available on record, the applicant accounts for a major proportion of the total domestic production of the subject goods constituting more than 90% of Indian production. Apart from Deepak Nitrite Ltd, M/s J. B. Chemicals, M/s. Pranav Chemicals and M/s. Aishwarya Chemicals are reportedly producers of the subject goods as well. On the basis of available information, the Authority notes that M/s Deepak Nitrite Ltd constitutes a major proportion in Indian production. Moreover, no argument has been received from any interested party disputing the standing and scope of M/s Deepak Nitrite Ltd as the domestic industry under the Rules. The Authority, therefore, determines that M/s Deepak Nitrite Ltd constitutes domestic industry within the meaning of the Rule 2 (b) and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

E. Confidentiality

Submissions by the Domestic Industry

15. The domestic industry has submitted that they have provided non confidential version of the petition considering the information that is publicly available and wherever actual information could not be provided, indexed information has been provided.

Submissions by Producers/Exporters/Importers/Other Interested Parties

16. The opposing interested parties have contended that the domestic industry has claimed excessive confidentiality in their petition.

Examination by the Authority

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

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

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

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

18. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

F. Miscellaneous submissions

Submissions by the Domestic Industry

19. The following are the miscellaneous submissions made by the domestic industry:

- i. Petitioner has provided all relevant information which has been verified by the Authority.
- ii. Inability of the domestic industry to meet the domestic demand does not bar domestic industry from seeking protection under the Rules.
- iii. There is no basis for the argument that anti dumping duty will not be in public interest. As the authority has repeatedly held, imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider

choice to the consumers of subject goods. Consumers could still maintain two or even more sources of supply.

- iv. Production of FBA scheduled by petitioner would in no way affect the availability of the DASDA in the local market. The company has a capacity of 7800 MT for DASDA. Its captive requirement shall only be 1000 MT in the current year and 2000 MT at full scale of FBA production. The company is presently exporting to the extent of 3500 MT which is clearly a force measure in view of inability of the company to sell in domestic market to the extent of production. Further, the current production itself is lower than by about 1000 MT. Thus, even after considering full captive requirements, the company shall have a capacity of 5800 MT for sale in the domestic market. A capacity of about 1000 MT exists with other domestic producers. The demand for the product under consideration so far has peaked to 6500 MT. Thus, as against established demand of 6500 MT, the available capacities shall be 6800 MT i.e. sufficient to meet the demand of the product in the country.
- v. Deemed exports are relevant to be considered with regard to price undercutting. In fact, the exporter agreed at the time of hearing that duty free imports and deemed exports sales by domestic industry could impact price undercutting.

Submissions by Producers/Exporters/Importers/Other Interested Parties

20. The following are the miscellaneous submissions made by the Producers/Exporters/Importers/Other Interested Parties:

- i) Application filed by the petitioner is grossly erroneous and insufficient to justify initiation of the investigation. Information/data not objectively examined prior to initiation.
- ii) Due to monopoly of the petitioner, the small scale industries are suffering and may face closure. The anti-dumping measures may enable multinational companies and big corporates monopolistic benefits, leading to the closure of small and medium enterprises.
- iii) The supply of DASDA is less than the domestic demand, thereby necessitating imports. The OBA project of Deepak Nitrite will further aggravate the supply position of DASDA in the country. Users of DASDA are small scale industry and any imposition of duty will impact the SMEs. The demand for ADD on DASDA is to

strategically finish other dyestuff/OBA producers. Due to the OBA project of the petitioner, other OBA producers wouldn't get DASDA at competitive rates and there can be demand supply gap as the priority of the petitioner would be to cater to its captive requirements and exports.

- iv) It would be unfair and unjust to impose anti-dumping duty based on a period of investigation which is over 2 and ½ years old and not relevant to the present economic condition. Therefore, the authority should review the matter taking a fresh period of investigation.
- v) The deemed exports claimed by the domestic industry is nothing else but deemed exports as per Chapter 8 of FTP. Domestic industry has supplied to EOU unit and such supplies can't be considered as domestic sales. This may be taken into account by the Authority while calculating price undercutting.

Examination by the Authority

21. The Authority has initiated the subject investigation after being satisfied prima facie regarding evidence of dumping of the subject goods originating in or exported from China PR and injury to the domestic industry and causal link between the dumping and injury. Moreover, the Authority has verified the information submitted by domestic industry during the course of investigation.
22. The Authority notes that the objective and purpose of imposing anti-dumping duty is to prevent unfair trade practice and to create a level playing field for the domestic industry vis-a-vis dumped imports under the aegis of WTO and not to promote monopolization of trade by any interested party. The Authority further notes that Anti-dumping Rules do not require that the Applicant must be able to fulfill demand in India to the fullest extent and have adequate capacity to this end, before seeking redressal of injury caused to it on account of dumping.
23. It is an acknowledged fact that Deepak Nitrite Ltd, is in the process of setting up a production facility for Fluorescent Brightening Agents (FBA) at Dahej Gujarat. However, as clarified by the domestic industry during verification, adequate volume of subject goods will be available for domestic market despite their FBA project.
24. As regards the submission that the authority should review the matter taking a fresh period of investigation since the POI of the present

investigation is out dated and the economic conditions have undergone changes, the Authority notes that the subject anti-dumping investigation was initiated on 26th July, 2012 taking the most recent period as the period of investigation. Therefore the POI of the present anti-dumping investigation cannot be called as outdated. Further, any development beyond the period of investigation is a matter of review under the Rules.

25. The Authority has not considered the deemed exports made by the domestic industry as part of the domestic sales and calculated the price undercutting accordingly.

G. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Submissions by the Domestic Industry

26. Submissions by the domestic industry are briefly as follows:

- (a) China should be treated as non-market economy country for the following reasons:
- i. Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity.
 - ii. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values.
 - iii. Production of the product requires power and fuel as a major item of utility. It must be established by the exporters that the price of utilities reflect fair market values.
 - iv. Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards:
 - v. Market economy status cannot be granted even if one of the parameters is not satisfied.
 - vi. It is not for the domestic industry or Authority to establish that the responding companies are indeed operating under market economy environment and are entitled for market economy treatment. It is for the responding Chinese exporters to establish that they are operating under market economy conditions.
 - vii. In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless the process of transformation has been completely established through documentary evidence.

- (b) Export price can be established on the basis of information provided. The export price must be adjusted for expenses such as ocean freight, marine insurance, commission, bank charge, port & handling charges and adjustment for VAT refund to determine ex-factory export price.
- (c) While working out the landed price of import education cess is not required to be added to the landed price of imports nor the application proforma provide for the same.
- (d) It needs to be substantiated that both normal value and costs varied significantly in order to justify a month by month comparison.

Submissions by Producers/Exporters/Importers/Other Interested Parties

27. The following are the submissions made by the producers/ exporters/ importers/users/other interested parties:

- i. Petitioner has not taken in to account the educational cess while calculating the landed price.
- ii. The landed price from the subject country has declined from 100 in the base year to 87 during the POI.
- iii. The domestic sales price of the respondent exporter should be considered for normal value as the domestic sales is patently sufficient enough to be compared with the Indian export.
- iv. Considering the fluctuation in price of the product, normal value, export price and dumping margin may be determined on month wise in the present case.

Examination by the Authority

28. The Authority notes that education cess has been considered in working out the landed price of imports.

29. The Authority notes that mere variation in price of the product over the period is insufficient to undertake a month wise analysis of dumping margin and injury margin.

30. As regards the submission that the domestic sales price of the respondent exporter should be considered for normal value, the Authority holds that China being Non market economy, the domestic price cannot

be relied upon as being reflective of market price. Moreover, respondent exporter from China has not claimed market economy treatment.

31. The Authority, notes that in the past three years China PR has been treated as a non-market economy country in the anti-dumping investigations by India and other WTO Members. Therefore, in terms of para 8(2) of the annexure 1 of Anti-dumping Rules, China PR has been treated as a non-market economy country, subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the Rules.

32. As per Paragraph 8, Annexure I to the Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish 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.

33. The Authority notes that M/s Hebei Hua-Chem Dye Chemical Co. Ltd is the only company from China PR which has filed exporter's questionnaire response in the present investigation. But, the company has not claimed market economy treatment by filing the required questionnaire response. The Authority further notes that none of the other producers and exporters of the subject goods from the subject country has submitted the exporter's questionnaire response and market economy questionnaire

response, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. In view of the above position and in absence of rebuttal of non-market economy presumption by the respondent Chinese company, the Authority considers it appropriate to proceed with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR .

G.1 Determination of Normal value

34. Para 7 of Annexure I of the 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. An appropriate market economy third country shall be selected by the designated Authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

35. The Authority indicated in the initiation notification that the petitioner has claimed the constructed normal value in case of China PR on the basis of cost of production in India duly adjusted including adjustment on selling, general & administrative expenses and profit, in terms of Para 7 of Annexure I to the Rules. However, none of the interested parties, including the applicants and Chinese producers has placed any material fact before the Authority to select an appropriate market economy third country for the purpose. The domestic industry has submitted that India should be treated as an appropriate surrogate country for China in this matter and the normal value should be determined accordingly. None of the opposing parties has disputed the claim of the domestic industry.

36. The Authority has determined the normal value in China PR on facts available basis, in terms of para 7 of Annexure 1 to the Anti-dumping

Rules. Accordingly, the ex-works Normal Value of the product under consideration for all exporters from China PR has been constructed by taking into account the international price of the major input viz. Para Nitro Toluene and the price at which domestic industry has sourced the other raw materials. Further, the consumption norms, conversion cost and SGA expenses of the domestic industry have been adopted. After adding a reasonable profit margin of 5%, the Authority has constructed normal value for all producers/exporters of China PR as US\$ ***/Kg.

G.2 EXPORT PRICE

M/s Hebei Hua-Chem Dye Chemical Co. Ltd, China PR

37. The Authority notes that only M/s Hebei Hua-Chem Dye Chemical Co. Ltd, China PR has responded in the form and manner prescribed and have furnished the requisite information to determine the net export price. The Authority notes from the Appendix-2 of the Exporter's Questionnaire response filed by the concerned producer/exporter that it had reported *** transactions involving export of *** MT of the subject goods to India during POI at an average CIF price of US\$ *** per Kg. The Authority made adjustments on account of ocean freight, overseas insurance, commission, port expenses, inland freight, bank charges, credit cost and VAT adjustment @ 4%, as claimed by the exporter in their response to the questionnaire in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for M/s Hebei Hua-Chem Dye Chemical Co. Ltd, China PR has been determined as US\$ ***/Kg.

NON-COOPERATIVE EXPORTERS

38. In respect of non-cooperating exporters, the lowest import price based on the data of co-operating exporters has been taken into account. Adjustments like ocean freight etc. has been allowed at par with the ones allowed in co-operating exporters as above for arriving at export price at ex-factory level. By adopting this method the export price at ex-factory level in respect of non-cooperating exporters for subject goods has been determined as US\$ *** per kg.

G.3 DUMPING MARGIN

39. Comparing the normal value and export prices as determined in the preceding paragraphs, the dumping margin has been determined by the Authority as follows:

Particulars	M/s Hebei Hua-Chem Dye Chemical Co. Ltd.	Non-Cooperative exporters
Normal Value - US\$/Kg	***	***
Export price - US\$/Kg	***	***
Dumping Margin - US\$/Kg	***	***
Dumping Margin - %	***	***
Dumping Margin Range - %	15-25	20-30

H METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Injury Determination

Submissions by Producers/Exporters/Importers/Other Interested Parties

40. The following are the injury related submissions made by the Producers/Exporters/Importers/Other Interested Parties:

- i. The petitioner has claimed positive price undercutting during January, 2011 to December, 2011 while there is negative price undercutting during the said period.
- ii. When PUC production is included in the plant production, it is not possible to have a lower plant production.
- iii. No evidence has been provided by the petitioner as regards consumption factor of raw material, utility, etc.
- iv. There are three processes of production of DASDA i.e. Hypo Chloride Process, Air Oxidation Process and Ammonia Oxidation Process. The Authority should examine the cost difference of the production of the subject goods due to the three different processes.
- v. There is negative price undercutting during the POI meaning thereby that the landed price is higher than the NSR.
- vi. Plant capacity utilization improved by 86% during the POI, meaning thereby absence of injury.
- vii. During the process of production of the subject goods, two

intermediate products i.e. DNDSA and PNTSA, which are tradable, are produced. The apportionment and allocation of cost need to be checked up.

- viii. No reason given in the petition for the decline of the Petitioners' export market during the POI as compared to their domestic sales.
- ix. Significant increase in the wages during the POI as compared to 2010-11.
- x. The petitioner has suffered injury due to its own inefficiencies and not due to dumping of the subject goods from the subject countries.
- xi. The petitioner is having three units in three different places for manufacturing the subject goods. Unit 1 and 3 are related to manufacturing of the first stage production i.e. PNTSA and transported to Unit 2 for Oxidation purpose and from where they get the product called DNDSA and again transported back to respective units 1 and 3. The cost of production of the petitioner is high as compared to foreign producers because of transport cost involved in intermediate stages of production. Therefore, higher amount of transport cost should be removed from the injury examination to ensure fair analysis.
- xii. There is no injury to the petitioner as the company is in profit for the last 10 years and venturing into manufacturing Optical Brightening Agents (OBA).
- xiii. No Material Injury to the Domestic Industry in respect of capacity utilization, production, sales volume, inventory, employment and wages.
- xiv. The movement in selling price of subject goods in the export market and domestic market shows similar trend during the injury period. In fact selling price of subject goods of petitioner in export market has declined more than domestic market. Thus no causal link is established.
- xv. Imports from China are not creating any adverse price effects on the domestic industry. The domestic industry is passing on the increase in cost to customers however the domestic industry is selling at lower rates under export benefit schemes.

Thus, import from China hasn't created any adverse price effects on the domestic industry.

- xvi. The landed prices of imports from the subject country have been higher in comparison to domestic selling prices of the domestic industry during POI and hence imports were not undercutting the prices of the domestic industry.
- xvii. The plea of the domestic industry that the company is a multi-product company and hence the profitability in the annual report is irrelevant is incorrect.

Submissions by the Domestic Industry

41. The following are the injury related submissions made by the domestic industry:

- i. The petitioner has determined the price undercutting after bifurcating its sales realization of both domestic sales and deemed export sales. The price undercutting is positive in both the cases.
- ii. There is a typographical error in the figure of "plant production" in the petition.
- iii. The achievable capacity of DASDA plant is 7,800 MT per annum.
- iv. There is no requirement for providing transaction wise import data in the application proforma.
- v. Technology is different from the process. Merely because different processes are involved does not mean the different technologies are involved. Moreover, the difference in process is entirely irrelevant unless it is demonstrated that different processes have different cost.
- vi. Contention of interested parties that there is no material injury is unfounded.
- vii. The contention that higher amount of transport cost should be removed from the injury examination to ensure fair analysis is not correct. There is no change in the operating structure of the petitioner over the injury period. Thus, the deterioration in profits is not on account of the transport cost involved.

- viii. Selling price of subject goods of the petitioner in export market has declined more than domestic market as the petitioner is facing dumping of the product under consideration in its exports as well. The petitioner is exporting the product to Argentina, Brazil, Germany, Italy, Japan, Korea, Pakistan, Spain, Switzerland, Taiwan and USA. The goods are being supplied by Chinese manufacturers in all these markets.
- ix. Domestic industry has suffered material injury as a result of dumping of the subject goods from China PR.
- x. Petitioner is a multi-product company and therefore profit of the company for various products is entirely irrelevant for the product under consideration.
- xi. The petitioner is forced to match the prices offered by Chinese producers in order to get orders from domestic consumers.
- xii. The adverse price effect of dumped imports on the domestic industry is significant as the import has increased substantially in absolute terms, in relation to production and consumption in India, imports are significantly undercutting the prices of the domestic industry, the landed price of imports is significantly below the cost of production and non-injurious price of the domestic industry, imports are suppressing the domestic prices and imports are resulting in significant price underselling.
- xiii. Performance of the domestic industry has deteriorated in terms of profits, return on investments, cash flow and market share, production, sales volumes and productivity. Moreover, while market share of the imports from the subject country increased significantly during the POI, as a direct consequence, the market share of the domestic industry declined, thus establishing causal link.

Examination by the Authority

42. The Authority has taken note of the arguments and counter-arguments of the interested parties on injury. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties. However, the specific submissions made by the interested parties are addressed by the Authority as below:

- i) As regards the contention of the importers/users that there are three processes of production of DASDA i.e. Hypo Chloride

Process, Air Oxidation Process and Ammonia Oxidation Process, the Authority notes that the response filed by the cooperating producer/exporter from the subject country does not support this contention and importers/users are not qualified as such to raise any concerning production process. The Authority further notes that the process of production of DASDA has to necessarily go through three phases i.e. Sulfonation, Oxidation and Reduction. The three processes claimed by the importers/users as the processes of production of DASDA are actually the part of Oxidation process.

- ii) As regards the contention that the domestic industry is bearing extra expenditure due to intermediate stage transportation from one unit to another unit, the Authority notes that the subject goods are produced through three phases of production i.e. sulphonation, oxidation and reduction. The Authority further notes that the domestic industry has three closely situated units for manufacturing the subject goods. While Unit-I and Unit-III are engaged in sulphonation and Reduction phases, the unit two is engaged in oxidation process. The expenditure involved in the intermediate stages transportation is minimal and negligible without having any substantial impact on cost of production.
- iii) Domestic industry is a multi Product Company. The Authority has however assessed the performance of the domestic industry with regard to the subject goods only.

43. 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 articles; 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 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.

Assessment of Demand and market share

44. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of domestic industry and other Indian producers have been added to the total imports into India and the same has been summarized below:

Demand in India	Unit	2008-09	2009-10	2010-11	Jan'11-Mar'12 (POI)	POI Annualised
Domestic Industry Sales	MT	1,793	2,144	2,132	2,229	1,784
Other Indian Producers' Sales	MT	550	550	550	688	550
Imports from China (Subject Country)	MT	1,030	2,252	2,613	3,344	2,675
Imports from other countries	MT	491	349	1,014	338	271
Total Demand	MT	3,863	5,294	6,310	6,599	5,279
Market Share In Demand						
Domestic Industry Sales	%	46.41	40.49	33.80	33.78	33.78
Other Indian Producer Sales	%	14.24	10.39	8.72	10.42	10.42
Imports-Subject Country	%	26.65	42.53	41.42	50.67	50.67
Imports-Other Countries	%	12.70	6.59	16.07	5.13	5.13

45. The Authority notes that the demand has shown a positive trend and increased significantly during POI as compared to the base year. However, there is a decline in demand in the POI as compared to immediate preceding year 2010-11. It is further noted that the market share of the domestic industry has declined during POI as compared to base year; whereas the market share of imports from China PR has increased significantly during POI even when the demand declined in the POI.

Volume Effects of Dumped Imports:
Import Volumes and Market Share

46. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti-dumping rules provides as under:

“While examining the volume of dumped imports, the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”.

47. The volume of imports of the subject goods from the subject country has been analyzed as under:

Particulars	Unit	2008-09	2009-10	2010-11	Jan'11- Mar'12 (POI)	POI Annuali sed
Imports from China	MT	1,030	2,252	2,613	3,344	2,675
Production of subject goods by the domestic Industry	MT	4,319	5,703	6,903	8,046	6,437
Share of China Imports in relation to						
Total imports in India	%	67.73	86.59	72.05	90.81	90.81
Demand in India	%	26.65	42.53	41.42	50.67	50.67
Production of domestic industry	%	23.84	39.48	37.86	41.56	41.56
Domestic Sales of domestic industry	%	57.43	105.03	122.55	149.99	149.99

The Authority notes that imports from subject country have increased in absolute terms and also in relation to production and consumption in India, thereby signifying adverse volume effect.

Price effect of imports

48. With regard to the effect of the dumped imports on prices, the Designated 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 article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. Annexure II (ii) of the Rules states as under:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 11 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

49. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any as below:

Price Undercutting & Underselling

Price Undercutting

50. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. The Authority has determined net sales realization considering selling price, excluding taxes & duties, rebates, discounts & commissions. The Authority has considered only the domestic sales volumes of the domestic industry in the calculations. Landed price of imports has been determined considering CIF import price, with 1% landing charges and applicable basic customs duty. The comparison was done between net sales realization and the landed price of imports. The Authority notes that the landed price of the subject goods is less than the selling price of the domestic industry which shows that the price undercutting being caused by the dumped imports from the subject country is positive.

Particulars	Unit	2008-09	2009-10	2010-11	Jan'11- Mar'12 (POI)
Landed Price	Rs/Kg	***	***	***	***

Trend	Index	100	67	73	81
Net Selling Price	Rs/Kg	***	***	***	***
Trend	Index	100	69	68	73
Price Undercutting	Rs/Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting (Range)	%	10-20	10-20	0-10	0-10

Price Underselling

Similarly, in order to determine whether the imports are underselling the non-injurious price of the domestic industry, the Authority has compared the landed price of imports with the non-injurious price of the domestic industry. The Authority notes from the data provided in the following table that the landed price of the subject goods is less than the non-injurious price of the domestic industry which shows that price underselling being caused by the dumped imports from the subject country is positive.

Particulars	Unit	POI
Non injurious price of the domestic industry	Rs./Kg	***
Landed value	Rs./Kg	***
Price Underselling	Rs./Kg	***
Price Underselling	%	***
Price Underselling (Range)	%	0-10

Price suppression/depression

51. In order to determine whether the dumped imports are suppressing or depressing the domestic prices, the Authority determined 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.

Particulars	Unit	2008-09	2009-10	2010-11	Jan'11-Mar'12 (POI)
Cost of Sales	Rs/kg	***	***	***	***

Trend	Index	100	63	60	80
Selling price	Rs/kg	***	***	***	***
Trend	Index	100	68	69	74
Landed Price	Rs/kg	***	***	***	***
Trend	Index	100	67	73	81

The Authority notes that during the POI, both cost of sales as well as selling price have declined as compared to the base year. Further, the decrease in selling price was more than the decrease in cost of sales. The Authority further notes that the increase in the selling price in POI was less than the increase in the cost of sales as compared to the preceding year. This indicates price suppression whereby the domestic industry was not able to realize the selling price commensurate with increase in the cost of production in POI. The Authority further notes that there is a price depression in POI as compared to the base year.

Economic parameters of the domestic industry

52. Annexure II to the 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 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.

53. The various injury parameters relating to the domestic industry are discussed herein below.

i. Production, capacity and capacity utilization of the Domestic Industry

Capacity, production and capacity utilization of the domestic industry have been as under:-

Particulars	Unit	2008-09	2009-10	2010-11	Jan'11-Mar'12 (POI)	POI Annualised
Installed capacity (Plant as a whole)	MT	6,600	6,600	6,600	8,250	6,600
Production (Plant as a whole)	MT	4,569	5,979	7,279	8,364	6,691
Capacity Utilization	%	69.23	90.60	110.29	101.38	101.38

The Authority has considered the capacity of the plant as approved by the AP State Pollution Control Board. The Authority notes that while the production of the domestic industry has increased in POI as compared to the base year, the same has decreased as compared to the preceding year.

ii. **Sales of Domestic Industry**

Particulars	Unit	2008-09	2009-10	2010-11	Jan'11-Mar'12 (POI)	POI Annualised
Domestic Sales	MT	1793	2144	2132	2229	1784
Trend	Index	100	120	119	124	99

The Authority notes that sales volume of domestic industry has marginally decreased in POI as compared to the base year in spite of increase in the demand during the said period. However, the sales have declined sharply in POI as compared to the previous year

iii. **Profits, return on investment and cash profit**

The cost of production, selling price and profit/loss of the domestic industry in respect of the domestic sales of the subject goods for the injury period is given in the following table:

Particulars	Unit	2008-09	2009-10	2010-11	Jan'11-Mar'12 (POI)	POI Annualised
Cost of Sales	Rs/KG	***	***	***	***	***

Trend	Index	100	63	60	80	80
Selling Price	Rs/KG	***	***	***	***	***
Trend	Index	100	69	68	73	73
Profit/loss	Rs/KG	***	***	***	***	***
Trend	Index	100	167	190	(27)	(27)
Profit/loss	Rs. Lacs	***	***	***	***	***
Trend	Index	100	199	226	(34)	(27)
Profit before interest and tax	Rs. Lacs	***	***	***	***	***
Trend	Index	100	133	145	(10)	(8)
Return on capital employed-NFA basis	%	***	***	***	***	***
Trend	Index	100	169	264	(13)	(13)
Total Cash Profit	Rs. Lacs	***	***	***	***	***
Trend	Index	100	160	174	2	2

The Authority notes that profits, profit before interest and tax, cash profit and return on investment show negative trend during POI as compared to the base year as well as the preceding year.

iv. Inventories

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

Inventories	Unit	2008-09	2009-10	2010-11	POI
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average stock	MT	***	***	***	***
Trend	Index	100	95	29	96

The Authority notes that inventory level (average stock) has marginally declined during POI as compared to the base year.

v. **Employment and Wages:**

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI Annualised
Employment	Nos	***	***	***	***	***
Trend	Index	100	115	116	116	116
Wages	Rs. Lacs	***	***	***	***	***
Trend	Index	100	108	134	181	145

From the above table, it is noted that both employment and wages have increased during the POI.

vi. **Productivity**

Particulars	Unit	2008-09	2009-10	2010-11	POI (Annualised)
Productivity per employee	MT/Nos.	***	***	***	***
Trend	Index	100	115	138	128
Productivity per day	MT/day	12.34	16.29	19.72	18.39

The Authority notes that productivity in terms of production per day and production per employee in POI has increased as compared to the base year.

vii. **Magnitude of Dumping**

Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined against the subject country for the POI is above de minimis and significant.

viii. **Growth**

The Authority notes that while there has been substantial growth in the import volumes of the subject goods from the subject country, the growth of the domestic industry in terms of production and sales has declined and the growth in profit, cash profit and return on investment has been negative in POI.

ix. Ability to raise funds

The petitioner is a multi-product company. Dumping of the subject goods has, therefore, not affected the ability of the company to raise capital.

Conclusion on material injury

54. In view of the above, the Authority concludes that the dumped imports of the subject goods from the subject country have increased in absolute terms as also in relation to production and consumption of the subject goods in India. The imports of the subject goods from the subject country are undercutting the prices of domestic industry. Further, the imports are causing price suppression. Though there has been increase in production and sales volume of the domestic industry as compared to the base year; the same has declined in the POI as compared to immediate preceding year. Further, profit and return on investment became negative during the POI. In view of the above, the Authority is of the view that the domestic industry has suffered material injury.

H. Causal Link

55. As per the Anti-dumping Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It was examined whether these other parameters listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. It was found that:-

(a) Volume and prices of imports from third countries

During the POI, imports of the subject goods from countries other than the subject country have been insignificant in volume. Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry.

(b) Contraction in demand and change in pattern of consumption

Demand for the subject goods has shown a growth of 38% during POI

as compared to the base year. There is also no indication of any change in the consumption pattern.

(c) Developments in technology

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

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

The subject goods are freely importable. The petitioner is the major producer of the subject goods and account for significant domestic production and sales. No other evidence of conditions of competition or trade restrictive practices has been brought to the attention of the Authority by any interested party.

(e) Export performance of the domestic industry

The table below summarizes the performance of the domestic industry in respect of exports made by them.

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI Annualised
Exports Sales	MT	***	***	***	***	***
Trend	Index	100	138	185	234	188
Deemed exports	MT	***	***	***	***	***
Trend	Index	100	283	361	355	284

It is noted that both the exports and the deemed exports by the petitioner have increased over the injury period. The Authority in any case has determined and considered the injury in respect of domestic sales only.

(f) Productivity of the Domestic Industry

Productivity of the domestic industry in terms of production per day and production per employee has improved in POI as compared to the base year.

56. The Authority notes that while listed known other factors do not show injury to the domestic industry, the following parameters show that

injury to the domestic industry has been caused by dumped imports.

- i. The dumped imports of the subject goods from the subject country have increased in absolute terms as also in relation to production and consumption of the subject goods in India.
- ii. The imports of the subject goods from the subject country are undercutting the prices of domestic industry. Further, the dumped imports are causing price underselling, price suppression as well as price depression.
- iii. Though there has been increase in production volume of the domestic industry in POI as compared to base year; the same has declined in the POI as compared to immediate preceding year. Similarly, the volume of domestic sales in POI (annualised) has declined as compared to base year as well as preceding year in spite of increase in demand for the subject goods.
- iv. Performance of the domestic industry with regard to profits, cash flow and return on investments deteriorated.

57. Thus the Authority concludes that the domestic industry suffered material injury due to dumped imports.

I. Magnitude of injury margin

58. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules, as amended. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject country. The injury margin thus determined is as under:-

Particulars	M/s Hebei Hua-Chem Dye Chemical Co. Ltd.	Non-Cooperative exporters
Non-injurious price US\$/Kg	***	***
Landed value - US\$/Kg	***	***
Injury Margin - US\$/Kg	***	***
Injury Margin - %	***	***
Injury Margin Range - %	0-10	5-15

J. Post-Disclosure Comments

Post-disclosure comments by the domestic industry

59. The following are the post-disclosure comments received from the domestic industry considered relevant by the Authority:

- a. The dumping margin has remained low apparently due to adoption of conversion cost as per NIP by the Authority. The provisions under Para-7 of the AD Rules do not authorize the authority to use normated cost of production for determination of normal value. The authority is rather required to adopt actual cost of production for determination of normal value under Para-7. The normal value is required to be determined accordingly.
- b. The non-injurious price (NIP) determined by the authority is grossly low and insufficient to protect legitimate interests of Indian producers. The submissions made by the domestic industry as regards valuation of captive input do not seem to have been considered by the Authority while determining the NIP. The Authority is requested to reconsider the NIP by taking the submissions of the domestic industry in to account.
- c. The alternative names of the product as stated in the petition and customs classifications may also be mentioned in the duty table to avoid possible circumvention.

Post-disclosure comments by the opposite interested parties

60. The following are the post-disclosure comments received from the opposite interested parties considered relevant by the Authority:

- a. The landed price should be determined after adding applicable education cess.
- b. The authority should determine dumping and injury margin month wise due to wide fluctuation in the prices.
- c. Excessive confidentiality claimed by the petitioner.
- d. There is no nexus between injury suffered by the domestic industry and alleged dumping of the subject goods from the subject country.
- e. Captive uses and significant exports by the petitioner would restrict the availability of DASDA to consumers in India.

Examination by the Authority

61. The post-disclosure comments received from the interested parties, considered relevant by the Authority, are addressed as below:

- i. As regards the post-disclosure comments made by the domestic

industry, the Authority notes that the normal value and the non-injurious price have been determined as per the anti-dumping Rules and consistent practice of the DGAD. The Authority further notes that all the submissions of domestic industry on valuation of captive inputs have been examined at the time of issue of disclosure statement and the value of captive inputs as per audited accounts has been considered for determination of non-injurious price.

- ii. As regards the post-disclosure comments made by the opposite interested parties, the Authority notes that the same are basically reiterations of their earlier submissions, which have been addressed in the relevant para of this finding. However, the same are again addressed below:
 - a. The Authority notes that education cess has been considered in working out the landed price of imports.
 - b. The Authority holds that mere variation in price of the product over the period is insufficient to undertake a month wise analysis of dumping margin and injury margin.
 - c. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.
 - d. The Authority notes that the investigation has adequately established the causal link between the dumped imports and injury suffered by the domestic industry.
 - e. The Authority notes that the objective and purpose of imposing anti-dumping duty is to prevent unfair trade practice and to create a level playing field for the domestic industry vis-a-vis dumped imports. The imposition of antidumping measures on the subject goods will not restrict imports.

K. Conclusions

62. After examining the issues raised and the submissions made by the interested parties and facts made available before the Authority, the Authority concludes that:

- i. The subject goods have entered the Indian market from the subject country below associated normal value, thus resulting in dumping of the subject goods;
- ii. The dumping margin of the subject goods imported from the subject country is above de-minimis level;
- iii. The domestic industry has suffered material injury in respect of the subject goods; and
- iv. The material Injury to the domestic industry has been caused due to dumped imports of the subject goods from the subject country.

L. Indian industry's interest & other issues:

63. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. 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 duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

M. Recommendation

64. The Authority notes that the investigation was initiated and it was notified to all known interested parties. Adequate opportunity was also given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the Anti-dumping Rules and having established positive dumping

margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive Anti-dumping duty is required to offset dumping and injury.

65. Having regard to the lesser duty Rule followed by the Authority, the Authority recommends imposition of definitive 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, anti-dumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.

Duty Table

Sl. No	Sub-Head -ing/ Tariff Item*	Description of Goods**	Country of Origin	Country of Export	Producer	Exporter	Amount of Duty***	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	29215990	4,4 Diamino Stilbene 2, 2 Disulphonic Acid(DASDA)	China PR	China PR	M/s Hebei Hua-Chem Dye Chemical Co., Ltd	M/s Hebei Hua-Chem Dye Chemical Co., Ltd	270	MT	US\$
2	-do-	-do-	China PR	China PR	Any combination of producer/exporter (other than in Sl. No.1 above)		460	MT	US\$
3	-do-	-do-	China PR	Any country other than China PR	Any	Any	460	MT	US\$
4	-do-	-do-	Any country other than China PR	China PR	Any	Any	460	MT	US\$

Note: * The subject goods are also being imported under other tariff headings such as 29214290, 29222190, 29222990, 29309099, etc. However, the customs classification is indicative only and in no way binding on the scope of this investigation.

** The Product Under Consideration i.e. 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) is also known as follows:

- 2, 2'- (1, 2- Ethylenediyl) bis (5-aminobenzenesulfonic acid).
- 4, 4'-Diaminostilbene- 2, 2'-Disulfonic Acid.

- 2, 2'-ethene -1, 2-diylbis (5-amino benzene sulfonic acid).
- Amsonic Acid.
- DSD Acid.

*** The Anti-dumping duty shall be imposed on the quantity of subject goods calculated on 100% basis.

N. Further Procedure

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

J.S. Deepak
Designated Authority