

To be published in Part I Section 1 of Gazette of India Extraordinary

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

NOTIFICATION

New Delhi
Dated the 26th August, 2013

Final Findings

Subject: Sunset Review of the Anti-dumping Duty imposed on imports of Paracetamol, originating in or exported from China PR.

F.No. 14/1009/2012-DGAD – Having regard to the Customs Tariff Act 1975, as amended from time to time (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, having regard to the Customs Tariff Act, 1975, as amended from time to time 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, the Designated Authority (hereinafter referred to as the Authority) had initiated the original anti-dumping investigation concerning imports of Paracetamol (hereinafter referred to as the subject goods), originating in or exported from China PR (hereinafter referred as the subject country), vide Notification No. 60/1/2000-Customs dated 30th January, 2001. The Preliminary Finding was issued by the Authority vide Notification dated 16th April 2001 and the provisional anti-dumping duty was imposed by the Department of Revenue vide Notification No. 89/2001-Customs dated 6th September 2001. The Final Findings Notification was issued by the Authority vide notification No. 60/1/2000-DGAD dated 22nd January 2002, recommending imposition of definitive duty on the imports of the subject goods, originating in or exported from the subject country. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Department of Revenue vide Notifications 29/2002-

Customs dated 27th March 2002 on the imports of the of the subject goods, originating in or exported from the subject country.

2. AND WHEREAS, in the 1st sunset review investigation, vide final finding Notification No. 15/20/2006-DGAD dated 23rd July, 2007, the Authority concluded that the cessation of anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country, will lead to continuation or recurrence of dumping and injury, and recommended continued imposition of definitive anti-dumping duty on imports of the subject goods. Accordingly, definitive anti-dumping duty was extended on the subject goods vide Customs Notification No. 99/2007-Customs dated 3rd September, 2007.
3. Whereas, M/s Sri Krishna Pharmaceutical Ltd, Hyderabad and Bharat Chemicals, Mumbai have jointly filed a duly substantiated application before the Authority, on behalf of the domestic industry, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from the subject country and consequent injury to the domestic industry and have requested for review, continuation and enhancement of the anti-dumping duties, imposed on the imports of the subject goods, originating in or exported from the subject country.
4. In view of the duly substantiated application filed on behalf of the domestic industry and in accordance with section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated a sunset review investigation vide Notification No. 14/1009/2012-DGAD dated 28.08.2012 to review the need for continued imposition of the duties in respect of the subject goods originating in or exported from the subject country and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The validity of the anti-dumping duty on the imports of the subject goods from the subject country has been extended up to 2nd September, 2013 by the Central Government vide Notification No.42/2012-Customs (ADD) dated 19.09.2012. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods originating or exported from the subject country.

B. Procedure

5. The procedure described below has been followed with regard to the subject investigation:

- a. The embassy of the subject country in New Delhi was informed about the initiation of the investigations in accordance with Rule 6(2).
- b. The Authority provided copies of the non-confidential version of the application to the known exporters and the embassy of the subject country in accordance with Rules 6(3) supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
- c. The Authority forwarded a copy of the public notice to the known producers/exporters in China PR (whose names and addresses were made available to the Authority by the Domestic Industry) as follows and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4):
 - i. Anhui Bayi Chemical Industry Co. Ltd.
 - ii. Zhejiang Kangle Pharmaceutical Co. Ltd.
 - iii. Wenzhou Pharmaceutical Factory,
 - iv. Changshu Huagang Pharmaceutical Co. Ltd.
 - v. Hebei Jiheng Group Co. Ltd.
 - vi. Hebei Jiheng (Group) Pharmacy Co. Ltd.
 - vii. Huzhou Beigang Enterprises Group Corp.
 - viii. Zhongxin Pharma Tiangin Xinxin Pharmaceutical
 - ix. Jiangsu Guotal International Group Co. Ltd.
 - x. Liaoyuan City Baikang Pharmaceutical
 - xi. Shanghai Bailion Chemicals Co., Ltd.
- d. A Market Economy Treatment (MET) questionnaire was 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.
- e. No Questionnaire response was received from any producer/exporter from the subject country within the prescribed

time limit. A much belated exporter questionnaire was filed by M/s Hebei Jiheng (Group) Pharmaceutical Co. Ltd, which was not accepted by the Authority. However, the submission made by above named Chinese company have been addressed in this final finding.

- f. The Authority forwarded a copy of the public notice to all the following known importers (whose names and addresses were made available to the Authority by the Domestic Industry) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4):
- i. Ajanta Pharma Ltd.
 - ii. Cipla Ltd
 - iii. Ciron Drugs & Pharmaceuticals P Ltd.
 - iv. Flamingo Pharmaceuticals Ltd.
 - v. Indoco Remedies Ltd.
 - vi. Maneesh Pharmaceuticals Pvt. Ltd.
 - vii. Mangalam Drugs & Organics Ltd.
 - viii. Medopharm,
 - ix. Techno Economic Services P Ltd.
 - x. Healthy Life Pharma Pvt. Ltd.
 - xi.** Glow Export Trading Pvt. Ltd.
 - xii. IPCA Labs Ltd.
 - xiii. Triton Laboratorial Ltd.
 - xiv. Vamsi Labs Ltd.
 - xv. Srinivasa Agro Industries and Drugs Ltd.
- g. Apart from the applicants, the Authority also provided a copy of the initiation notification to other domestic producers of the subject goods, as per the information provided in the application as below
- i. Para Products
 - ii. Sara Exports Ltd.
 - iii. PAN Drugs Ltd.
 - iv. Paramount Health Care Ltd.
 - v. Farmson Analgesics
 - vi. Alpha Drugs Ltd.
 - vii. Granules India Ltd.
- h. The non-confidential version of the evidences presented by the interested parties were made available by the Authority to the interested parties in the form of a public file and kept open for inspection by them as per Rule 6(7).

- i. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation or has significantly impeded the investigation, the Authority has recorded these statements on the basis of the 'facts available' and treated such parties as non-cooperative.
- j. 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.
- k. Information was sought from the applicants to determine non-injurious price based on the cost of production and cost to make and sell the subject goods in India.
- l. The Authority has determined the non-injurious price for the domestic industry in terms of the principles laid down in Annexure III to the Rules.
- m. The Authority held a public hearing on 11th June, 2013 to hear the interested parties orally. The interested parties present at the time of hearing were advised to file written submissions of the views expressed orally and were also given an opportunity to file rejoinder to the views expressed by other interested parties.
- n. The submissions made by the interested parties during the course of the investigation have been considered in this final finding, to the extent considered relevant by the Authority;
- o. On the spot verification of the data/information furnished by the domestic industry was carried out to the extent considered necessary.
- p. Investigations have been carried out by the Authority for the period of investigation (POI) starting from 1st January, 2011 to 31st March, 2012 (15 months). The examination of trends in the context of injury analysis covered the periods Apr'08-Mar'09, Apr'09-Mar'10, Apr'10-Mar'11 and the POI.
- q. In accordance with Rule 16 of the Rules supra, the essential facts of the investigation were disclosed by the Authority to the known interested parties vide letter dated 19th August, 2013 and comments received on the same, to the extent considered relevant by the Authority, have been considered in this Finding.

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

C. Scope of Product under consideration and like article

- 6. The product under consideration, in the original as well as the 1st SSR investigation and the present sunset review investigation, is “Paracetamol also known as acetaminophen”, originating in or exported from China PR. The present investigation being a sunset review, the investigation covers the product covered in the original investigation as well as the 1st SSR investigation.
- 7. Paracetamol is an odourless white crystalline powder. Its chemical formula is C₈H₉NO₂. Paracetamol is a bulk pharmaceutical active ingredient, displaying analgesic and antipyretic properties. It is used in a number of Rx and OTC drug formulations in the form of powders, granules, injectibles and tablets. Paracetamol is an organic chemical and is classified under Custom sub-heading 2922.2933 of the Customs Tariff Act, 1975. The customs classification is, however, indicative only and is in no way binding on the scope of the present investigation.
- 8. The present investigation being a sun set review investigation and anti-dumping duties, as earlier recommended by the Authority, being in force on the imports of the subject goods from the subject country, the Authority considers that the scope of the PUC in the present investigation remains the same as that of the earlier investigations. Moreover, none of the interested parties has made any submission in this regard.

D. Domestic Industry and Standing **Submissions by the Domestic Industry**

- 9. The following are the submissions made by the domestic industry with regard to scope of the domestic industry and standing:
 - i. Sri Krishna Pharmaceutical Ltd., Hyderabad and Bharat Chemicals, Mumbai have filed the petition and M/s Sara Exports, M/s Para Products, M/s Farmson Analgesics and Meghmani Unichem have supported the application.

- ii. There is no legal requirement that companies who participated at the time of original investigation should participate in the present investigation. There is no obligation on the petitioner to seek participation of those domestic producers who had participated at the time of original investigation. Rights of petitioners cannot be curtailed because of non-participation of other domestic producers.
- iii. Production of the petitioner constitutes a major proportion in Indian production and therefore, they are entitled to seek extension of present anti-dumping duty.
- iv. As per the Rules, only requirement is that the production of the participating companies should constitute a major proportion of Indian production. A major production does not mean more than 50%. The Designated Authority has recorded findings in earlier cases, such as Zinc oxide on the basis of information for domestic industry in respect of those companies whose collective output was less than 50%.
- v. Petitioners have provided information with regard to petitioner companies. As regards other domestic producers, petitioners have provided information as is reasonably available to them. There is no publically available information with regard to other companies named by the exporters.
- vi. Post initiation, M/s Farmsons Analgesics provided its costing and injury information relevant to the present investigations. The said information has been filed vide letter dated 9th July, 2013.
- vii. Granules India Ltd. is a 100% EOU and does not have significant sales in the domestic market.
- viii. Alpha Drugs India Ltd. has been merged with Punjab Chemicals and Crop Protection Ltd. (PCPL) and not a producer of paracetamol.
- ix. Pan Drugs Ltd and Paramount Healthcare Ltd do not produce and supply paracetamol in the domestic market.
- x. Finding issued by the South African Authority in the matter of sunset review of the anti-dumping duties on acetaminophen originating in or imported from India was issued on 17.02.2007. The investigation period for dumping was from 1 July 2004 to 30 June 2005, and the injury investigation involves evaluation of data for the period 1 July 2002 to 30 June 2005. It is relevant to note that the said finding was issued even prior to first sunset review conducted by the Indian

Designated Authority. The Indian Designated Authority issued first sunset review finding vide notification dated 23.07.2007.

- xi. With regard to 37 companies of paracetamol named in the South African finding, the South African Authority notes that not even one company other than Sri Krishna Pharmaceutical Ltd. identified itself nor responded to the South African Authority. The final findings issued by South African authority is not at all a conclusive proof to decide whether they are producer of subject goods in the present investigation.
- xii. It has been claimed by the opposite interested parties that information about the following producers are available in public domain, and these companies are named in the South Africa findings
 - i. Alpha Remeies Ltd.
 - ii. Dines Pharmaceuticals
 - iii. G. Amphray Laboratories
 - iv. JamhikDyechem Industries
 - v. Triochem Products Ltd.
 - vi. Zoom Organic Ltd.

It is submitted that none of the above named parties are producers of subject goods. At the most they are only manufacturing paracetamol tablets, which is a not subject goods in the present investigation.

- xiii. With regard to further claim that Meghmani Unichem is also a major producer of subject goods with the capacity of 7500 MT per year, as per web information, Meghmani Unichem Ltd. is an SEZ unit, established in 2011, It is submitted that there is no publically available information when Meghmani Unichem started its commercial production, whether they have sold any quantity in the domestic market being SEZ unit..
- xiv. Further as per web information dated 07.03.2012, the Gujarat Pollution Control Board (GPCB) officials have issued closure notice with immediate effect to the Dahej plant of Meghmani Unichem Limited, discharging hazardous effluents directly into the GIDC pipeline without treatment.
- xv. It is submitted that, without any conclusive evidence, it cannot be said that Meghmani Unichem is producer of subject goods selling in the domestic market in the relevant period and their alleged production can

be considered as eligible domestic production for the purpose of determining standing of the petition.

- xvi. The scope of the product under consideration is only bulk drug and excludes formulations. Moreover initiation notification of the present investigation was published in the gazette. Meghmani organic has never responded to initiation notification. The company has not claimed before the Designated Authority that they are also domestic manufacturer of subject goods and have produced the product under consideration in the period of investigation
- xvii. Notwithstanding, even if production of Meghamani Organics is considered to the extent of the claim made, it may be noted that the production of the petitioners then shall constitute 39% of Indian production and production of petitioners with supporters shall constitute 74% of the Indian production.
- xviii. Imports were made by a related unit of one of the petitioner company, M/s Sri Krishna Pharmaceuticals Ltd and imports have been made under advance license. The Designated Authority has held that imports made under advance license do not debar a company from being treated as a domestic industry.
- xix. The scope of domestic industry and standing are not relevant in a sun set review.
- xx. In view of the fact that production of petitioner companies not only meet the requirement of standing, but also constitute domestic industry within the meaning of the Rules.

Submission made by other interested parties.

10. The following submissions have been made by M/s Hebei Jiheng (Group) Pharmaceutical Co. Ltd:

- i. The producers who had represented the domestic industry during the initial investigations have not participated in the present petition. There is no analysis or reasons as to why those producers who were petitioners in the earlier investigations have not participated in the present petition.
- ii. The petitioners have not included the production details of other major domestic producers, namely Granule India Ltd., Alpha Drugs India Ltd.

Pan Drugs India Ltd, Paramount Health Care Ltd., and Farmson Analgesics.

- iii. The Total production of subject goods in India is 47651MT and not 21401MT as claimed by the petitioners. Considering the actual total production in India, the petitioners share in total Indian production is only 23.51%.
- iv. There is no justification to exclude two big producers (Granules India and Farmson Analgesics) from the purview of domestic industry.
- v. One of the related units of Sri Krishna Pharmaceuticals has imported the subject goods from China PR and thus it cannot form part of Domestic Industry.
- vi. In term of 23(1B) of AD Rules, standing of domestic industry is an essential criteria in sunset review investigation.
- vii. As per the South African finding there are 37 producers of Paracetamol in India. The present petition does not provide the details.
- viii. The details of production of Paracetamol by Alpha remedies ltd, Dinesh Pharmaceutical, G. Ampharay Laboratories, Jamhik Dyechem Industries, Trichem Products Ltd, Zoom organic Ltd and Meghmani Unichem as available in the public domain, have not been provided in the petitioner.
- ix. Since the petitioners lack standing, the injury, causal link and likelihood of injury as claimed by the petitioner is faulty.

Examination by Authority

11. Sri Krishna Pharmaceutical Ltd., Hyderabad and Bharat Chemicals, Mumbai have filed the petition. Subsequently M/s Sara Exports Ltd, M/s Para Products Pvt Ltd, M/s Farmson Analgesics (A Unit of Pharmson Pharmaceutical Gujarat Pvt Ltd) and M/s Meghmani Unichem LLP have supported the application. The submissions made by the interest parties with regard to the standing of domestic industry are addressed below:
12. As regards the contention that the producers who had represented the domestic industry during the initial investigations have not participated in the present sunset review, the Authority notes that there is no provision under the Rules to mandate for such industries to come before Authority.

13. As regard the contention that other major domestic producers, namely Granule India Ltd., Alpha Drugs India Ltd. Pan Drugs India Ltd, Paramount Health Care Ltd., and Farmson Analgesics, have not participated in the present sunset review, the Authority notes that initiation notification was provided to the said industries, requesting to provide relevant information. But the said industries did not respond. However subsequently M/s Farmson Analgesics provided costing and injury information. The Authority further notes that as per information provided by the domestic industry, Granuels India Ltd. is a 100% EOU and does not have significant sales in the domestic market. Moreover in the first sunset review Authority excluded M/s Granules India Ltd being an importer of the subject product over the entire injury period.
14. As regard the contention of opposite interested parties that the total production of subject goods in India is 47651MT, the Authority notes that such claim is unsubstantiated. Moreover, the other domestic producers as stated above, who were requested to provide relevant information post initiation have not come before the Authority.
15. As regard the contention of opposite interested parties that one of the related units of Sri Krishna Pharmaceuticals has imported the subject goods from China PR and thus it cannot form part of Domestic Industry, the Authority notes that such a position does automatically disqualify a domestic producer to be considered as domestic industry, unless it is proved that concerned domestic producer is a beneficiary of dumping of the subject goods by the subject country. In the present case the imports made by the related party of Sri Krishna Pharmaceuticals is an acknowledged fact and are stated to have been imported only 238 MT of Paracetamol during the POI under duty free schemes. The duty free imports made under duty exemption are meant for manufacturing goods for export purpose and such duty free imports cannot be traded in the domestic market.
16. The South African findings concerning the subject goods, as relied by opposite interested parties, pertains to the year 2007. The said findings had merely identified 37 Indian producers without any substance. Moreover, Sri Krishna Pharmaceutical Ltd, one of the petitioners in the present sunset review, was the only Indian producer who had participated in the South African investigation. Moreover, the interested parties have themselves not provided any conclusive proof to justify their claim that they are as many as 37 producers of subject goods in India engaged in production and sale in the domestic market.

17. The Authority notes that in the present sunset review, the application has been jointly filed by M/s Sri Krishna Pharmaceuticals Ltd. and M/s Bharat Chemicals. M/s Sara Exports, M/s Para Products and M/s Meghmani Unichem LLP have supported the application. Another domestic producer of the subject goods namely M/s Farmson Analgesics, one of the constituent of the domestic industries in the first sunset review, has also supported the application and provided costing and injury information. The remaining other producers, if any, did not respond to the Authority's request to provide information. Moreover, there is no domestic producer of the product opposing the present investigation. The details of the eligible Indian production as provided by domestic industry are given below:

Particulars	UOM	POI		As per petition	
		Production	Share	Production	Share
Petitioner	MT	11,201	47.34	8,779	46.26
Bharat Chemicals	MT	***	***	***	***
Sri Krishna Pharmaceuticals Ltd.	MT	***	***	***	***
Other Producers supporting applicant	MT	12,459	52.66	10,200	53.74
Farmson Analgesics	MT	***	***	***	***
Para Products Pvt. Ltd.	MT	***	***	***	***
Sara Exports Ltd.	MT	***	***	***	***
Meghamani Unichem LLP	MT	***	***	***	***
Total Indian Production	MT	23,660	100.00	18,979	100.00

In view of the above position and having regard to the Rules, the Authority considers M/s Sri Krishna Pharmaceuticals Ltd. and M/s Bharat Chemicals account for a major proportion in the Indian production of the subject goods and constitute domestic industry satisfying the requirements of Rule 2(b) read with Rule 5(3) of the Anti-dumping Rules.

E. Miscellaneous Issues
Submissions by the Domestic Industry

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

- i. The Authority has rightly rejected the belated response filed by M/s Hebei Jiheng (Group) Pharmaceutical Co. Ltd.
- ii. In view of the above reason, submissions made by the exporter present at the time of oral hearing should not be accepted/ entertained by Designated Authority.
- iii. According to WTO decision in the matter of US- Sunset Review of AD measures on OCTG from Argentina the interested parties under Articles 6.1 and 6.2 do not provide for "indefinite" rights, so as to enable

respondents to submit relevant evidence, attend hearings, or participate in the inquiry as and when they choose.

19. The following are the miscellaneous submissions made by other interested parties

- i. Questionnaire Response filed by M/s Hebei Jiheng (Group) Pharmaceutical Co. Ltd should have been accepted as they are the only exporter participating in the investigation.
- ii. There is no substantive statutory time limit under the Indian Anti-dumping law that responses cannot be accepted after the time limits prescribed by the Authority.
- iii. Excessive confidentiality claimed by the petitioner. The petitioners have not disclosed a lot of information such as the details of production of the four other domestic producers, volume of imports and its analysis, annual accounts etc.

Examination by Authority

20. The Authority notes that M/s Hebei Jiheng (Group) Pharmaceutical Co. Ltd filed response at a much belated stage and did not accord any reasonable and satisfactory explanation for submitting such belated response. It is noted that the right to participate in an investigation cannot be unlimited. The Authority is not required to condone delay without even justifiable reasons being afforded for delaying the response.

21. The Authority has examined the confidentiality claims of the interested parties. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

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

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

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible. (3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

22. The provision for disclosure of essential facts before giving final findings has been laid down at Rule 16 of the Anti-dumping Rules. Even under Rule 16, the confidential facts are required to be disclosed to “respective interested parties” only, while non-confidential facts are required to be disclosed to all interested parties. At no stage the Designated Authority is empowered to disclose the confidential information to the parties with competing and conflicting interests.
23. With regard to the contention of the interested parties that consolidated information of domestic industry should not be allowed to be kept confidential, the Authority notes that if any consolidated data, if disclosed, may enable the interested parties to derive the confidential constituent data, the same cannot be revealed in the best interest of the interested parties.
24. As regards non-disclosure of the dumping margin calculation at the stage of preliminary finding, the Authority notes that such information is disclosed to the respective interested parties only at the stage of disclosure.

F. Determination of Dumping Margin, Normal Value and Export Price

25. The Authority sent questionnaires to the known exporters from the subject country, advising them to provide information in the form and manner prescribed. None of the producer/exporter from China PR has co-operated in this investigation by filing their Questionnaires’ responses, except questionnaire response filed by M/s Hebei Jiheng (Group) Pharmaceutical Co. Ltd. which has been rejected on the ground of being submitted at a belated stage.

Submissions made by the domestic industry

26. It has been contended by the domestic industry that China PR should be treated as non-market economy country, *inter alia*, stating that:

- i. Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity – The Designated Authority and the EC has consistently held that possibilities of State interference cannot be ruled out in such cases. It is being held that it is not only the question of past interferences alone, but also possibilities of potential State interference in the future after the imposition of anti-dumping duties that is relevant to market economy treatment.
- ii. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values – “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The fact that such prices are comparable to the price prevailing in China is grossly insufficient.
- iii. Market economy status cannot be given unless the responding exporter establish that their books are audited in line with international accounting standards – market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS). The requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report.
- iv. Market economy status cannot be granted even if one of the parameters is not satisfied – market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules. This situation is just the opposite of the test required for material injury. It is well acknowledged position that a positive finding of injury can be recorded even if one single parameter established injury. Thus, while one parameter is sufficient to establish existence of injury, failure to pass one single parameter is sufficient to reject the claim of market economy status.

- v. Onus/obligations – it is not for the Authority to establish that the Chinese companies are indeed operating under market economy environment and is entitled for market economy treatment. On the contrary, it is for the Chinese exporters to establish that they are operating under market economy conditions.
- vi. Response from group as a whole – Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.
- vii. Transformation – 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 process of transformation has been completely established through documentary evidence.

27. USA is a developed country does not imply that USA cannot be treated as a surrogate country. The European Commission has treated USA as a surrogate country in several cases.

Submission made by producer/exporter/importers/other interested parties

28. USA may not be considered as the surrogate country for calculation of Normal Value as it is a developed country.

Examination of Market Economy claims in respect of China PR by the Authority

29. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules.

30. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s) /producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating 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 Authority to consider the following criteria as to whether: -

- 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;
- 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;
- such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- the exchange rate conversions are carried out at the market rate.

31. The Authority notes that consequent upon the initiation notice issued by the Authority; none of Chinese producers/exporters has submitted the questionnaires' responses including the market economy questionnaire's response and sought to rebut the non-market economy presumption. Since none of the Chinese companies have claimed market economy treatment, the Designated Authority has not determined whether any of the Chinese producers could be granted market economy treatment.

Determination of Normal value in respect of Exporters / Producers from China

32. The domestic industry had proposed USA as the appropriate surrogate country for the purpose of calculating normal value in China and had furnished some evidence with regard to price of the subject goods in USA during the period of investigation. In an alternate to the price from a market economy third country, the domestic industry has determined normal value as the price payable in India, considering the cost of production in India, duly adjusted to include selling, general and administrative expenses and reasonable profit.

33. The Authority notes that in terms of para 7 of the Annexure-I of the Rules, due account should be taken of the level of development of the market economy third country while selecting an appropriate market economy third country. Keeping in view the differential levels of economic development between China PR and USA and the level of development of the subject product, the Authority does not consider USA as an

appropriate market economy third country for China PR and constructed normal value on the basis of cost of production in India

34. As none of Chinese producers and exporters has submitted the questionnaires' responses; the Authority has estimated the Normal value in China PR on the basis of Para-7 to Annexure-I to the AD Rules.

35. 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”.

36. None of the exporters/producers from the subject country has cooperated with the Authority and responded to the present investigation. Further none of the interested parties has provided any other alternate basis as defined in the Rules on which normal value can be determined. In view of the above position and considering China as a non-market economy, the Authority has determined the normal value in accordance with para 7 of Annexure I of the AD Rules. In absence of sufficient information on record regarding the other methods as are enshrined in para 7 of Annexure I of AD Rules, the Authority has determined the normal value by adopting the method “other reasonable basis”. The Authority has therefore constructed the normal value for China PR on the basis of the cost of production in India, duly adjusted, including selling, general and administrative expenses and profit and considering the international prices of major raw materials. Accordingly, the constructed normal value for Chinese exporters is determined as US\$ *** per Kg.

EXPORT PRICE

37. Since no response has been received from any producer/exporter of the subject goods from China PR; the Authority has determined Export Price as per 'facts available' in terms of Rule 6(8) of the AD Rules. For this purpose, the volume of imports as per DGCI&S data has been relied upon. The adjustments to the CIF prices have been made as per facts available on record. Accordingly, export price has been adjusted for ocean freight, Marine insurance, Bank charges, Commission, port expenses in China, and inland freight. Based on the above data the net ex-works export price of the exports from China PR to India is determined as US\$*** per Kg.

Determination of Dumping Margin - POI

38. Comparing the normal values and export price at ex-factory level as determined above, the dumping margin for the producers/exporters of subject country is determined as below:

Particulars	US\$/Kg	Rs./Kg
Normal Value	***	***
Export Price	***	***
Dumping Margin	***	***
Dumping Margin %	***	***
Range %	20-30	20-30

G. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions by the domestic industry

39. The Domestic Industry has made the following submissions with regard to the injury and causal link:

- a) There is continued dumping of the product under consideration from China;
- b) Dumping of the product under consideration is likely to intensify from subject country should the current anti-dumping duty be revoked;
- c) Volume of imports is quite significant in relation to production and consumption in India despite existing anti-dumping duties;
- d) Price undercutting is significantly positive;
- e) The performance of the domestic industry has not improved even after the imposition of anti-dumping duty. Thus, in the event of cessation of current anti-dumping duty and if Domestic Industry chooses to sell at

import prices, the Domestic Industry would suffer significant financial losses

- f) The cost of sales has increased in the POI, whereas the selling price has decreased.
- g) With the increase in demand of the subject goods and imposition of anti dumping duty, domestic industry enhanced its capacity to cater the growing demand. However, the capacity utilization has declined.
- h) Domestic sales of the domestic Industry shows decline in the period of investigation after achieving certain levels. Production of the domestic Industry has declined in the POI.
- i) Profit, cash profit and return on investment improved until 2009-10 and thereafter started declining, which has further gone down to negative levels in the period of investigation.
- j) Performance of the domestic industry deteriorated in terms of inventories, market share, profits, return on investments, cash flow.
- k) Performance of the Domestic Industry in terms of production, capacity utilization, Domestic sales suffered when compared to changes in demand.
- l) Performance of the Domestic Industry in terms of production, capacity utilization, domestic sales, market share, profits, return on investments, cash flow, etc. has deteriorated in the current Period of Investigation, whereas the same should have improved after imposition of anti dumping duties.
- m) The domestic industry has not yet recovered from the past ill effects of dumping and revocation of anti dumping duty shall imply intensified injury to the domestic industry in future.
- n) Despite rising demand and such low prices being offered by the Domestic Industry, the inventories are significant. Sales volumes have not increased in proportion to the demand in the Country, whereas the domestic industry had expected to increase its sales beyond the rate of increase in the demand.

Submissions made by the producer/ exporter/ importer/ other interested parties

40. the following submissions with regard to the injury and causal link have been submitted by the opposite interested parties:

- a) The determination of injury is misleading as it is only on the basis of two minority producers.
- b) Majority of imports during the POI are under duty free schemes. The duty free imports have no impact on domestic market and therefore no need to extend the ADD.

Examination by the Authority

41. Rule 11 of Antidumping Rules read with Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
42. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.
43. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provide that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has therefore determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers that the fact of existing anti-dumping duties on the on the imports of subject goods from China PR is required to be considered while examining injury to the domestic industry. The Authority has examined whether existing measure is sufficient or not to counteract the dumping which is causing injury.
44. The opposite interested parties have claimed that majority of the imports of the subject goods during the POI are under duty free schemes. However, they have not substantiated their claim by providing evidence. The Authority notes that the following injury analysis shows the state of the domestic industry and the injury caused by the dumped imports of the subject goods originating in or exported from the subject country.

Volume Effects of Dumped Imports: Import volumes and market shares

Examination by the Authority

45. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
46. Article 3.1 of the WTO Agreement and Annexure-II of the Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute 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.
47. As regards the impact of the dumped imports on the domestic industry Para (iv) of Annexure-II of the Anti-dumping Rules states as follows: *“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”*
48. Rule 11 of Antidumping Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports

on domestic producers of such articles....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to suppress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

49. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

50. The present investigation is Sun Set Review investigation of anti-dumping duties in force. Rule 23 provide that provisions of Rule 11 shall apply, mutatis mutandis basis in case of a review as well. The Authority has therefore determined injury to the domestic industry considering, mutates mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers that the fact of existing anti-dumping duties on imports of the product from China PR is required to be considered while examining injury to the domestic industry. The Authority has examined whether existing measure is sufficient to counteract the dumping which is causing injury.

51. 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 on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Sri Krishna Pharmaceuticals Ltd and M/s Bharat Chemicals, constituting domestic industry under the Rules. The Authority has addressed the relevant issues by undertaking analysis of all mandatory injury parameters.

VOLUME EFFECT: Volume effect of dumped imports and impact on domestic industry:

Assessment of Demand and market share

52. The Authority has determined demand or apparent consumption of the product in the Country as the sum of domestic sales of the Indian

Producers and imports from all sources. The demand so assessed can be seen in the table below.

Demand/ Consumption in India	Unit	2008-09	2009-10	2010-11	POI	POI Annualised
Sales of Domestic Industry	MT	4,561	6,300	6,098	7,560	6,048
Sales of supporting Producers	MT	7,130	10,151	10,479	12,631	10,105
Import from Subject Country	MT	6,385	6,461	7,080	10,834	8,667
Import from Other Countries	MT	111	157	28	704	563
Total Demand/ Consumption	MT	18,187	23,069	23,685	31,729	25,383
Market share in Demand						
Domestic Industry	%	25%	27%	26%	24%	24%
Supporting producers	%	39%	44%	44%	40%	40%
Subject Country	%	35%	28%	30%	34%	34%
Other Countries	%	1%	1%	0%	2%	2%

53. It is noted that the apparent consumption of the subject goods has consistently increased over the injury period. Market share of the imports from subject country in demand has remained significant in spite of the anti-dumping duties in force.

Import Volume & market share

54. 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.

Import Volume	Unit	2008-09	2009-10	2010-11	POI	POI Annualised
China PR	MT	6,385	6,461	7,080	10,834	8,667
Other Countries	MT	111	157	28	704	563
Total Imports	MT	6,497	6,618	7,108	11,538	9,230
Market Share in Imports						
China PR	%	98.3%	97.6%	99.6%	93.9%	93.9%
Other Countries	%	1.7%	2.4%	0.4%	6.1%	6.1%
Total Imports	%	100.0%	100.0%	100.0%	100.0%	100.0%

The Authority notes from the data given in the table above that there have been consistent increase in the imports in absolute terms from the subject country. Majority of the imports into the domestic market is from the subject country alone.

Production, capacity and capacity utilization

55. The Authority notes from the table below that capacity for the product under consideration has been increased by the domestic industry in line with the increase in demand. Production and Sales of the Domestic Industry has also increased in proportion to the increase in demand. However share of domestic industry has remained more or less at the same level throughout injury period.

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI Annualised
Installed capacity	MT	6,600	10,400	11,400	14,250	11,400
Production	MT	5,593	8,226	9,034	11,201	8,961
Capacity Utilization	%	85%	79%	79%	79%	79%
Domestic Sales	MT	4,561	6,300	6,098	7,560	6,048
Demand	MT	18,187	23,069	23,685	31,729	25,383

Price Effect - Price effect of dumped imports and impact on domestic industry:

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

Price Undercutting and Underselling:

Price Undercutting

57. The price undercutting/underselling effects are examined below:

Particulars	Unit	2008-09	2009-10	2010-11	POI
Net Sales realization	Rs./Kg	***	***	***	***
Net Sales realization	<i>Index</i> Rs/kg	100	97	93	97
Landed value without ADD	Rs./Kg	177	188	175	157
Landed value with ADD	Rs./Kg	180	191	179	160
Price Undercutting without ADD					
Price Undercutting without ADD	Rs/Kg	***	***	***	***
Price Undercutting without ADD	<i>Index</i> Rs/kg	100	39	53	158
Price Undercutting without ADD	%	***	***	***	***
Price Undercutting without ADD	Range (%)	5-15	0-10	5-15	15-25
Price Undercutting with ADD					
Price Undercutting with ADD	Rs/Kg	***	***	***	***
Price Undercutting with ADD	<i>Index</i> Rs/kg	100	30	46	166
Price Undercutting with ADD	%	***	***	***	***
Range	Range (%)	5-15	0-10	0-10	15-25

Price Underselling

Particulars	Unit	POI
Non injurious price of the domestic industry	Rs/Kg	***
Landed value with ADD	Rs/Kg	.
Landed value without ADD	Rs/Kg	157
Price Underselling with ADD	Rs/Kg	***
Price Underselling without ADD	Rs/Kg	***
Price Underselling with ADD	%	***
Price Underselling without ADD	%	***
Price Underselling with ADD	Range %	15-25
Price Underselling without ADD	Range %	15-25

The Authority notes that landed price of imports is far below the selling price of the domestic industry, thus resulting in significant price undercutting, both with and

without anti-dumping duty. Furthermore, the landed price of imports both with and without anti-dumping duty is substantially less than the non-injurious price, thus resulting in positive price underselling.

Price Suppression and Depression

58. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of production. The data given below shows that the domestic industry has not been able to increase its selling price despite increase in the cost of sales due to the dumped imports.

Particulars	Unit	2008-09	2009-10	2010-11	POI
Cost of Sales	Rs/Kg	***	***	***	***
Cost of Sales	Index Rs./kg	100	93	99	106
Selling price	Rs/Kg	***	***	***	***
Selling price	Index Rs./kg	100	97	93	97
Landed value without ADD	Rs/Kg	177	188	175	157
Landed value with ADD	Rs/Kg	180	191	179	160

Examination of other Injury Parameters

59. After having examining 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, other economic parameters which could indicate existence of injury to the domestic industry are analyzed hereunder:

Profit/loss, return on investment and cash flow

60. The return on investment, profit/loss before and after interest and cash profit are as shown in the table below:

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI Annualised
Cost of Sales	Rs/kg	***	***	***	***	***
Cost of Sales	Index Rs./kg	100	93	99	106	106

Selling Price	Rs/kg	***	***	***	***	***
Selling Price	Index Rs./kg	100	97	93	97	100
Profit/loss	Rs./kg	***	***	(***)	(***)	(***)
Profit/loss	Index Rs./kg	100	174	(25)	(54)	(54)
Profit/loss	Rs. Lakh	***	***	(***)	(***)	(***)
Profit/loss	Index Rs.Lakh	100	240	(34)	(90)	(72)
Profit before interest and tax	Rs. Lakh	***	***	***	***	***
Profit before interest and tax	Index Rs.Lakh	100	186	20	26	21
Return on capital employed (ROCE)	%	***	***	***	***	***
Return on capital employed (ROCE)	Range (%)	5-15	10-20	0-10	0-10	0-10
Cash Profit	Rs. Lakh	***	***	***	(***)	(***)
Cash Profit	Index Rs.Lakh	100	202	4	(36)	(29)

61. The Authority notes that while the cost of sales of the domestic industry is showing increasing trend during the POI as compared to the base year, the selling price of the domestic industry is showing decreasing trend during the same period. The domestic industry continues to suffer losses from 2010-11 onwards. The cash profit during the POI has declined significantly and has reached negative levels as compared to the base year as well as the immediate preceding year. Similarly, the ROCE has also declined significantly during the POI as compared to the base year as well as the immediate preceding year.

Inventories:

62. The data given in the table below shows that the inventory position of the domestic industry during the POI has increased as compared to the base year. However, the same has decreased marginally during the POI vis-à-vis the immediate preceding year.

Inventories	Unit	2008-09	2009-10	2010-11	POI
Average stock	MT	213.65	193.50	231.70	228.19

Employment and wages

63. From the table given below, the Authority notes that both the employment and wages of the domestic industry has increased in the POI as compared to the base year.

Particulars	Unit	2008-09	2009-10	2010-11	POI
Employment	Nos	354	342	336	367
Wages	Rs. Lakh	***	***	***	***
Wages	Index Rs.Lakh	100	121	147	175

Productivity

64. The Authority notes from the table below that productivity of the domestic industry has increased sharply during the POI as compared to the base year.

Particulars		2008-09	2009-10	2010-11	POI
Productivity per day	MT	16	24	26	32
Productivity per employee	MT/day	16	24	27	31

H. Magnitude of Dumping Margin

65. The Authority notes that the dumping margin of the imports of the subject goods from the subject country is positive and above de-minimis.

I. Growth

66. The Authority notes that the domestic industry has shown positive growth in some of the economic parameters such as production, domestic sales, and productivity in POI as compared to the base year. However, profit, cash profit, ROCE, etc have deteriorated in POI as compared to the base year. The Authority further notes that, the volume of imports from the subject country in absolute terms and market share has increased significantly during the POI.

J. Causal Link

67. The Authority examined whether other known factors could have caused injury to the domestic industry as follows:

- i. **Imports from Third Countries:** - The Authority notes that Imports of product under consideration from other countries are negligible and therefore could not have caused injury to the domestic industry.
- ii. **Contraction in Demand:** - The Authority notes that there is no contraction in demand as the demand of the subject goods in the country has consistently increased throughout the injury period.
- iii. **Pattern of consumption:** - It is noted that no significant change in the pattern of consumption for the subject goods has come to the knowledge of the Authority, nor any interested party has made any submission to that regard.
- iv. **Conditions of competition:-** The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.
- v. **Developments in technology:** - The Authority notes that the investigation has not shown that there was any significant change in technology which could have caused injury to the domestic industry.
- vi. **Export performance of the domestic industry:** - The price and profitability in the domestic and export market has been segregated by the Authority for the purpose of assessing injury to the domestic industry.

Likelihood of dumping and injury

Submissions by the domestic industry

68. Following are the submissions made by the domestic industry:

- i. Domestic Industry submits that the dumping of Paracetamol continued from China even after the imposition of anti dumping duty.
- ii. The Designated Authority has conducted two investigations against China PR concerning dumping of Paracetamol. Both the previous investigations i.e. original investigations as well as sunset review investigation have established existence of significant dumping.
- iii. China is a major exporter of Paracetamol and is exporting the product to many countries. In fact 99% of total imports of the subject goods into India, is by the subject country only. China has attracted anti dumping duties on paracetamol from other jurisdictions as well, such as South Africa, Indonesia and European Union. South Africa in its sunset review investigation, concluded in the year 2011, has continued the imposition of antidumping duties on imports of subject goods from China.
- iv. Imports from the subject country are undercutting the prices of the Domestic Industry in the Indian market. There existed a significant

price undercutting in the whole injury period. Even after the existence of the current anti-dumping duty, imports from the subject country are undercutting the domestic prices.

- v. The landed price of imports is substantially below the cost and selling price of the Domestic Industry. Thus, in the event of cessation of current anti-dumping duty and if the domestic industry chooses to sell at the import prices, the Domestic Industry would suffer significant financial losses.
- vi. The exporters and producers from the subject country have continued to export the material at the dumped prices even after the imposition of the anti-dumping duty. There is no reason to consider that revocation of duties in the present case would not result in intensified dumping from China PR.
- vii. It is submitted that producers in China PR maintain huge capacities to produce subject goods as shown in the table given below. In case of revocation of anti-dumping duty, the volume of subject goods' imports is bound to increase further.

SN	Producers In China	Capacity (MT per annum)
1.	Hebei Jiheng (Group) Pharmaceutical Co., Ltd	25,000
2.	Jiangsu Guoheng Pharma Chemical Co., Ltd	2,500
3.	Runqi Trading Co., Ltd.	12,000
4.	Shanghai Bailion Chemicals Co., Ltd.	50,000
5.	Changshu Huagang Pharmaceutical Co., Ltd	8,000
6.	Jiangsu World Kindly Pharmaceutical Co., Ltd	10,000
7.	Wenzhou Pharmaceutical Factory	6,000
8.	Zhejiang Kangle Pharmaceutical Co., Ltd	20,000
9.	Anqiu Luan Pharmaceutical Co. Limited	24,000

- viii. Landed value of imports are at a price which is lower than the selling price of Domestic Industry. The Chinese producers would therefore aggressively target Indian market in the event of cessation of duty
- ix. The domestic industry industry's performance in Dry Cell Battery case, significantly improved since the imposition of duty and was making profits. However, in the instant investigation performance of the domestic industry deteriorated in terms of inventories, market share, profits, return on investments, cash flow and the product under consideration continues to be exported to India at dumping prices from the subject country.

Submissions by producers/exporters/importers/other interested parties

69. Following are the submissions made by the opposite interested parties:

- i. The petitioners have failed to make a case of likelihood of dumping as they haven't given the details of excessive capacity available with the Chinese Producers.
- ii. The current situation is not a special case where the anti-dumping duty should be extended for another five years as held in the investigation on Dry Cell Batteries.

Examination by the Authority

70. The present investigation is a sun set review of anti-dumping duties imposed on the imports of subject goods from China PR. Under the Rules, the Authority is required to determine whether continued imposition of anti-dumping duty is warranted. This also requires examination of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In the present investigation, as there are continued dumped imports, the Authority is not required to examine whether revocation of duty is likely to lead to continued dumping of the product. However, considering the fact that the dumping margin in the original as well as the present investigation is significant and that there are favorable market conditions in the Indian market as far as demand and price for the subject goods are concerned, the Authority has reason to believe that dumping will intensify if the duty is revoked. It is a matter of fact that despite the anti-dumping measures in force, the subject country could maintain a significant presence in the Indian market to the detriment of the domestic industry.

71. The following analysis speaks about the likelihood of intensification of dumping and aggravated injury to the domestic industry in the event of revocation of the duty:

Level of current and past dumping margin

72. Considering the dumping margin determined by the Authority in the previous investigations and the dumping margin now assessed, it is quite evident that the exports were continued to be made at dumped prices and is likely to continue with revocation of anti-dumping duties. Volume of imports has significantly increased even after imposition of anti-dumping duties. The volume of imports in the current investigation period is higher than even the original investigation period. Further, the volume of imports is likely to increase further in the event of revocation of anti-dumping

duties, given the significant price undercutting and underselling during the injury period. The level of dumping margin established in the original, first sunset review and in the current investigations as given in table below, is an indicator of likely dumping in the event of revocation of anti-dumping duties:

Investigations	Dumping margin %	Dumping margin Range %
Original	***	40-50
First sunset review	***	20-30
Current sunset review	***	20-30

The level of dumping margin as compared above indicates that the anti-dumping measures as imposed in the past investigations has not deterred the exporters of subject country to dump the subject goods in the Indian market.

Anti-dumping duties imposed by other countries

73. South Africa in its sunset review investigation, concluded in the year 2011, has continued the imposition of antidumping duties on imports of subject goods from China. South Africa has imposed duties at the rate of 2,573 cents/kg. Considering the high production capacity in China and the Chinese propensity to dump goods in Indian market and increasing demand in India, in the event of revocation of anti-dumping duty on imports of subject goods, there is all likelihood that the dumping of the subject goods in India will be further intensified.

Price attractiveness of Indian market

74. The price at which the subject goods are being exported by China PR to India is an indicator of the likelihood of continuation/intensification of dumping. At the landed price in India, there is significant undercutting both with and without duty. Thus, with the revocation of anti-dumping duties, the Indian prices would be too attractive for the Chinese producers to intensify their exports to India at dumped prices and there is strong likelihood that Indian consumers would resort to large scale imports of the subject goods from China.

Huge Production Capacity in China

75. As claimed by domestic industry, there are at least 9 producers of the subject goods in China holding a combined production capacity of more than 1.5 lakh MT. The Indian production of subject goods is just a miniscule

of the Chinese capacity. In the event of revocation of anti-dumping duty and considering the Chinese export orientation, the producers of China are capable of completely overtaking the Indian manufacturing sector engaged in subject goods

Market share of China PR in the Indian market

76. The Authority notes that despite the anti-dumping duty in place, the market share has remained significant throughout the injury period including POI.

K. Magnitude of Injury and injury margin - POI

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

Particulars	Unit	Chinese producer/ exporter
Non injurious price of the domestic industry	Rs/Kg	***
Landed price without ADD	Rs/Kg	157
Injury margin	Rs/Kg	***
Injury margin	%	***
Injury margin % range	Range %	15-25

The Authority notes that the injury margin worked out as above is substantial.

Indian industry's interest and other issues

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

79. The purpose of imposing anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Further, imposition of anti-dumping duties, would not affect the availability of the product to the consumers.

Post Disclosure Comments

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

- i. Authority should accept the response of Hebei Jiheng, China and determine separate dumping margin for them.
- ii. Information regarding Meghmani, one of the largest producers of the subject goods in India, was not provided by the petitioners.
- iii. As per the annual report of Pan Drugs, During POI of 15 months i.e. they have produced 1115 MT of paracetamol, which the petitioners have not taken in to account.
- iv. The petitioners have misrepresented about the domestic producers in India and the total domestic production of the subject goods. In view of that position, the petitioners lack standing and therefore the investigation needs to be terminated forthwith.

81. Following are the post-disclosure comments made by the domestic industry:

- i. The non injurious price determined is too low.
- ii. The domestic industry is suffering continued injury due to continued dumping of the subject goods from the subject country. Continued dumping, likelihood of significant undercutting, and excessive capacities with Chinese producers and export orientation of these producers, collectively show that if the present anti dumping duty is revoked, the injury to the domestic industry would aggravate.

Examination by the Authority

82. The post-disclosure comments made by the interested parties are mostly reiterations. However, the comments considered relevant by the Authority are addressed below:

- i. As regards the submission of the domestic industry that the non-injurious price determined is too low, the Authority notes that the NIP has been determined as per the Rules based on verified data and consistent practice of the Authority.
- ii. As regards the submission that separate dumping margin should be determined for M/s Hebei Jiheng, China, the Authority notes that the belated questionnaire response filed by the said Chinese exporter was rejected and therefore the question of determination of separate dumping for them does not arise.
- iii. As regards the submission that information regarding Meghmani, one of the largest producers of the subject goods in India, was not provided by the petitioners, the Authority notes that the said domestic producer has supported the application.
- iv. As regards the submission that M/s Pan Drugs has produced 1115 MT of paracetamol during the POI (15 months) and the petitioners have not taken the said figure in to the total domestic production, the Authority notes that the interested party has taken the production figure as per the annual report of the company procuring from the Registrar of Company (ROC). The information provided therein states “quantity of highest contributing product or service”, classified under ITC 0030049005, which is found to be pertaining to “Paracetamol tablets”, which is not the subject goods in the present investigation. The subject goods in the present investigation is Paracetamol, an organic chemical in the bulk form.
- v. As regards the submission that the petitioners have misrepresented about the domestic producers and the total domestic production of the subject goods in India, the Authority notes that the present sunset review investigation was initiated on the basis of an application filed by M/s Sri Krishna Pharmaceutical Ltd and M/s Bharat Chemicals. Post initiation, the Authority had provided a copy of the initiation notification to the other domestic producers of the subject goods as per the information provided by the applicants, namely Para Products, Sara Exports Ltd, PAN Drugs Ltd, Paramount Health Care Ltd, Farmson Analgesics, Alpha Drugs Ltd and Granules India Ltd. While M/s Sara Exports, M/s Para Products, M/s Farmson Analgesics and M/s Meghmani Unichem have supported the application, the others neither supported nor opposed the application. The issue of standing has already been adequately examined and addressed by the Authority in the relevant paras of this finding and the Authority has already held that the applicants in the present sunset review investigation namely M/s Sri Krishna Pharmaceuticals Ltd and M/s Bharat Chemicals and supported by M/s Sara Exports, M/s Para Products, M/s Farmson

Analgesics and M/s Meghmani Unichem account for a major proportion in the Indian production of the subject goods and constitute domestic industry satisfying the requirements of Rule 2(b) read with Rule 5(3) of the Anti-dumping Rules.

CONCLUSIONS

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

- i. Import of the subject goods from China PR has remained at significant level throughout the injury period and continues to command a significant share during the POI.
- ii. There has been continued dumping of the subject goods from China PR and the dumping is likely to continue and increase if the anti-dumping duty is allowed to cease.
- iii. Price undercutting and price underselling has been significantly positive both with and without anti-dumping duty.
- iv. The performance of the domestic industry in terms of profits, return on investments, cash profit, etc. has deteriorated in POI, whereas the same should have normally improved after imposition of anti-dumping duties.
- v. Although the domestic industry has shown some positive growth in some of the economic parameters such as production, domestic sales, and productivity during the POI, the improvement in these economic parameters is largely on account of the anti-dumping measures in force.
- vi. Despite the anti-dumping measures in force, the subject goods are entering the Indian market at dumped prices and both the dumping margin as well as the injury margin has remained significant, resulting in continued injury to domestic industry.
- vii. Volume of import of the subject goods, originating in or exported from the subject country, has remained significant throughout the injury period and substantially increased during the POI despite the anti-dumping duty in force. Given the significant price undercutting and price under selling and considering the capacity in China and demand in India, the volume

of dumped import is likely to increase further in the event of revocation of anti-dumping duty.

- viii. Considering the magnitude of dumping margin in the earlier investigation and the dumping margin determined by the Authority in the present investigation, it is evident that the exports of the subject goods, originating in or exported from the subject country, were continued to be made at dumped prices injuring the domestic industry despite the anti-dumping duty in force. Despite the anti-dumping measures, dumping of the subject goods originating in or exported from the subject country has continued unabated causing injury to the domestic industry. Should the present anti-dumping duties be revoked, dumping of the subject goods may in all likelihood intensify, causing further injury to the domestic industry.

A. Recommendations

84. Having concluded as above, the Authority is of the view that the anti-dumping measure is required to be revised and extended in respect of imports of the subject goods, originating in or exported from China PR, as specified in the duty table below. Accordingly, the anti-dumping duty equal to the amount indicated in Col. 9 of the table below is recommended to be imposed concerning all imports of the subject goods, originating in or exported from China PR, by the Central Government.

85. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry, as specified in the duty table below.

Duty Table

S. No.	Heading/ Subheading	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Duty Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	29222933	Paracetamol	All grades	China PR	China PR	Any	Any	787	MT	US \$
2.	-Do-	-Do-	-Do-	China PR	Any country other	Any	Any	787	MT	US \$

					than China PR					
3.	-Do-	-Do-	-Do-	Any country other than China PR	China PR	Any	Any	787	MT	US \$

B. Further Procedures

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

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

J.S. Deepak
Designated Authority