

**F. No. 15/5/2010-DGAD**  
**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Directorate General of Anti-Dumping & Allied Duties**

**Udyog Bhavan, New Delhi-110011**  
**Dated the 29<sup>th</sup> June, 2011**

**NOTIFICATION**

**Final Findings**

**(Sunset Review)**

**Subject: Anti Dumping Sunset Review Investigations concerning imports of 1-Phenyl-3-Methyl-5-Pyrazolone originating in or exported from China PR.**

F.NO.15/5/2010-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, (hereinafter referred to as the Rules) thereof;

**A . BACKGROUND OF THE CASE**

1. Whereas the Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and thereafter and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended, initiated the original investigation vide Notification No. 14/11/2004-DGAD dated 1st December, 2004. The Authority issued its Final findings recommending imposition of definitive anti-dumping duty on imports of 1-Phenyl-3-Methyl-5-Pyrazolone (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred as subject country), vide Notification No. 14/11/2004-DGAD - dated 16<sup>th</sup> November, 2005 and definitive duty was imposed by the Govt. of India vide Customs Notification No. 1/2006 dated 10<sup>th</sup> January 2006.
2. WHEREAS in terms of Section 9A(5) of the Customs Tariff (Amendment) Act 1995 the anti-dumping duties imposed, shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of the duty is likely to lead to continuation or recurrence of dumping

and injury. In this regard, Hon'ble Delhi High Court in WP No 16893 of 2006 held that sunset review is mandatory. Therefore, pursuant to the above orders of the Hon'ble High Court, the Designated Authority had initiated sunset review in accordance with Section 9A(5) of the Act read with Rule 23 of Anti-dumping Rules to examine whether cessation of the duty would lead to continuation or recurrence of dumping and injury.

3. After suo-moto initiation of the investigation, M/s Prima Chemicals and M/s Polygon Chemicals, jointly submitted a duly substantiated application on behalf of domestic industry requesting for review and continuation of the anti-dumping duties levied on the subject goods from subject country as the domestic industry continued to suffer injury on account of dumping by the subject country. The request was based on the grounds that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The petitioner had claimed with prima facie evidence in this regard and had requested for the imposition of the anti-dumping duty on imports of subject goods from the subject country.

**B. PROCEDURE**

4. In these proceedings the procedure described below has been followed:
  - (i) The Embassy/Representatives of the subject country in New Delhi were informed about the suo-moto initiation of the investigation in accordance with Rule 6(2).
  - (ii) The Authority sent copy of the suo-moto initiation notification dated 1<sup>st</sup> July, 2010 to the Embassy/Representatives of the subject country in India, known exporters from the subject country, known importers and other interested parties, and the domestic industry, as per the information available with it. Parties to this investigation were requested to file questionnaire responses and make their views known in writing within prescribed time limit. Copies of the letter, non-confidential version of the petition and questionnaire sent to the known exporters were also sent to the Embassy of subject country along with a list of known exporters/ producers with request to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time.
  - (iii) Copy of the non-confidential version of the petition filed by the domestic industry was made available to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra.
  - (iv) Questionnaires were sent to the following known exporters from subject country in accordance with the rule 6(4) to elicit relevant information:
    - Goldlink Industries Co. Ltd.,
    - Dinovhrm Jisnhdu Wuxi Import Export Corporation,
    - Jianguasu Changyu Chemical Co., Ltd.

- (v) Questionnaire was also sent to the following known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4):
- Apex Dyes & Intermediates, Ahmedabad
  - Associated Drug Co, Bangalore
  - Pedilite Industries Ltd, Bombay,
  - Asiatic. Colours Chem Ind. Ltd, Ahmedabad
  - Ankur Dystuff Industries, Ahmedabad
  - Jansons International, Mumbai
  - K Rasiklal & Co, Mumbai
  - Nilkantha Chemicals, Surat
- (vi) No response/submission has been submitted by any of the exporters/producers of the subject goods from the subject country to the above notification.
- (vii) No response/submission has also been submitted by any of the importers or any other interested parties.
- (viii) Transaction-wise data in respect of the imports of subject goods under various customs classifications for the period of investigation and preceding three years has been provided by Directorate General of Commercial Intelligence and Statistics (DGCI&S). Domestic Industry has furnished data based on IBIS (Secondary Source) in respect of imports of the subject goods from the subject country under various custom classifications. On examination of the import data from both the above stated sources, it shows that the data from IBIS source shows substantially higher volume of imports than the DGCIS source. In view of the above position, the Authority has relied upon IBIS (secondary source) data for volume as well as price effect analysis.
- (ix) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties.
- (x) The Authority verified the information furnished by the domestic industry to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to examine the injury suffered, to work out optimum cost of production, cost to make and sell the subject goods in India and so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to domestic industry. It was noted that the firms has maintained all statutory books of accounts. Since information relied upon is from the books of accounts, the Authority has adopted the information verified from the books of accounts maintained by the applicants.
- (xi) The Authority held a public hearing on 18<sup>th</sup> March, 2011 to hear the interested parties orally, which was attended by the representatives of the interested parties. The arguments raised in the written submissions/rejoinders received from interested parties have been considered, wherever found relevant, in this finding.

- (xii) Investigation was carried out for the period starting from 1.04.2009 to 31.3.2010 (POI) and the Injury analysis has been done for the period 2006-07, 2007-08 and 2008-09.
- (xiii) The Authority has considered all views expressed and submissions made by interested parties to the extent they are relevant for the present investigation.
- (xiv) In accordance with Rule 16 of the anti-dumping Rules, the Authority issued a Disclosure Statement on 21<sup>st</sup> June, 2011 disclosing thereby essential facts of the subject investigation under consideration of the Authority.
- (xv) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- (xvi) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded the findings on the basis of the facts available.
- (xvii) \*\*\* in this notification represents information furnished by the interested parties on confidential basis and so considered by the authority under the Rules.
- (xviii) The Exchange rate adopted by the Authority in this finding is 1USD=48.3 INR as per customs notification.

C. **Comments/Views on the Disclosure Statement**

5. No interested party other than Domestic Industry has furnished comments/views on the Disclosure Statement. The following relevant comments/views have been received from the Domestic Industry:
  - a. The petitioner has reviewed non-injurious price determined in the disclosure statement based on the information provided. It would be seen that there is a significant difference in the weighted average non injurious price of domestic industry on account of return allowed, other raw materials costs and credit for other income. In view of the above, petitioners request the Designated Authority to kindly reconsider these changes and modify the non injurious price.
  - b. Petitioner submits that the anti dumping duty may be enhanced to account for the revised dumping margin and injury margin and imposed only on fixed amount basis.

### **Examination by the Authority**

6. The issues raised by domestic industry regarding determination of non injurious price (NIP) has been examined and the Authority notes that the NIP has been determined in line with the Anti Dumping Rules and as per the consistent practice of the DGAD.

### **D. PRODUCT UNDER CONSIDERATION AND ‘LIKE ARTICLE’**

7. The product involved in the original investigation as well as present sunset review investigation is 1-Phenyl-3-Methyl-5-Pyrazolone (also referred to as subject goods). Product under consideration is an organic chemical i.e. 1-Phenyl-3-Methyl-5-Pyrazolone, used in dyes and pharmaceutical industry for manufacturing of Analgin, Solvent Dyes and Pigment Dyes, and Pigment orange 13. 1-Phenyl-3-Methyl-5-Pyrazolone is classified under Chapter 29 of the Customs Tariff Act. Complete description of the product as per Customs Tariff Act is 29331920. The subject goods are also reportedly imported under other customs classifications Nos. such as 293319, 291634, 291739, 292429, 293311, 293359, 294200, 980200 as well.. However, the customs classifications are indicative only and in no way binding on the scope of the subject investigation.

### **8. Submissions made by the Interested Parties**

#### **Submissions of the domestic industry**

9. The Domestic Industry has claimed that there is no known difference between the product manufactured by domestic Industry and the subject goods imported from the subject country, which can have any impact on price, usage, quality etc. Domestic Industry also claims that the technology and primary production process employed by them and the foreign producers are comparable; however, producers fine-tune their production process based on available facilities and necessities.

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

10. The Authority notes that since present investigation is a sunset review investigation, the product under consideration remains the same as has been defined in the original investigation. The product under consideration in the previous as well as present investigations is Phenyl-3-Methyl-5-Pyrazolone, an organic chemical, classified under Chapter 29 under Sub-heading 29 33 19 20. Product under consideration is used in dye and pharmaceutical industry for manufacture of Analgin, Solvent Dyes and Pigment Dyes, and Pigment orange 13. The imports of subject goods are also reported under customs classification No. 293319, 291634, 291739, 292429, 293311, 293359, 294200, 980200 as well. However the Customs classifications are indicative only and not binding on the Authority. The goods produced by the domestic industry are like article to the imported product. There is no known difference in product under consideration produced

by the Indian industry and subject goods exported from subject countries. Moreover, due to absence of any response from the producers/exporters of the subject goods from the subject country there is no view contrary to the view held by the domestic industry and the Authority. The Authority therefore proposes to hold that the two are like article as per Rule 2(d) of Anti-Dumping Rules.

**E. Standing and scope of the Domestic Industry**

11. The present sunset review investigation has been initiated suo-motto. After the initiation of the investigation, application has been jointly filed by M/s.Prima Chemicals and M/s Polygone Chemicals on behalf of domestic industry.

**Submissions of the Domestic Industry**

12. The following views have been offered by the domestic industry with regard to standing and scope:
  - (i) The petition for review and continuation of the anti-dumping duties was filed by M/s.Prima Chemicals and M/s Polygon Chemicals. There are no other domestic producers having capacity to manufacture the subject goods.
  - (ii) Production of the petitioner constitutes a major proportion of total Indian production. Thus, petitioners account for “a major proportion in total Indian production” and constitutes “domestic industry” within the meaning of the Rules.

**Examination by the Designated Authority**

13. Authority notes that there is no submission received from any interested party contrary to the views offered by the domestic industry. Further efforts were also made by the Authority to ascertain the detailed information with regard to domestic producers/production of the subject goods in the country from the concerned administrative department. However no information was made available to the Authority. In view of the above position and having regard to the Rules and information on record, the Authority holds that M/s Prima Chemicals and M/s Polygone Chemicals, constitute domestic industry for the purpose of the present investigations within the meaning of the Rules.

**F. Dumping Determination**

**F.1. Determination of Normal Value**

**Submissions of the Domestic Industry**

14. The domestic industry has made following submissions:
- i) China being a non-market economy, the Designated Authority is required to determine normal value in accordance with Para 7 of Annexure-I to the Rules. According to these Rules, the normal value in China can be determined on any of the following basis:
    - (a) the price in a market economy third country,
    - (b) constructed value in a market economy third country,
    - (c) the price from such a third country to other country, including India.
    - (d) the price actually paid in India, adjusted to include a reasonable profit margin.
    - (e) the price actually payable in India, adjusted to include a reasonable profit margin.
  - ii) In view of the above, the petitioner could not consider price from such third countries to other countries for the reasons (a) information is not available; (b) the price so adopted must be a price in the ordinary course of trade; (c) such information would also require cooperation from a producer in such third country.
  - iv) India is an appropriate surrogate country for Chinese producers. Not only consideration of India as a surrogate country would result in access to accurate and adequate information, there is no factual basis to consider that India would not be a proper surrogate country. India has been considered as an appropriate surrogate by other Investigating Authorities too.
  - v) As the normal value in China can be determined on any of the above-mentioned basis, the normal value in China can thus be determined on the basis of (a) price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. The petitioner has, therefore, claimed constructed normal value for the subject country based on the information available for the domestic industry.

**Examination by the Authority**

15. None of the exporters/producers from the subject country have cooperated with the Authority and responded to the present investigation. Further none of the interested parties have provided any other alternate basis as defined in the Rules on which normal value can be determined. Moreover, the Authority also made efforts to gather required relevant data from World Trade Atlas but could not get information regarding domestic

prices of subject goods in the subject country. 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 has been determined as US\$ \*\*\* per Kg.

**F.2. EXPORT PRICE**

16. With regard to export price, the Authority observed that none of the exporters from the subject country has cooperated. Therefore, the Authority has considered weighted average CIF price as per IBIS import data since the same reports substantially higher volume of imports as compared to DGCI&S data. The weighted average CIF price of imports from China, as per IBIS data for the POI, comes to US\$ \*\*\* per Kg. In the absence of response from producer/exporter from the subject country, the following adjustments amounting to USD \*\*\* have been made to arrive at the net export price: -

- (a) Ocean freight @ US\$ \*\*\* pmt
- (b) Marine insurance @ \*\*\* of CIF value
- (c) Commission @ \*\*\* of FOB value
- (d) Port expenses @ \*\*\* % of FOB value
- (e) Inland freight @ \*\*\* % of FOB value
- (f) Chinese VAT @ \*\*\* % of FOB value

Based on the above data the net ex-works export price of the exports from China PR to India is determined as Rs \*\*\* per Kg (USD \*\*\* /Kg).

**F.3. Dumping Margin**

17. The ex-works constructed normal value has been compared with the net ex-works export price to determine the dumping margin, which works out as follows:

Particulars	Unit	On CNV basis
Normal value	US \$./kg	***

Net Export price	US \$./kg	***
Dumping margin amount US \$	US \$./kg	***
Dumping margin	%	***
Dumping margin	Range of %	20-30

18. The Dumping Margin from the subject country is not only above de-minimis but also substantial.

**G. Likelihood of continuation or recurrence of dumping from China**

**Submissions of the Domestic Industry**

19. Following submission have been made by the Domestic industry with regard to likelihood of continuation or recurrence of dumping from China:
- a) In the present case, the exporters and producers of China PR continued to export the material at dumped prices even after imposition of the dumping duty. In the present case the dumping margin is not only the de minimis but also substantial. There is continued dumping from the producers and exporters from China PR, which would become more aggressive once the duty in force expires.
  - b) The Designated Authority had earlier found at the time of original investigation that the product under consideration is being exported from China at dumped prices and the same has caused material injury to the domestic industry. There is no material difference in the circumstances that prevailed at the time of original investigation and at present. In fact, the product continues to be exported at dumped prices and has been exported to India throughout the current injury period at dumping prices as would be seen from the calculations of dumping margin for the current injury period.
  - c) Pyrazolone import prices increased during 2008-09 and have declined thereafter. Table enclosed with these submissions shows the CIF import price of the product under consideration from China. It would be seen that the import prices increased during Oct.-Nov., 2008 but once again declined thereafter. The current prices are in the region or below the prices prevailing in 2006-2007.
  - d) Easter, Sodium Sulphite and Aniline are the major raw materials required for production of the product under consideration. While the prices of Easter (the single largest raw material) and Aniline (the second largest raw material) have shown significant increase,

the prices of the product under consideration have not increased in proportion to the increase in costs on account of these major raw materials.

- e) The product under consideration is one of the rare products where the production and consumption are largely in China and in India only. In fact, the product under consideration is consumed only in India and China. Moreover the producers in china have substantial production capacity with export orientation. Therefore cessation of anti-dumping duty is likely to have significant adverse impact on the domestic industry.
- f) The share of China in imports into India and consumption in India continues to be significant, even though the same has shown some declining trend in the recent years. It is the understanding of the petitioner that some imports are being made under duty exemption scheme. Since Govt. of India has provided exemption from payment of anti-dumping duty in respect of imports for exports, no anti-dumping duty applies on these imports and therefore the imports are cheaper than domestic industry prices. Since imports are cheaper, the domestic industry cannot afford to match the price even after taking into account the deemed export benefits and therefore the domestic industry is not in a position to supply to segment even on deemed export basis. Thus, this demand continues to be made through imports. Barring such imports, the imports appear to have been made only in those situations where the landed price of imports after adding prevailing anti-dumping duties are lower than the domestic industry prices. This gets readily established if the import data is examined on transaction by transaction basis.

#### **Examination By the Authority**

- 20. The Authority notes that there is no response from the producers/exporters of the subject goods from the subject country. However basing on information provided by the domestic industry and other available information the Authority notes that the Chinese producers have substantial production capacity. Considering the substantial increase in demand in the Indian market during the period of investigation and considering continued dumping of the subject goods despite the anti-dumping duty in force, the Authority notes that cessation of the extant duty may result in intensified dumping.
- 21. Based on the information submitted by the domestic industry the Authority notes that while only one company in China namely M/s Jiangsu Changyu Chemical Co. Ltd. has about 3600 MT/ annum production capacity of subject goods, demand in India is only 898 MT per annum. Therefore, the Authority is of the view that since capacity of only one company in China PR far exceeds total demand in India, in such a situation cessation of existing anti dumping duty would lead to intensification of dumping of the subject goods from the subject country and injury to the domestic industry.

## **H. INJURY AND CAUSAL LINK DETERMINATION**

### **Submissions of the Domestic Industry**

22. Following submission have been made by the Domestic industry with regard to injury and causal link.
  - a) The volume of imports from the subject country remained high in spite of the antidumping duty in force.
  - b) The imports from the subject country are undercutting the prices of the domestic industry in the market. The landed price of imports is significantly below the cost of production of the domestic industry leading to depressing effect on the prices of the domestic industry in the market.
  - c) The dumping margin from the subject country is not only more than de-minimis but also significant.
  - d) There are significant inventories still lying with the domestic industry.
  - e) The improvement shown by the domestic industry in various parameters is the result of the anti dumping measures in existence. Once the existing duty is revoked, there is a strong possibility of recurrence of injury to the domestic industry from subject country.
  - f) Given the significant price undercutting without anti dumping duty and the price depressing effect of revocation of anti dumping duties, it follows that the profits, return on investment and cash profits would suffer significantly in the event of cessation of anti dumping duties.

### **Examination by the Authority**

23. The Authority has considered various arguments put forth by domestic industry in their submissions and issue of continuation of injury to the domestic industry has been examined in the light of these arguments made before the Authority. The Authority proposes to conclude that the current dumping margins from the subject country are above de-minimis level. The Authority therefore proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.
24. 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.
25. 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.

26. 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.”*

27. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods from the subject country 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. Accordingly, the volume and price effect of dumped imports have been examined as follows:

**(A) VOLUME EFFECT:**

28. Volume effect of dumped imports and impact on domestic industry have been examined as follows:

**I. Demand and Market shares**

29. 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	Unit	2006-07	2007-08	2008-09	2009-10
Sales of Domestic Industry	MT	511	517	580	792
Imports - Subject	MT	116.98	217.60	119.45	106.60

Country					
Imports - Other Countries	MT	0.02	1.16	0.20	-
Demand	MT	628.00	735.76	699.65	898.60
Market Share in Demand					
Sales of Domestic Industry	%	81.37	70.27	82.90	88.14
Subject country-Imports	%	18.63	29.57	17.07	11.86
Other Countries-Imports	%	0.00	0.16	0.03	-
Total	%	100	100	100	100

30. Authority notes that demand of the subject goods in country shows a positive trend across injury period with a marginal decline in 2008-09, but substantial increase in period of investigation as compared to previous year. Sales of the domestic industry have shown improvement commensurating to increase in demand and in the presence of anti dumping duty on dumped imports being in force. On the same line share of domestic Industry in demand has also increased during period of investigation as compared to base year as well as previous year.

## **II. Import Volume & market share**

31. 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.

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Imports					
China	MT	116.98	217.60	119.45	106.60
Other Countries	MT	0.02	1.16	0.20	-

Total Imports	MT	117.00	218.76	119.65	106.60
Market Share in Imports					
Subject country	%	99.98	99.47	99.83	100.00
Other Countries	%	0.02	0.53	0.17	-
Total Imports	%	100.00	100.00	100.00	100.00

32. Authority notes that volume of dumped imports from subject country has marginally declined during POI as compared to proceeding years as well as base year however the volume of the same remained significant commanding 12% of the total demand. Import from other countries is de-minimus.

### III. Production, capacity and capacity utilization

33. The table given below gives an overview of the installed capacity and production of the domestic industry over injury period through POI.

Particulars	Unit	2006-07	2007-08	2008-09	POI
capacity	MT	925	925	925	925
Production	MT	542	519	616	795
Capacity utilization	%	58.59%	56.11%	66.59%	85.95%

34. The Authority observes that Production and capacity utilization of the domestic industry has increased over the injury period. Moreover, by using the same plant and machinery other products are also being produced by the domestic industry. Keeping in view the above position, Authority notes that capacity utilization of domestic industry improved over the injury period.

### IV. Sales:

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

Particulars	Unit	2006-07	2007-08	2008-09	POI
Domestic sales	MT	511	517	580	792
Indexed	Index	100.00	106.12	120.58	163.69

36. The sales volume of the domestic industry shows a positive trend. However the sales of the domestic industry fall short of domestic demand despite having capacity to meet the same.

#### IV. Market Share

37. Share of the domestic industry and various other parties in demand in India was as under:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Demand	MT	628	736	700	899
Share in demand					
China	%	18.63	29.57	17.07	11.86
Other Countries	%	0.00	0.16	0.03	-
Domestic industry	%	81.37	70.27	82.90	88.14

38. The imports from China continue to hold significant share in the Indian market though declined in the POI. The share of domestic Industry in domestic demand has also increased during period of investigation. However the domestic industry has fallen short of fulfilling the entire demand in the domestic market despite having the required capacity and the protection of existing anti-dumping measures.

#### (B) Price Effect of the dumped imports on the Domestic Industry

39. In order to ascertain the price effect of the imports of the subject goods from the subject countries on the domestic industry, the Authority has examined 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. In order to assess the extent of price undercutting, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization was arrived, after deducting all rebates and taxes. The landed value of imports was compared with net sales realization of the domestic industry, even after considering the anti-dumping measure in force.

### I. Price Undercutting:

Net Sales Realisation(Rs/kg)	Landed price(Rs/Kg)		Price Undercutting(Rs/Kg )		Price Undercutting%		Price Undercutting Range %	
	Without ADD	With ADD	Without ADD	With ADD	Without ADD	With ADD	Without ADD	With ADD
	***	***	***	***	***	***	***	15-20

40. The Authority notes from the above table that the price undercutting without duty is positive and substantial. However price undercutting with duty is negative signifying the effect of existing anti-dumping measures on dumping of subject goods from subject country. Nevertheless Authority notes that cessation of duty may result in positive price undercutting.

### II. Price Underselling:

Non Injurious Price(Rs/kg)	Landed price(Rs/Kg)		Price Underselling (Rs/Kg)		Price Underselling%		Price Underselling Range %	
	Without ADD	With ADD	Without ADD	With ADD	Without ADD	With ADD	Without ADD	With ADD
	***	***	***	***	***	***	***	10-20

41. From above table Authority notes that landed price without anti-dumping duty is below non injurious price of the domestic industry.

### III. Price suppression and depression effects of the dumped imports:

42. In order to assess whether the imports from subject countries were suppressing/depressing the prices of the domestic industry, the Authority has compared the cost of production and net selling price of the domestic industry along with the landed price of imports over the injury period, which is given in the following table:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10 (POI)
Cost of Production	Rs/Kg	***	***	***	***
Trend	Indexed	<b>100</b>	<b>101</b>	<b>118</b>	<b>100</b>
Net Selling price	Rs/Kg	***	***	***	***
Trend	Indexed	<b>100</b>	<b>97</b>	<b>116</b>	<b>102</b>
Profit/Loss	Rs/Kg	***	***	***	***
Trend	Indexed	<b>100</b>	<b>(57)</b>	<b>44</b>	<b>164</b>
Landed price from subject country(Without ADD)	Rs/Kg	***	***	***	***
Trend	Indexed	<b>100</b>	<b>88</b>	<b>135</b>	<b>97</b>

43. From the above table, it is evident that the cost of production during the POI has declined compared to the previous year and remained at the level of base year. The net selling price also declined during the POI as compared to the previous year and marginally increased over the base year. The Authority notes that the trend in the behavior of movement in the cost of sales and the selling price is similar and does not signify any price suppression/ depression effect.

#### **Examination of other Injury Parameters**

44. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern

with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

**I. Profit/loss, Return on Investment and Cash Flow –**

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

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Cost of production	Rs. /Kg	***	***	***	***
Selling price	Rs. /Kg	***	***	***	***
Profit/loss	Rs. /Kg	***	***	***	***
Profit before Interest	Rs.Lacs	***	***	***	***
Cash Profit	Rs.Lacs	***	***	***	***
Trend	Index	100	(18)	80	271
ROCE	%	***	***	***	***
Trend	Index	100	(48)	35	157

46. It is noted that the cost of production increased up to 2008-09 and then declined in the POI to level of the base year. The selling price also increased in 2008-09 and then declined in the POI. It seems that domestic industry has started making profits after imposition of anti dumping duty.

**II. Inventories:**

47. Inventories with the domestic industry have been as under:

	2006-07	2007-08	2008-09	POI

Average stock	***	***	***	***
Indexed	100	86	200	293

48. It is noted that average inventory of the domestic industry has increased over the injury period. Despite increase in demand and increase in production, the Domestic Industry is unable to liquidate its production which has resulted in increase of stocks.

### III. Employment, wages and productivity

	Unit	2006-07	2007-08	2008-09	POI
Employment	Nos.	***	***	***	***
Wages	Rs. Lacs	***	***	***	***
Productivity per employee	Rs./MT	***	***	***	***

49. It is observed that the employment level of the domestic industry shows a decline in the period of investigation as compared to the previous year and remains at the level of base year. Salary & wages paid by the domestic industry increased. The wages and productivity per employee have increased during POI as compared to the previous year.

	Unit	2006-07	2007-08	2008-09	POI
Productivity per day	MT	***	***	***	***
Trend	Indexed	100.00	95.75	113.69	146.84
Productivity per Employee	MT	***	***	***	***
Trend	Indexed	100.00	86.48	93.62	146.84

50. The Authority notes that productivity has moved in tandem with production and employment.

#### IV. Profitability:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Cost of Sales	Rs. /Kg	***	***	***	***
Trend	Index	100.00	100.77	117.66	100.00
Selling price	Rs. /Kg	***	***	***	***
Trend	Index	100.00	96.69	115.76	101.65
Profit/loss	Rs. /Kg	***	***	***	***
Trend	Index	100.00	(57.14)	44.48	164.20
Profit before Interest	Rs.Lacs	***	***	***	***
Trend	Index	100.00	47.20	94.91	188.09
PBIT on domestic sales	Rs.Lacs	***	***	***	***
Trend	Index	100.00	(18.21)	79.13	270.90

51. The authority notes the performance of the domestic industry has improved over the injury period and the domestic industry is in profits.

#### V. Growth

52. The domestic industry has started registering positive growth. The Authority notes that the health of the domestic industry has improved in terms of production, productivity, Capacity utilization, domestic sales, cash profit, profitability and return on investment. However, the growth and improvement in the health of domestic industry is due to the existing anti dumping measures. Although the volume of imports of the subject goods from the subject country has marginally declined during POI as compared to the previous year and the base year, the Authority notes that the market share of the subject country in domestic consumption continued to be significant and imports are at dumped prices. Revocation of anti dumping duty at this stage will lead to intensification of dumped imports and injury to the domestic industry.

**VI. Magnitude of margin of dumping**

53. The Authority notes that the dumping margin determined is not only above de-minimis level but also substantial.

**VII. Ability to raise capital investments –**

54. The Authority notes that the firms constituting domestic industry are multi product firms. Their ability to raise further investment is not a significant factor in this case. However, should the dumping from the present sources persist, ability of the domestic industry to raise capital would suffer.

**I. Magnitude of injury and injury margin**

55. 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 for determination of injury margin during the POI. Thus compared, the injury margin is worked out as under:

Particulars	Rs./kg
Non –Injurious Price(NIP)	***
Landed Price (Without ADD)	***
Injury margin	***
Injury margin (%)	***
Injury margin range (%)	10-20

The Authority notes that the injury margin is not only positive but also substantial.

**J. Likelihood of continuation or recurrence of injury**

56. Following submissions have been made by the Domestic industry with regard to likelihood of continuation or recurrence of injury.
- a) China is exporting above 10,000 MT of compounds containing infused Pyrazolone. Pyrazolone is one of the raw materials required for manufacturing this compound. Significant

exports of Pyrazolone compound clearly establish significant production of Pyrazolone in China.

- b) Existence of significant production of Pyrazolone in China clearly establishes likelihood of export of Pyrazolone, including the product under consideration, as the producers would be in a position to export the product if they get a better price instead of converting it into compound or selling in the domestic market to other consumers for convert it into compound.
- c) The rules provide for consideration of “freely disposable production capacities” in the exporting country. Freely disposable production capacities have be to seen as the capacities available with the Chinese producers which can be used for deciding sales in different markets. There is no claim by Chinese producers nor any publically available information that Pyrazolone capacities are dedicated/frozen to certain markets and are not available for diverting to Indian market.
- d) The increase in imports volumes of the product under consideration in 2007-2008 (which is twice the import volumes in the current period of investigation) clearly establishes the freely disposable production capacity with the Chinese producers.
- e) It would also be seen from the final finding of the original investigation that imports of the product under consideration from China increased from below 20 MT (2000-2001), above 100 MT (2001-02) and further to 280 MT in that investigation period. The imports thus increased 14 times in that period as compared to base year of that case. This further establishes existence of significant freely disposable production capacities in China.
- f) The circumstances with the Chinese producers, which were prevalent at the time of original investigations, are very much in existence even till date. There has been no change in the circumstance, which could suggest that the dumping would not recur at the aggravated level at which it was at the time of original investigation.
- g) Considering the huge production capacities of the subject goods in subject country and their export orientation and the increasing demand for the subject goods in India, in all likelihood any reduction or revocation of the anti-dumping duty may lead to spurt in the dumped imports injuring the domestic industries.
- h) Positive price undercutting and underselling without considering the anti-dumping duties in force indicate the likely adverse price effect of dumped imports on Domestic Industry in the event of expiry of the anti dumping duty in force.
- i) Despite improvement in various economic parameters, the domestic industry is likely to suffer adverse price effect in the event of revocation of anti dumping duties.
- j) Given significant capacities available in China, the Chinese producers are likely to take away complete domestic industry’s market in the event of revocation of anti dumping duties.
- k) There is continued dumping from the producers and exporters from China PR, which would become more aggressive once the duty in force expires as is evident from the dumping margin calculated by the petitioner over the injury period.

### **Examination by the Authority**

57. The Authority notes that imports of product under consideration from the subject country remained significant over the current injury period in absolute terms. The imports of the subject goods from the subject country continued to be at dumped prices in spite of existing anti dumping duties. With regard to price effect, it is observed that imports were significantly undercutting and underselling the prices of the domestic industry without

the Anti dumping duty although, with duty the price undercutting and price underselling effect is negative. Although the analysis of various economic parameters show that the overall economic health of the domestic has improved, the Authority observes that such improvement is on account of the anti-dumping measures in force. In view of the above position the Authority concludes that in the event of cessation of the anti dumping measures the dumping of subject goods from subject country is likely to be intensified and will adversely affect the domestic industry.

K. **Other Known factors and Causal Link:**

58. The Authority has examined the significance and relevance of causal link in a sunset review investigation. It is important to note under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

(a) **Volume and prices from other countries**

59. There is no import of the subject goods from the other country during POI. The imports of subject goods from other countries during injury period is very negligible and therefore cannot have any adverse effect on the domestic industry.

(b) **Trade restrictive practice and competition between the foreign and domestic producers**

60. The Authority notes that the subject goods are freely importable and there are no trade restrictive practices in the domestic market. Further, the landed price of imports declined significantly during POI. In a situation where the import prices are substantially lower than the selling prices of the Indian Producers, it cannot be concluded that the price reduction in the market were triggered by the domestic producers.

(c) **Contraction of demand or Changes in the pattern of consumption**

61. There is no contraction in the overall demand during the period under consideration. Rather the domestic demand has consistently increased over the injury period. Therefore, any possible decline in demand is not a factor, which could have caused injury to the domestic industry. There is no argument by interested parties regarding the change in the pattern of consumption, nor does it appear that changes in the pattern of consumption could have inflicted the injury to the domestic industry.

(d) **Development of Technology:**

62. The Authority notes that due to non cooperation by the producers/exporters of the subject goods from the subject country the difference in technology, if any, could not be ascertained. However, there is no development in technology that could have impacted

the performances of the domestic industry *vaz-a-viz* producers/exporters from the subject country.

(e) **Export performances:**

63. The export of subject goods by the domestic industry is negligible. However, the injury analysis has been done without including export performances of the domestic industry.

L. **Indian industry's interest & other issues**

64. The Authority recognizes that 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.
65. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

M. **Conclusions:**

66. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:
- i. The subject goods are entering the Indian market from the subject country at dumped prices and dumping margin is above the prescribed de-minimis limits and significant.
  - ii. The subject goods continue to be exported to India at dumped prices in spite of the existing anti-dumping duties.
  - iii. Although, the overall economic parameter and health of the domestic industry has improved due to the existing anti-dumping duties, without the existing anti-dumping duties the price undercutting and price underselling are significant from the subject country. Hence, injury to the domestic industry is likely to recur, in case the present anti-dumping duties are allowed to expire.

- iv. The Authority notes that imports of product under consideration from the subject country remained significant over the current injury period in absolute terms. The imports of the subject goods from the subject country continued to be at dumped prices in spite of existing anti dumping duties. With regard to price effect, it is observed that imports were significantly undercutting and underselling the prices of the domestic industry without the Anti dumping duty although, with duty the price undercutting and price underselling effect is negative. Although the analysis of various economic parameters show that the overall economic health of the domestic has improved, the Authority observes that such improvement is on account of the anti-dumping measures in force. In view of the above position the Authority concludes that in the event of cessation of the anti dumping measures the dumping of subject goods from subject country is likely to be intensified and will adversely affect the domestic industry.
- v. Based on the information submitted by the domestic industry the Authority notes that while only one company in China namely M/s Jiangsu Changyu Chemical Co. Ltd. has about 3600 MT/ annum production capacity of subject goods, demand in India is only 898 MT per annum. Therefore, the Authority concludes that since capacity of only one company in China PR far exceeds total demand in India, in such a situation cessation of existing anti dumping duty would lead to intensification of dumping of the subject goods from the subject country and injury to the domestic industry.
- vi. Authority also takes note of the fact that that none of the producers/ exporters/importers have responded to the subject investigation which suggests that they are intentionally not participating in the investigation and continue to dump the subject goods in India.

**N. Recommendations**

67. Having concluded as above, the Authority is of the opinion that the anti-dumping measure is required to be extended and the quantum of the anti-dumping duty is required to be modified in respect of the imports of the subject goods from the subject country as specified in the duty table below.
68. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duties equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from the subject country as mentioned herein below.

**DUTY TABLE**

Sl. No	Heading/ Subheading	Description of goods	Country of Origin	Country of Export	Producer	Exporter	Duty amount	Unit	Currency
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	293319, 291634, 291739, 292429, 293311, 293359, 294200, 980200	1-Phenyl-3-Methyl-5-Pyrazolone	China PR	China PR	Any	Any	0.52	KG	US\$
2.	-DO-	1-Phenyl-3-Methyl-5-Pyrazolone	China PR	Any	Any	Any	0.52	KG	US\$
3.	-DO-	1-Phenyl-3-Methyl-5-Pyrazolone	Any Country other than China PR	China PR	Any	Any	0.52	KG	US\$

**O. Further Procedures**

69. 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 under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.
70. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**Vijaylaxmi Joshi**  
**The Designated Authority**