

No.14/27/2004-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

NEW DELHI, the 3rd January, 2007

Final Findings

Subject: Antidumping investigations involving import of Saccharin exported from or originating in China PR – Final Findings.

NO.14/27/2004-DGAD : - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s AS Enterprises, Mumbai, M/s Swati Petrochemicals Pvt. Ltd., Thane and M/s Shree Vardayani Chemical Industry Co. Ltd., Gujarat and their supporters representing All India Saccharin Manufacturers' Association, Mumbai (herein after referred to as the Applicants) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the Rules), alleging dumping of Saccharin (herein after referred to as subject goods), originating in or exported from China PR (herein after referred to as subject country) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods. The Authority notified the Embassy of China PR about the receipt of dumping allegation in accordance with sub rule 5(5) of Rules.

3. WHEREAS, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 4th July 2005 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject country in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the antidumping duty.

4. And whereas the Designated Authority notified preliminary findings vide notification No. 14/27/2004-DGAD dated 1.4.2006 and recommended imposition of anti-dumping duty concerning imports of Saccharin originating in or exported from China PR.

A. Procedure After Preliminary Findings

5. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the Preliminary Findings of the above investigations by the Authority:

- (i) The Authority forwarded a copy of the preliminary findings to known interested parties who were interested to furnish their views, if any, on the preliminary findings within 40 days from the issue of the letter.
- (ii) The Authority also forwarded copy of the preliminary findings to Embassy of the subject country in New Delhi with a request to furnish their views on the preliminary findings.
- (iii) The Authority held a Public Hearing on 14.6.2006 to hear the interested parties. The parties attending the Public Hearing were requested to file written submissions of the views expressed orally. The Designated Authority considered the submissions as received from the interested parties in the findings.
- (iv) The Authority has considered all views expressed in submissions made by various interested parties subsequent to the preliminary findings.
- (v) The Authority verified the information provided by the domestic industry to the extent considered necessary.
- (vi) The Authority also verified the information provided by the cooperating producer/exporters and importers to the extent considered necessary.
- (vii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigations;
- (viii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file (duly indexed) kept open for inspection by the interested parties. The acknowledgements of interested parties inspecting files and taking copies of the record have been kept in the public file.
- (ix) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- (x) In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received thereon have also been duly considered in these findings by making necessary corrections in the data.
- (xi) *** in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules;
- (xii) Investigation was carried out for the period starting from 1.1.2004 to 31.12.2004 (POI). The examination of trends in the context of injury analysis covered the period from April 2001-March 2004 and the POI.

B. Product under Consideration

6. The product under consideration in the present investigation is Saccharin.

7. Saccharin is a non-nutritive sweetener and considered to be low calorie substitute for cane sugar. Saccharin is primarily produced in two types i.e. soluble and insoluble saccharin. In market parlance soluble saccharin is called sodium saccharin

whereas insoluble sodium saccharin is called insoluble saccharin. Apart from sodium saccharin, saccharin can have other variants such as calcium and zinc saccharin. Saccharin is produced in two physical forms, viz. granular and powder. Sodium saccharin in granular form is used in situation where saccharin will be dissolved, the powder form which have been grounded and spray dried is used in dry mixes and pharmaceuticals. Insoluble form of saccharin is used in many pharmaceutical and medical applications. It is slightly soluble in water. Saccharin is more than 500 times sweeter than sugar. All forms of Saccharin are within the scope of the present investigation.

8. Saccharin is used in a variety of industry such as food and beverage, personal care products, table top sweeteners, electroplating brighteners, pharmaceuticals, etc.

9. Saccharin is classified under Chapter 29 of the Customs Tariff Act, 1975 under sub-headings No 29251100. The Custom classification is indicative only and not binding on the scope of investigations.

B.1 Like Article

10. The domestic industry has claimed that the goods produced by them are 'like articles' to the goods originating in or exported from subject country. The domestic industry is producing Saccharin in all its forms. Material produced by domestic industry and imported from China are comparable in physical form and chemical composition. Saccharin imported from China and produced by the domestic industry are technically and commercially substitutable. The domestic industry has also claimed that for manufacturing of Saccharin, Chinese producer follows maumis process for production of Saccharin whereas the Indian producers follow sodium dichromate route, however, there is no difference in the final product.

11. M/s Kaifeng Xinghua Fine Chemical Factory, China PR (Xinghua) stated that Indian saccharin require further processing by user for certain purposes and add cost and inconvenience to these users whereas Chinese saccharin can be used without any additional processing. It has also been stated that Indian and Chinese saccharin have not competed in the same market segments for many years.

12. M/s Tianjin Changjie Chemical Co. Ltd., China PR (Changjie) stated that they have sold sodium saccharin to India during POI and sodium saccharin was neither produced nor sold in India during POI by the applicant.

13. M/s Shanghai Fortune Chemicals Co. Ltd., Shanghai (SFC) stated that they are selling only sodium saccharin to the Indian market.

14. The Authority notes that saccharin produced by the domestic industry and imported from China are comparable. The water content in the soluble and insoluble saccharin are in different ranges. The insoluble saccharin has minimum water content. In many situations insoluble saccharin need to be converted into soluble saccharin for its final use. The Authority also notes that the imports to India are both of soluble and insoluble saccharin and there is no difference in product imported from China PR and produced by the domestic industry. The products produced by the domestic industry and imported from subject Country being identical in all essential characteristics and

commercially and technically substitutable, therefore, are treated as like articles within the meaning of the term as per 2(d) of the Rules.

C. Standing of the Domestic Industry and initiation of the investigation

15. The application was filed by M/s A S Enterprises, Mumbai, M/s Swati Petrochemicals Pvt. Ltd., Thane and M/s Shree Vardhyani Chemical Industry Co. Ltd., Gujarat and their supporters representing All India Saccharin Manufacturers Association, Mumbai, which are the producers of the subject goods in India. The applicants and their supporters account for 81.73% production of subject goods in India and there is no opposition to the application, therefore, the applicants have requisite 'standing' and constitute domestic industry within the meaning of the Indian Anti-dumping Rules.

16. After Preliminary Findings the interested parties have raised a question that one of the major producers i.e. M/s Vishnu Chemicals Ltd., Hyderabad has not joined the investigation, therefore, the calculation for standing is not correct. In this regard, the Authority before initiating the investigation had called for a production data of M/s Vishnu Chemicals Ltd. and its production data was taken into account for calculation of 'standing'. Therefore, the Authority holds that the applicants have requisite standing within the meaning of Anti-Dumping Rules. (After Preliminary Findings M/s Vishnu Chemicals Ltd. joined the investigation and provided the information)

17. It has also been contended by the 'Changjie' and 'Xinghua' that that Chinese saccharin is catering to different market segment and therefore standing should be calculated segment-wise. The Authority did not find any merit in this argument as the saccharin soluble and insoluble are being sold in the same market without any segmentation through same channel of distribution.

Confidentiality

18. The Authority has considered data relating to costing and price of all interested parties as confidential as it would give competitive advantage to their competitors. The other information has not been considered as confidential unless the responding party has given sufficient justification for keeping the information as confidential. The interested parties have raised objection about absence of summary of confidential costing data about the other interested parties, however, the Authority finds that none of the interested party has provided adequate summary of the confidential costing data and justified the same that it was not possible to provide summary of such data. The Authority has considered costing and sales data as confidential and accepted the position taken by all the interested parties in this regard.

D. Methodology for calculation of dumping margin and examination of market economy

D.1 Views of the Domestic Industry

19. The domestic industry submitted that China is a non-market economy. China has been treated as non-market economy by European Commission and USA in the past three years. In India the Designated Authority has treated China as non-market

economy practically in all the investigations initiated after the amendment dated 31.5.2002. Therefore, China is a non-market economy and market economy status treatment cannot be granted to the Chinese producers.

D.2 Submissions made by producers/exporters

D.2.1 Submissions by M/s Shanghai Fortune Chemicals Co. Ltd.(manufacturer) China PR and M/s Majestic International Trading Co. Ltd. (Exporter), Hong Kong.

20. The above mentioned producer and exporter stated that M/s Shanghai Fortune Chemicals Co. Ltd. is a limited company 100% owned by Fortune Knitting Co. Ltd., a company incorporated in Hong Kong. None of the shareholders of the company is a Chinese national. It further states that entire capital of the company has been contributed by a foreign company listed in Hong Kong and is regulated and governed by Company Law, Labour Law and Law of Wholly Foreign-owned Enterprises and Law of Accountancy of China PR. It also stated that raw materials purchased by the company reflect the market prices and are not affected by any State intervention/direction/involvement. It states that M/s Shanghai Fortune Chemicals Co. Ltd. is independently operating its business and arranging its production or sales according to the development of the market and no State or local authority is involved in fixing prices to be sold or quantities to be procured.

21. The protocol of accession of China to the WTO do not indicate Saccharin or any of the raw material for its production as subject to the price control. M/s Shanghai Fortune Chemicals Co. Ltd. is regulated and governed by all the laws including bankruptcy and property law applicable to the company. The company and the business sector does not have any special exemption.

22. Regarding control on production of Saccharin, it has been admitted that there is a production control over saccharin in China by the Government but production control is primarily intended to ensure quality of the product as it is used for edible preparations. It has been further stated that such restrictions do not amount to market intervention. Chinese control over production of saccharin is solely intended to control unauthorised use of saccharin which may cause health hazards. It has also been stated that regulations on saccharin have been issued jointly by Ministry of Health and SETC. Therefore, these regulations should not be construed as Government intervention leading the industry to operate under non-market condition.

D.2.2 Submission made by M/s Kaifeng Xinghua Fine Chemical Factory (Xinghua)

23. Xinghua is a State-owned enterprise in which Government of Kaifeng city holds 100% shares on behalf of Chinese people. It is governed by law of People's Republic of China on Industrial Enterprises owned by the whole people and Ordinance of Workers' Representative Congress of Industrial Enterprise of Public Ownership. Company Law is not applicable to them.

24. Raw materials and other inputs for manufacturing of Saccharin are procured from open market and rates are negotiated and fluctuant. It also states that 'since saccharin industry has a nature of serious pollution, it is necessary for State to take

some measures to guide saccharin producers for the purpose of environment protection. Saccharin producers can independently determine production, quantity and sales prices’.

25. Accounting principles are governed by Accounting Law of People’s Republic of China which is issued by Standing Committee of the National People’s Congress and Accounting System for Business Enterprises which is issued by the Ministry of Finance. About profit distribution, it states that ‘Xinghua allocates 10% of its profits to its statutory common welfare fund. The rest eighty percent is undistributed. It should be noticed that the profit distribution will be decided by Xinghua itself and it is not involved any government control’. About bankruptcy and property law it states that Law of People’s Republic of China Enterprise Bankruptcy applies to Xinghua.

D.2.3 Submissions made by M/s Tianjin Changjie Chemical Co. Ltd (Changjie)

26. Changjie states that it is a Chinese-foreign joint venture company registered under the Law of PR China on Chinese Foreign Equity Joint Ventures and owned by Tianjin Sanqian Science and Technology Group Company (Chinese company) and Xianggang Jielian Trading Co. Ltd. (Hong Kong company).

27. All raw materials and other inputs for manufacturing of Saccharin are purchased from open market and rates are negotiated and fluctuant.

28. Accounting principle and practices used by Changjie are governed by the Accounting Law of the People’s Republic of China which is issued by the Standing Committee of the National People’s Congress and Accounting System of Business Enterprises which is issued by the Ministry of Finance.

29. About the profit distribution, it states that ‘Changjie shall withdraw the reserve fund, the enterprise development fund and the employees’ encouragement and welfare fund according the law. Those funds are drawn from the profit after Changjie pays the income tax according to the law, and the percentage to be withdrawn is decided by the board. It should be noticed that the profit distribution will be decided by Changjie itself and it is not involved any government control.

D.3 Examination of Response to Market Economy Treatment Questionnaire by the Authority

30. The Designated Authority, as per para 8 (2) of the annexure 1 of AD rules for the purpose of assessing the normal value proceeded with the presumption that any country that has been determined to be or has been treated as a non-market economy for the purposes of anti-dumping investigations by the Designated Authority or by the competent authority of any WTO member country during the three years period preceding the investigation is a non-market economy country. In the past three years China PR has been treated as a non-market economy country in the anti-dumping investigations by WTO members such as EU and USA. In the instant case China PR has been proposed to be investigated as a non-market economy country.

31. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China

provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

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

32. The Authority sent copies of the questionnaires to all the known exporters for the purpose of determination of normal value. Responses have been received from three producer and related exporter and they have claimed Market Economy Treatment (MET). Response information to the questionnaire was filed by the following producers/exporters:

1. M/s Shanghai Fortune Chemicals Co. Ltd., China PR (SFC) and M/s Majestic International Trading Co. Ltd., Hong Kong (Majestic)
2. M/s Kaifeng Xinghua Fine Chemical Factory, China PR (Xinghua)
3. M/s Tianjin Changjie Chemical Co. Ltd., China PR (Changjie)

D.3.1 M/s Shanghai Fortune Chemicals Co. Ltd., China PR and M/s Majestic International Trading Co. Ltd., Hong Kong

33. The Authority notes that M/s Majestic International Trading Co. Ltd. (Majestic) is a private company established under Companies Act of the Hong Kong. It is owned by one Hong Kong national and M/s Fortune Knitting, a company incorporated in Hong Kong which in turn is owned by six private individuals. Majestic is a trading company involved in the purchase/import and export of chemicals and number of houseware items. They were procuring saccharin from a related company M/s Shanghai Fortune Chemical Co. Ltd. China PR and exporting the same to India and to other countries. Majestic is also involved in purchase of raw materials for manufacture of saccharin. It was noted that Majestic did not have any sales of saccharin in the domestic market.

34. M/s Shanghai Fortune Chemical Co. Ltd. (SFC) was established in 1988 as a joint venture (JV) between a State-owned enterprise with a shareholding (minority) and Fortune Knitting with a share holding (majority). Fortune Knitting is a Hong Kong based foreign company held by Canadian nationals. According to joint venture agreement, State-owned enterprise contributed capital in form of building and

equipment whereas Fortune Knitting company contributed capital in cash. For valuation purpose, both the parties engaged the services of accountancy firms. As per the JV agreement, the major portion of production was to be sold to the overseas market by JV foreign partner. The JV agreement underwent change in 1996 when M/s Fortune Knitting bought out the share of State-owned enterprise. Though the company was running into losses even then Fortune Knitting paid higher price to the State-owned enterprise as per negotiated settlement. From 1996 onwards SFC has no Government holding. In 2004 SFC acquired the land on lease basis from the Central Government whereas earlier it was paying the rent for the land use to the local government.

35. It was noted that there is overall production control on saccharin in China PR. The control was in form of production and allocation of quota for export and domestic sales. Every year, the State Economic and Trade Commission or National Development & Reform Commission issues the production quota to each saccharin producer. Each month the saccharin producers should submit their production quantity to the sugar association. At the end of each year the sugar association will carry out verification for the year's production of saccharin. If any enterprise produces more saccharin than the quota assigned to it then the sugar association reports the matter to local economy and trade commission and State Economic and Trade Commission takes action against the enterprise through local government. To monitor export quotas, the China Chamber of Commerce and Medicine & Health Products importers and exporters is responsible. For each export sales, the saccharin exporter should send export contract to the chamber, the chamber will verify and sign on the contract. Thereafter the exporter can declare their goods to the China Customs.

36. It was stated by the SFC that they had been exceeding the domestic quota sale every year and no penal action in this regard had been taken against SFC. According to SFC the production quota system was never thought of as a means to control production. Rather they were indicative in nature with a view to maintain pollution control under check. It was also stated that quota system did not control the price at which the product could be sold. In this regard, the Authority notes that in the year 2000 the SFC had sold a higher than the allocated quota in the domestic market and in this regard some penalty in the form of revenue appropriation by the Central Government was made. It was also noticed that the State Government does not restrict the saccharin export, however, export exceeding the plan target should be approved by the State Economic and Trade Commission.

37. One of the major raw materials Phthalic Anhydrite (PAN) was partly imported from Japan through M/s Majestic International and partly purchased from the domestic market. It was noted that PAN had also been obtained from domestic limited liability companies, Sino-foreign joint venture companies and wholly State owned companies. The procurement prices from domestic liability company and Sino joint venture companies and foreign companies were found to be in the same range reflecting the current market prices. Another raw material Ammonia Water has been shown to be purchased from three different domestic liability companies showing the comparable prices. Similarly, purchase of copper sulphate has been shown to be purchased from two different suppliers showing comparable prices.

38. Utilities such as electricity has been shown to be purchased as per the tariff structure.

39. It was noticed that the Majestic was running into losses in purchase of Saccharin from Shanghai and selling the same to the exporters in India.

D.3.2 M/s Kaifeng Xinghua Fine Chemical Factory

40. It was noted that Kaifeng Xinghua Fine Chemical Factory (Xinghua) was owned by Government of Kaifeng city during POI. Subsequently in 2005 there was change in ownership and it was taken over by a group. The company was originally established in accordance with Enterprise Legal Person Registration of the People Republic of China to develop the socialist market economy and therefore, owned by Chinese people. Pursuant to Law of People's Republic of China on Industrial Enterprises owned by own people and Ordinance of Workers' Representative Congress of Industrial Enterprises of Public Ownership, the basic form of practice for democratic management in Xinghua is workers' representative congress instead of board of directors. The congress represents the interest of all staff and workers and is an organ for the staff and workers to exercise their powers of democratic management over the enterprise.

41. It was noted that as per Chapter IV of Law of People's Republic of China on Industrial Enterprises, the selection of factory director was made by department of the government and he was legal representative of the enterprise. The director was exercising control on the production, operation and management of the enterprise. It was also noted that the enterprise was working under the guidance of State plan and was to arrange production of the product needed by the society.

42. It was noted that there is overall production control on saccharin in China PR. The control was in form of production and allocation of quota for export and domestic sales. Every year, the State Economic and Trade Commission or National Development and Reform Commission issues the production quota to each saccharin producer. Each month the saccharin producers should submit their production quantity to the sugar association. At the end of each year the sugar association will carry out verification for the year's production of saccharin. If any enterprise produces more saccharin than the quota assigned to it then the sugar association reports the matter to local economy and trade commission and State Economic and Trade Commission takes action against the enterprise through local government. To monitor export quotas, the China Chamber of Commerce and Medicine & Health Products importers and exporters is responsible. For each export sales, the saccharin exporter should send export contract to the chamber, the chamber will verify and sign on the contract. Thereafter the exporter can declare their goods to the China Customs.

43. Regarding raw materials it was noted that one of the main raw materials i.e. Phthalic Anhydrite and some other raw materials were purchased from private company whereas other major raw materials were procured from State owned enterprises. However, raw materials purchased from State-owned enterprises could not be compared with raw materials from other companies to establish that purchases were made in accordance with market conditions. Copper sulphate one of the main raw materials was found to be purchased from state owned enterprise and it was explained that the company has monopoly to sell the product in the area.

44. It was noted that electricity and water were purchased from state owned enterprise in which state hold the monopoly.

D.3.3 M/s Tianjin Changjie Chemical Co. Ltd

45. It was noted that Tianjin Changjie Chemical Co. Ltd. (Changjie) was formed in 1993 as a joint venture company between a collectively owned enterprise and Xianggang Jieliang Trade Co. Ltd. In 2001 the JV agreement was rewritten by replacing the name of collectively owned enterprise with Tianjin Sanqian Science and Technology Group Co. (TSSTGC). In 2004 TSSTGC was renamed as Tianjin Sanqian Group Company.

46. It was also noted that TSSTGC was founded in 1998 in which a collectively owned company with a very high percentage of shares and an industry company with balance shareholding, held the shares. In 2003 and 2004 four individuals bought 100% TSSTGC shares. It was informed that these four individuals were very high officials in the TSSTGC and could buy the company because of bonus earned by them in accordance with contracts between four individuals and TSSTGC. It was also informed that these four individuals were never been on the board of directors of Changjie. It was also noted that there was no document available to show such contract between four individuals and TSSTGC. It was also noted that there was no change in the management of the company reflecting the change of ownership in 2003 and 2004.

47. It was noted that major raw materials such as Phthalic Anhydrite, sulphuric acid and liquefied chlorine were purchased from state owned enterprises or joint venture companies and no comparison of prices could be made with the private company selling the same raw material. Electricity and water were provided by state owned enterprises and it was informed that the state hold monopoly in these areas.

48. It was noted that there is overall production control on saccharin in China PR. The control was in form of production and allocation of quota for export and domestic sales. Every year, the State Economic and Trade Commission or National Development and Reform Commission issues the production quota to each saccharin producer. Each month the saccharin producers should submit their production quantity to the sugar association. At the end of each year the sugar association will carry out verification for the year's production of saccharin. If any enterprise produces more saccharin than the quota assigned to it then the sugar association reports the matter to local economy and trade commission and State Economic and Trade Commission takes action against the enterprise through local government. To monitor export quotas, the China Chamber of Commerce and Medicine & Health Products importers and exporters is responsible. For each export sales, the saccharin exporter should send export contract to the chamber, the chamber will verify and sign on the contract. Thereafter the exporter can declare their goods to the China Customs.

Production Control and Subsidy

49. The Authority notes that in China there is not only production control but also quota allocation for export and domestic sales of saccharin. In this regard, the Authority takes note of the following

50. *A report published in 'People's Daily', a Chinese newspaper. The report states that "China has decided to limit its saccharin market to five companies that will control the production and sale of the non-fattening substitute for sugar this year. The State Economic and Trade Commission has said that nine other saccharin plants have been*

shut down or diverted to other industries, according to China Daily's report on February 25. The moves are part of an effort to curb saccharin production to help China's slumping sugar industry, the report says. Other the past four years, China's sugar industry lost ten billion yuan (1.2 billion US dollars) because of price dropping on the domestic market. Industry insiders attribute the price fall in part to mounting production and the widening use of saccharin in food and beverages in recent years. To help sugar producers, less than 3,000 tons of saccharin will be allowed onto the domestic market this year, said officials with the State Administration of Petroleum and Chemical Industries, which oversees saccharin production. Chinese saccharin producers will be urged to look more at overseas markets. The five companies that will control the saccharin market will produce less than 16,000 tons of saccharin this year, compared with more than 20,000 tons in 1999. Meanwhile, the sugar industry is seeking to keep production under 7.5 million tons this year to stabilize prices on the domestic market. Sugar producers plan to close 143 small plants this year to meet the target."

51. *A note issued by Economic Operation Bureau of State Economic and Trade Commission. It states that, "In response to the gist of the Public Announcement on Regulations of strengthening the Control over Saccharin Production, Distribution and Application (No.500 [2000] Economic Operation Department of State Economic and Trade Commission) issued by the seven ministries and commissions including the State Economic and Trade Commission, the Ministry of Finance, the General Administration of Customs etc, and the important official instruction from the head of State Council to tighten the rule to curb the serious over-production and over-distribution in the Saccharin industry, in order to put into effect the official instruction and further fulfill the control over saccharin industry, Economic Operation Bureau of State Economic and Trade Commission authorizes specially China Sugar Association to be in charge of the supervision over and data collection and statistics of the production and distribution of saccharin industry along with the related operation such as import and export of saccharin products."*

52. *A letter dated Dec.6th 2003 by China Sugar Association which states that "Dear Saccharin Production Enterprises: Authorised by the State Economic and Trade Commission, China Sugar Commission will accept the authorization to coordinate the control over saccharin production and distribution. Saccharin production is a chemical industry that discharges significant amount of pollutant effluent and it is difficult to keep COD and indexes of the content of ammonia and nitrogen in the effluent tallied with the national standard. The sugar industry at large will initiate the formulation of Discharge Standard for Saccharin Pollutant and work vigorously with departments of State Environmental Protection Administration to safeguard the environment. As a food addictive, saccharin is the cheapest sweetener in unit sweetness. Driven by economic profit, excessive application of saccharin in food beyond officially permitted scope has been a comparatively serious phenomenon that imperils directly the health of consumers as well as their legitimate right and interest. We are going to take an active part in working the departments of State Administration of Industry and Commerce to carry out specialized rectification over the food market so as to ensure food safety. All saccharin production enterprises must abide by rigorously the state rules and laws concerning saccharin production. Economic punishment shall be levied on those enterprises that breach the rules and laws by over-production and over-distribution and, if necessary, legal responsibility will be investigated and affixed."*

53. *A letter of authorization issued by Economic Operation Bureau of State Economic and Trade Commission which states that “Based on the regulations of the state policy to impose restriction over the production and distribution of saccharin industry for the sake of the safety of China’s sugar market, upholding the interest of sugar farmers and safeguarding public health, in accordance with disposition by the former State Economic and Trade Commission, China Sugar Association has carried out considerable amount of meticulous performances in a deep-going way and achieved proper success since the year 2000. In order to further the end, decision is made to authorize China Sugar Association to continue to assist the Economic Operation Bureau of State Economic and Trade Commission to regulate the saccharin industry.”*

54. *Notices issued by the National Development and Reform Commission of the People’s Republic of China in the years 2001, 2002, 2003 and 2004 in which the supervisory authority for five different manufacture has been shown as Economy and Trade Commission of Tianjin municipality, Economy and Trade Commission of Shanghai Municipality, Economy and Trade commission of Jiangsu Province, Development and Reform Commission of Henan Province.*

55. The Authority notes that every year National Development and Reforms Commission issues the production quota to five producers of saccharin and each month the saccharin producers are required to submit their production quantity to the sugar association. At the end of each year, the sugar association carries out verification of production of saccharin. In case an enterprise produces and sells in the domestic market more saccharin than the quota assigned to it, then the sugar association report the matter to Local Economy and Trade Commissioner and action is taken against the enterprise through local government. For monitoring the export quotas the China Chamber of Commerce and Medicine & Health Products Importers and Exporters is responsible. For each export sales the saccharin exporter is required to send export contract to the Chamber, the Chamber verify and sign on the contract thereafter only the exporter can send the goods to the China Customs for export purpose.

56. For 2004 the five producers were allocated 24000 MT quota for production out of which 19000 MT was for the export sales and balance 5000 MT (1500 MT for food industry and 3500 MT for non-food industry) was allocated for domestic sales. The Authority also notes that the production quota kept on increasing from year 2000 onwards. Production quota was 15500 MT in 2000 which increased to 17000, 17500, 17500 and 24000 MT in 2001, 2002, 2003 & 2004 respectively and quota for domestic sale increased from 2500 MT in 2000 to 3000, 3500 and 5000 MT in the same period.

57. The Authority notes that the State Authority does not restrict exports but for volume exceeding export quota the concerned party is required to report matter to Committee of Economy & Trading of People’s Republic of China for ratification.

58. It has been contended that the production control on saccharin is for the purpose to put check on pollution, however, the Authority is of the view that had control been to check pollution only then the production quota would have declined over the years whereas in this case the production quota kept on increasing. Secondly, for pollution control some regulatory mechanism was required to be put in place but by restricting sales of saccharin in domestic market how pollution control can be achieved is not understandable.

59. The Authority also notes that the exporters of Saccharin are receiving subsidy income from the Government, however, the same could not be traced in the accounts of all the cooperating exporters.

60. In view of the fact that there is a production, selling control in China PR and only a small portion of production is allowed to be sold in domestic market and rest of the production necessarily need to be exported and also that for exceeding the quota allocated for domestic sales, there is penalty provision whereas for exceeding the export sales the target only need to be approved by State Economy and Trade Commission, and also further that there is subsidy available to the exporters of saccharin, the Authority holds that the Saccharin exporters and producers are not operating in accordance with market economy principle in China PR and failed to rebut the presumption that they are working in non-market economy.

Constructed Normal Value

61. The Authority is, therefore, unable to apply the principles set out in paragraph 1 to 6 of Annexure 1 for determination of normal value for the Chinese exporters. The normal value in respect of all exporters/producers from China PR is determined as per Rules relating to non-market economy as contained in para 7 of Annexure 1 of AD Rules.

62. As per para 7 of Annexure 1 of AD Rules, the Authority is required to determine normal value on the basis of '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.' The domestic industry, before Preliminary Findings, had proposed that S. Korea may be considered as appropriate market economy third country and has provided some data in respect of export prices from S. Korea in this regard. On examination of this data it was found that if prices from S. Korea to other countries are taken as normal value, the dumping margin would be higher than that calculated by relying on the constructed normal value, therefore, the information was not relied upon. The prices from third country to India would also be not appropriate to determine as imports from other countries (other than subject country) to India is too small to permit any meaningful conclusion of the normal value. Therefore, for the purpose of Preliminary Findings, the Authority had determined the normal value by resorting to method 'any other reasonable basis'. In this regard, interested parties namely Changjie and Xinghua have stated that "the choice of surrogate economy must be based on reasonable criteria and include comparison of capacity and scale of production, ownership, development, availability of raw material and not arbitrarily based without reasonable comparable grounds". However, in this regard no data or information has been provided by any interested party. The Authority for the purpose of final findings has resorted to 'other reasonable basis' for construction of normal value.

D.4 Normal Value

63. Under the circumstances, the Authority has constructed the normal value by considering the raw material for manufacture of Saccharin at the international prices, the consumption norms of Chinese producers, conversion cost of Indian producers and reasonable profit. Based on above information available, the normal value has been calculated as USD *** PMT after considering the average exchange rate during POI of 1USD=Rs.45.62/-

D.5 Response to the Exporter's Questionnaire

64. Though the normal value has been constructed considering China PR as a non-market economy, however, the data provided by the producer/exporter and the information given by the producer/exporter regarding inland transportation, insurance, ocean freight and marine insurance has been taken into account, after verifying the same, to determine ex-factory export price.

D.5.1 Export price (M/s Shanghai Fortune Chemicals Co. Ltd. & M/s Majestic International Trading Co. Ltd.)

65. The Authority has taken weighted average CIF price as US\$*** PMT of imports from the producer exporter and after considering adjustment on account of inland freight as \$ ***, ocean freight as \$***, overseas insurance as \$***, credit cost as \$*** and others as US\$ *** ex-factory export price for Saccharin comes to USD *** per MT.

D.5.2 Export price (M/s Kaifeng Xinghua Fine Chemical Factory)

66. The Authority has taken weighted average CIF price as USD *** PMT of imports from the producer and after considering adjustment on account of inland freight as \$ ***, ocean freight as US\$ ***, overseas insurance as US\$ *** commissions as US\$ *** and others as \$*** ex-factory export price for Saccharin comes to USD *** PMT.

D.5.3 Export Price (M/s Tianjin Changjie Chemical Co. Ltd.)

67. The Authority has taken weighted average CIF price as \$*** PMT of imports from the producer and after considering adjustment on account of inland and overseas freight as \$***, overseas insurance as \$ ***, and rebates/commission as \$ ***, ex-factory export price for Saccharin comes to USD *** per MT.

D.5.4 Other exporters/producers from China PR

Export Price for Other Exporters

68. The ex-factory export price has been determined as per data available with the Authority. The Authority has taken CIF price as \$*** of imports. after considering adjustment on account of inland freight as \$***, overseas freight as US\$ ***, overseas insurance as US\$ ***, commissions as US\$ *** and others as \$*** ex-factory export price for Saccharin comes to USD *** PMT.(The average exchange rate of Rs.45.62/- =1USD during the period of investigation has been adopted.)

D.6 Dumping Margin

Exporter/Producer	Normal Value	Ex-Factory Export Price USD/MT	Dumping Margin
M/s Shanghai Fortune Chemicals Co. Ltd., China PR (Manufacturer) and M/s Majestic	***	***	26.75 %

International Trading Co. Ltd., Hong Kong (Exporter)			
M/s Kaifeng Xinghua Fine Chemical Factory	***	***	43.05%
M/s Tianjin Changjie Chemical Co. Ltd.	***	***	49.65 %
Others	***	***	135.53%

69. The dumping margins so determine after verifying the data are significant and above de minimis.

E. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

E.1. Views of the domestic industry

70. Domestic industry has claimed that the injury to the domestic industry is not four years phenomena and the domestic industry has suffered injury since many years. As per the domestic industry, trend of imports shows that it has been increasing consistently since 1993-94 and share of the domestic industry had been declining since then. Domestic industry has faced severe volume injury as well as price injury and claimed that injury to the domestic industry has been caused by the dumped imports. It further states that 'There is too significant difference between the prices offered by the domestic industry and foreign producers. Even when the domestic industry has been offering sub-optimal prices, it is facing significant price undercutting. Resultantly, the consumers are increasingly preferring imported product. This has resulted in increase in volume of dumped imports and decline in sales volume of the domestic industry.' 'Decline in sales volume of the domestic industry directly resulted in decline in production and capacity utilization of the domestic industry. Such is the extent of declining demand for the domestic industry's product that the Indian producers are being forced to suspend or close their operations; existence of significant price undercutting and resultant sub-optimal prices offered by the domestic industry have had direct impact on the financial situation of the Indian producers. Indian producers have been facing continuous financial losses. Such financial losses have been increasing; deteriorating financial losses are adversely impacting the cash flow and the ROI of the Indian producers; continuous dumping has resulted in loss of production, capacity utilization and the employment of the country; significant price undercutting has resulted in increase in volume of imports and consequently increase in share of imports in the demand of the product in the country. As a direct consequence, market share of the domestic industry fell from over 80% a decade before to less than 15% at present.'

E.2. Examination by the Authority

71. In the Preliminary Findings the Authority had taken into account data of M/s Jetsons, Dist. Thane, Maharashtra, M/s Goldstar, Ankleshwar, and M/s Ameeta

Chemicals, Baroda, in addition to data of M/s A S Enterprises, M/s Swati Petrochemicals, M/s Shree Vardhyani and M/s Ameeta Chemicals. The data provided by M/s Asian Chemicals was not taken into account as it was found that the company was also importer of Saccharin. After preliminary findings the Authority noted that M/s Goldstar is no longer producing saccharin and facility has been sold out. M/s Vishnu Chemicals Ltd. provided information and the same has been taken into account after verification. The data of other manufacturing units have been, wherever possible, verified.

72. Subsequent to preliminary findings, importers M/s Artek Surfin Chemicals Ltd., Mumbai, M/s Colgate Palmolive (India) Ltd., Mumbai, M/s Paras Chemplast Pvt. Ltd., Mumbai and M/s Grauer & Weil Ltd., Mumbai also submitted the data for verification and consideration in the final findings. The data provided by the importers was verified. It was contended by the importers that M/s Vishnu Chemicals Ltd., one of the major manufacturer of the subject goods has not joined the investigations. The Authority had before initiation of the investigation, taken into consideration production of M/s Vishnu Chemicals Ltd. for the purpose of calculation of 'standing' of the applicant. After preliminary findings M/s Vishnu Chemicals Ltd. submitted the required information and same has been taken into account after its verification. M/s Vishnu Chemicals has alleged that "should the Chinese producers allow to continue to dump the material, it would materially retard our establishment of the production facilities. Certainly, it would prevent us from increasing our capacity further." The interested party had earlier contended that M/s Vishnu Chemical Ltd. should join the investigations. The Authority therefore, has taken into account the data submitted by this company even at the late stage. The Authority has taken note of various arguments raised by various parties in their submissions subsequent to Preliminary Findings.

73. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

74. For the purpose of injury analysis 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.

75. Since positive dumping margin has been established for the exports from the subject country, entire exports from the subject country has been treated as dumped imports for the purpose of injury analysis and causal links examination.

(A) **VOLUME EFFECT:** Volume Effect of dumped imports and Impact on domestic Industry

76. The domestic industry stated that their subject goods are being exported under heading 29251100 of the Chapter 29 of Custom Tariffs Act, 1975. The Authority taken transaction-wise data from Directorate General of Commercial Intelligence & Statistics (DGCI&S). The year wise data of imports of saccharin from subject country and other countries are given below:

i) Import Volumes and share of subject country

Particulars	Unit	2001-2002		2002-2003		2003-2004		Jan 04-Dec 04	
		Volume	Value	Volume	Value	Volume	Value	Volume	Value
Import as per DGCI&S									
Subject Country (China)	MT/Lacs	1140.00	1217	1344	1428	1772	2006	1872	2017
Trend	Indexed	100	100	118	117	155	165	164	166
Other Countries	MT/Lacs	14.25	59	46	44	5	13	6	19
Trend	Indexed	100		321		36		44	
Total Imports	MT/Lacs	1154.25	1276	1389	1472	1778	2019	1878	2036
Trend	Indexed	100		120		154		163	

Market Share in Imports

Market share of Import	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
China	%	98.77	96.70	99.71	99.68
Trend	Indexed	100	98	101	101
Other countries	%	1.23	3.30	0.29	0.34
Trend	Indexed	100	267	23	27

77. Import data shows that imports from China constitute major portion of total imports. Imports from other countries constitute insignificant quantities from base year to POI.

78. Imports from China had been rising consistently and had increased by 64% during POI as compared to base year. This indicates that as compared to growth in demand which had risen by 55% during POI as compared to base year the imports growth from the subject country had been disproportionately high.

79. The prices of imports from subject country had remained same from base year to POI, however, these prices were significantly low as compared to the prices from the other countries. Prices of subject goods from subject country were in the range of 25%-45% of the prices from other countries from base year to POI. After Preliminary Findings it was contended by interested parties that imports data relating to other country is prima facie inaccurate. However, in support of the contention no evidence

was submitted. The Authority has checked the transactionwise data of imports and found that the imports from other countries constitute 24 transactions from 4 countries. The imports transactions are of small quantity, however, it indicates the price difference between subject country and other countries.

80. Data on imports shows share of subject goods from the subject country had been rising consistently except in the year 2002-03. It was 98.8% in the year 2001-02 and it increased to 99.7% during POI whereas share of the other countries which was only 1.2% during 2000-01, declined to 0.3% during POI.

ii) Demand, Output and Market shares

a) Growth in Demand

Demand	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Imports from China	Mt	1140	1344	1772	1872
Other Countries	Mt	14	46	5	6
Sales - domestic industry	Mt	172	185	199	250
Sales -Others	Mt	73	48	39	40
Total demand	Mt	1399	1622	2016	2168
Trend	Indexed	100	115.95	144	155.04

81. The total demand of the subject goods has been calculated by addition of domestic sales of domestic producers and imports (as reported by DGCI&S) of subject goods from all the countries. The subject goods shows robust growth in demand during POI as compared to base year. During POI the demand had risen by 55% as compared to the base year. On the year to year basis, in 2002-03, 2003-04 and POI it rose by 16%, 24% and 8% respectively.

b) Production of the Domestic Industry

Capacity	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic industry	MT	510	510	870	870

Production	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic industry	MT	173.19	189.07	210.09	243.88
Trend	Indexed	100	109	121	140

Capacity Utilization	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic industry	%	33.96	37.04	24.15	28.03
Trend	Indexed	100	109	71	82

82. The domestic industry has alleged that dumping from China had been continuously taking place since many years. The industry, therefore, have been under

severe pressure to compete with the dumped imports and many of the units were unable to survive and had to close down. The Authority notes that some other producers have stopped production of saccharin though their plants have not been diverted to production of any other material. Some of the manufacturers are producing very small quantity of saccharin as compared to their production capacity. . M/s Vishnu Chemicals Ltd. which was earlier manufacturing other chemicals such as Sodium Bichromate, Basic Chromium Sulphate has set up a capacity of 360 MT during POI. Estimate of Indian manufacturing capacity shows that it was 1160 MT during 2001-02 and 2002-03, however, by addition of capacity by M/s Vishnu Chemicals it increased to 1560 MT during POI. For the purpose of injury analysis the Authority has taken into account data of six manufacturers and it shows capacity was 510 MT in 2001-02 and 2002-03 which changed in 2003-04 and during POI by addition of capacity of 360 MT by M/s Vishnu Chemicals Ltd.

83. The data of DI on production of saccharin shows that production during POI had increased from 173.72 MT in 2001-02 to 243.88 MT during POI. (excluding Vishnu Chemicals it was 186.01 MT during POI) On year to year basis it increased by 8.73% in 2002-03 and grew by 21.17% in 2003-04 and 40.39% during POI. (excluding M/s Vishnu Chemicals it grew by 19% in 2003-04 and 7% during POI.)

84. Details of capacity utilisation shows that it increased from 34.06% in 2001-02 to 37.04% in 2002-03 and declined to 24.20% in 2003-04 and 28.03% during POI. (excluding M/s Vishnu Chemicals the capacity utilisation was 40.65% in 2003-04 and 36.47% during POI) The data indicates that the robust growth in demand of the subject goods had not benefited the domestic industry as it could not increase capacity utilisation commensurate with growth in demand.

c) Sales of Domestic Industry

Domestic Sales	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic industry	MT	171.81	184.79	199.10	250.07
Trend	Indexed	100	108	116	146

85. The data on sales shows the domestic sales quantity increased from 171.81 MT in 2001-02 to 250.07 MT during POI (excluding M/s Vishnu Chemicals sales increased to 194.18 MT during POI). The average inventory stock shows that it was equivalent to 7 days of sales in 2001-02 and it increased to 25 days in 2003-04. It was 21 days during POI. (excluding Vishnu Chemicals it was 11 days in 2003-04 and 6 days during POI).

86. Despite the growth in demand by 55% during POI and available capacity, the domestic industry could not increase their capacity utilization commensurate with growth in demand rather their average inventory increased considerably showing difficulties of producers in selling their product in the market conditions where dumped materials were available at cheap prices.

d) Demand and Market Share

Share in Demand	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Imports from China	%	81.48	82.83	87.93	86.33

Trend	Indexed	100	101.64	107.91	105.95
Other Countries	%	1.02	2.82	0.25	0.29
Domestic industry	%	12.28	11.39	9.88	11.53
Trend	Indexed	100	93	80	94
Other Producers	%	5.22	2.96	1.93	1.84

87. The data shows that growth in demand during POI was 55% as compared to the base year. The share in demand from subject country was quite significant during the base year, however, it kept on increasing and rose by 8% in 2003-04 and 6% during POI as compared to base year. The share in demand from other countries was insignificant during base year and declined to miniscule 30% of the base year during POI. The share in demand of the domestic industry kept on declining from base year till 2003-04 however it rose to 11.53% to POI because of sales made by new manufacturer M/s Vishnu Chemicals. Similarly, the share of the other domestic producers kept on declining consistently and declined to 1.84% during POI. The analysis shows that the exporters from the subject country not only took advantage of growth in demand rather they captured the market share of other exporters and domestic industry, consequently the other exporters had been reduced to insignificant players.

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

88. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry (worked out after normating the costing information of the Domestic Industry) have been compared with the landed cost of imports from the subject country.

(i) Evaluation of price over Period of Investigation

Export Price	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
China	Rs./Kg	106.78	106.27	113.17	107.75
Trend	Indexed	100.00	99.52	105.99	100.91
Other Import	Rs./Kg	411.81	97.13	259.97	309.60

89. The data on prices reveal that prices from subject country had not changed much from base year to POI. However, these prices were very low as compared to prices from other countries. The prices from subject country were in the range of 25%-45% of the prices from the other countries. Though the imports from other countries constitute very small quantity, however, 24 transactions from 4 different countries indicate the price difference between subject country and other countries.

(ii) Price undercutting and underselling effects

	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
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Cost of Production					
Domestic Industry	Rs./kg.	***	***	***	***
Trend	Indexed	100	96	93	97
Selling Price					
Domestic Industry	Rs./kg.	***	***	***	***
Trend	Indexed	100	96	95	86
Profit/ Loss					
Domestic Industry	Rs./kg.	***	***	***	***
Trend	Indexed	-100	-105	-70	-236
Profit/ Loss on Domestic sales					
Domestic Industry	Rs./Lacs	***	***	***	***
Trend	Indexed	-100	-113	-81	-343
Cash Profit					
Domestic Industry	Rs. Lacs	***	***	***	***
Trend	Indexed	-100	-126	-74	-422
Net Sales Realisation Value (NSR x Sales)					
	Rs. Lacs	***	***	***	***
Trend	Indexed	100	103	111	125
Landed value					
Customs Duty		35%	30%	25%	20%
China	Rs./kg.				130.59
Price Undercutting					***
Price Undercutting Range	%				30-40%
NIP	Rs/Kg				***
Price underselling	Rs/Kg				***
Price underselling Range	%				45-55%

90. Selling price (Net Sales Realisation) of the domestic industry shows decline to 86% of the base year during the period of investigation as compared to the cost of production which declined to 97% of the base year during POI.

91. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject country over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the value reported in the DGCIS data of export prices from the subject country.

92. In determining the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

93. For the purpose of price underselling determination the weighted average landed prices of imports from subject country have been compared with the Non-injurious selling price of the domestic industry determined for the POI.

94. The Authority notes that Imports from the subject country have been significantly below the net sales realization of the domestic industry as well as the non-injurious price estimated for the domestic industry thus resulting in significant price undercutting and underselling. Price undercutting is in the range of 30-40% and price underselling is in the range of 40-50% during POI.

(iii) Price suppression and depression effects of the dumped imports

95. The price suppression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject country.

96. The trend of cost of production shows that cost of production declined to 97% of the base year whereas the selling price declined to 86% of the base year during POI. As imports from subject country were coming at significantly low prices since many years, therefore, selling prices were already depressed. However, the undercutting in the range of 30%-40% during POI further suppressed the prices whereby selling prices declined to 86% of the base year as compared to the cost of production which declined to 97% of the base year during POI.

E.3 Examination of other Injury Parameters

97. 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 analysed hereunder as follows:

i) Growth

Growth(Year to Year basis)	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Growth in Sales	%	-	7.56	7.74	25.60
Growth in Demand	%	-	15.95	24.25	7.58
Growth in Mkt Share of DI	%	-	-7.23	-13.29	16.75
Growth in Production	%	-	9.16	11.12	16.08
Growth in Avg. Stocks	%	-	85.88	128.50	2.79

98. Growth measured on year to year basis shows that demand had been rising consistently. The imports also show consistent growth. Production, sales and average inventory shows rising trend. Market share of domestic industry was negative till 2003-04, however, it turned positive in POI.

Productivity

Employment (Number of employees)	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic Industry	Nos.	***	***	***	***
Trend	Indexed	100	100	122	118

Salary & Wages DI	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic Industry	Rs. Lacs	***	***	***	***
Trend	Indexed	100	89	95	106

Productivity (Production per employee)	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic Industry	Mt	***	***	***	***
Trend	Indexed	100	109	100	120

99. The data on employment shows that the number of employees had risen by 18% during POI as compared to base year. The salary and wages of domestic industry had been declining from base year till 2003-04, however, it increased by 6% during POI from base year because of commencement of production by M/s Vishnu Chemicals. The productivity which is measured as production of subject goods per employee, shows rising trend. It was 20% higher during POI as compared to base year.

ii) Profits and actual and potential effects on the cash flow

	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Cost of Production					
Domestic Industry	Rs./kg.	***	***	***	***
Trend	Indexed	100	96	93	97
Selling Price					
Domestic Industry	Rs./kg.	***	***	***	***
Trend	Indexed	100	96	95	86
Profit/ Loss					
Domestic Industry	Rs./kg.	***	***	***	***
Trend	Indexed	-100	-105	-70	-236
Profit/ Loss on domestic sales					
Domestic Industry	Rs./Lacs	***	***	***	***
Trend	indexed	-100	-113	-81	-343
Cash Profit					
Domestic Industry	Rs. Lacs	***	***	***	***
Trend	Indexed	-100	-126	-74	-422

100. The data indicates the cost of production had been declining from base year to POI. It declined to 97% of the base year during POI. The selling price had been

showing declining trend, however, the decline in selling price is more pronounced as compared to the decline in cost of production. The selling price declined to 86% of the base year during POI. The losses per unit increased by 136% during POI as compared to base year. (excluding Vishnu Chemicals the losses increased by 41% during POI as compared to base year) Similarly, the losses on domestic sales had been rising and increased by 243% during POI as compared to base year. (excluding Vishnu Chemicals the losses increased by 59%). The cash (losses) increased by 322% during POI as compared to the base year.(excluding Vishnu Chemicals the cash losses increased by 81% during POI as compared to base year)

iii) Employment and wages

Employment (Number of employees)	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Domestic Industry	Nos.	***	***	***	***
Trend	Indexed	100	100	122	118
Salary & Wages DI					
Domestic Industry	Rs. Lacs	***	***	***	***
Trend	Indexed	100	89	95	106

101. The data on employment shows that the number of employees had been increased by 18% during POI as compared to base year. The salary and wages of domestic industry had increased by 6% during POI as compared to base year.

iv) Return on investment and ability to raise capital

	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Net Fixed Assets (for Product)					
Domestic Industry	Rs. Lacs	***	***	***	***
Trend	Indexed	100	117	516	521
Capital Employed (for Product)					
Domestic Industry	Rs. Lacs	***	***	***	***
Trend	Indexed	100	98	248	269
Return on Capital Employed					
Domestic Industry	%	***	***	***	***
Trend	Indexed	-100	-124	-34	-168

102. The above data shows that the net fixed assets of the company for this product had changed significantly during POI because of investment by M/s Vishnu Chemicals. **The return on net capital employed** declined to -168 (indexed) from the base of -100 in the base year.

v) **Investment**

103. The authority notes that the capacity of the domestic industry has changed during POI. M/s Vishnu Chemicals which was earlier manufacturing chemicals such as Sodium Bichromate and basic chromium sulphate has set up new capacity by making fresh investment.

vi) **Magnitude of Dumping**

104. Magnitude of dumping as an indicator of the extent to which the dumped imports can injure the domestic industry shows that the dumping margin determined against the subject country named, for the POI, is significant.

vii) **Factors affecting prices**

105. Change in cost structure if any, competition in the domestic industry and prices of competing substitutes have been examined for analyzing the factors other than dumped imports that might be affecting the prices in the domestic market. The cost of production declined to 97% of the base year during POI. The export price from China increased by 6% during 2003-04 before declining and it was 1% higher during POI as compared to base year. The custom duty declined from 35% in base year to 20% during POI. Consequently, landed value of imports from China declined to 90% during POI as compared to base year. However, the selling price declined to 86% of the base year during POI. The Authority notes that Landed values of imported material from subject country was significantly below the selling price of the domestic industry, causing severe price undercutting in the Indian market.

viii) **Inventories**

	Unit	2001-02	2002-03	2003-04	Jan-Dec' 04
Average Stock					
Domestic Industry	MT	***	***	***	***
Trend	Indexed	100	189	425	437
Number of days of sales in stock					
Domestic Industry	Days	7	12	25	21

106. The data indicates that the inventory of the domestic industry had been consistently rising from base year to POI. It increased by 337% during POI as compared to base year. Translated in to number of days of sales it was equivalent to 7 days in 2001-02 and it increased to 21 days during POI.

E.4 Other Known factors and Causal Link

107. The Authority has also examined the issue of causal link and other non-attribution factors as laid down in the Rules to segregate injury if any caused by other factors. In this regard the following indicative factors as laid down in the Rules have been examined.

i) Volume and prices of imports from other sources

108. The Authority notes that the volume of imports from other country is insignificant. Imports from the subject country is having share of 99.7% of total imports during Period of Investigation. Thus, imports from other countries have not contributed to the injury to the domestic industry.

ii) Contraction in demand and / or change in pattern of consumption

109. The subject goods have shown consistent growth during the injury period. The total demand of subject goods have shown growth of 55% during Period of Investigation as compared to the base year. There is also no significant change in consumption pattern of the product in the domestic market which could be attributed to the injury to the domestic industry.

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

110. The Authority notes that there is no restrictive practice prevalent in the industry which could be attributed to the injury to the domestic industry.

iv) Development of technology

111. The Authority notes that technology for production of the product has not undergone any change. Development of any other technology, therefore, cannot be attributed to the injury to the domestic industry.

v) Export performance

112. The Authority notes that there was no exports made by the domestic industry, therefore, this factor is not attributable to the injury to the domestic industry.

vi) Productivity of the Domestic Industry

113. Productivity of the domestic industry in terms of production per employee has shown significant improvement during POI. Therefore, productivity is not a factor which can be attributed to the injury of the domestic industry.

114. No other factor which could have possibly caused injury to the domestic industry has been brought to the knowledge of Authority.

E.5 Conclusion on injury parameters

115. The growth in demand of subject goods shows rising trend. As compared to base year it rose by 55% during POI. The production and sales of domestic industry rose during POI basically because of new entrant M/s Vishnu Chemicals which set up capacity in 2003-04 and started production during POI. The share in demand of the domestic industry increased during POI. However, domestic industry as a whole could not take benefit of rising demand of product. M/s Vishnu Chemicals was in a position to sell product at losses and by benchmarking same against prices of imported product.

The rising inventory indicates difficulty of the domestic industry in selling subject goods in the market in view of dumped goods. The production of domestic industry had increased during POI, however capacity utilization remained at sub-optimal level at around 30%. The cost of production during POI declined to 97% as compared to base year but selling price declined to 86% of the base year. Despite depression of prices because of continuous dumping, the prices were suppressed further because of undercutting in the range of 30-40% during POI. The financial situation of the domestic industry which was facing losses during the base year further deteriorated because of the dumping and severe undercutting adversely impacting the cash flow and ROI. The analysis of economic parameters indicate significant decline in financial performance and material injury to the domestic industry.

116. The foregoing analysis indicates that there were significant differences in the prices of the domestic industry and the exporter from the subject country. Even when the domestic industry were selling the product by incurring losses they were still facing significant undercutting from dumped imports. This resulted in increase in volume of dumped imports, in absolute term in relation to production. Existence of undercutting and the level of prices at which domestic producer was forced to sell directly impacted on their financial situation and consequently impacting the cash flow and return on investment of the domestic industry. On the basis of the above examination it is concluded that the subject goods exported from the subject country are at prices far below their normal value, Non Injurious Price of the domestic industry and the average sales realization of the subject goods of the applicants, and the dumping, injury and causal links have been clearly established

E. Magnitude of Injury Margin

117. The non-injurious price determined by the Authority has been compared with the landed value of the exports for determination of injury margin. The injury margins have been worked out as follows:

Injury Margin

Name of company	Injury Margin
M/s Shanghai Fortune Chemical Co. Ltd. and M/s Majestic International Trading Co. Ltd.	US\$ *** per MT
M/s Shanghai Fortune Chemical Co. Ltd.	US\$ *** per MT
M/s Kaifeng Xinghua Fine Chemical Factory	US\$ *** per MT
M/s Tianjin Changjie Chemical Co. Ltd	US\$ *** per MT
Others from China PR	US\$ *** per MT

F. Indian Industry's interest & Other Issues

118. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in the general interest of the country.

119. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the subject goods or the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on 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, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. With a view to minimize the impact on the downstream industry, the Authority has considered it appropriate to recommend anti dumping duty based on the lower of the dumping and injury margins. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject country in any way, and therefore, would not affect the availability of the product to the consumers.

G. Conclusions

120. The Authority has, after considering the foregoing, come to the conclusion that:

- a) The subject goods have been exported to India from the subject country below its normal value;
- b) The domestic industry has suffered material injury;
- c) The injury has been caused by the dumped imports from subject country.

H. Recommendations

121. It is considered necessary to impose definitive anti-dumping duty on the imports of subject goods. Accordingly, the Authority recommends imposition of anti dumping duty on the imports of Saccharin.

122. It is decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. The landed price of imports was also compared with the non-injurious price of the domestic industry, determined for the period of investigation. In this case dumping margin is less than injury margin, accordingly, anti-dumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed by the Central Government, on all imports of subject goods originating in or exported from the subject country.

Duty Table

Sl. No	Sub-Heading Or Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

1.	29251100 or Any other Head of Customs	Saccharin	China PR	China PR	Shanghai Fortune Chemicals Co. Ltd., China	Majestic International Trading Co. Ltd.	717.21	MT	USD
2.	Do	Do	China PR	China PR	Shanghai Fortune Chemicals Co. Ltd., China	Any	807.77	MT	USD
3.	Do	Do	China PR	China PR	Kaifeng Xinghua Fine Chemical Factory	Any	1093.28	MT	USD
4.	Do	Do	China PR	China PR	Tianjin Changjie Chemical Co. Ltd.	Any	1127.67	MT	UDS
5.	Do	Do	China PR	China PR	Any	Any	2151.33	MT	USD
6.	Do	Do	China PR	Any country other than China PR	Any	Any	2151.33	MT	USD
7.	Do	Do	Any country other than China PR	China PR	Any	Any	2151.33	MT	USD

123. Landed value of imports for the purpose shall be the assessable value as determined by Customs 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.

124. Subject to the above, the Authority confirms the preliminary findings dated 1st April 2006.

125. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

Christy L. Fernandez
The Designated Authority