

**To be published in Gazette of India, Extra ordinary, Part 1, Section1.**

**No.14/4/2012-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Anti Dumping & Allied Duties  
Udyog Bhawan, New Delhi**

**1<sup>st</sup> January, 2013**

**Preliminary findings**

**Sub: Anti-dumping investigation concerning imports of Meta Phenylene Diamine (MPDA) originating in or exported from China PR -**

Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

**A. PROCEDURE**

1. The procedure described below has been followed:

- (i) The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application M/s Aarti Industries Ltd., Mumbai (hereinafter referred to as the applicant) on behalf of the domestic industry, alleging dumping of **Meta Phenylene Diamine (MPDA)** originating in or exported from People's Republic of China PR (hereinafter referred to as China PR or subject country).
- (ii) Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented.
- (iii) The Authority, on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject country.
- (iv) The Authority notified the embassy of the subject country in India about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
- (v) The Authority issued a public notice dated 19<sup>th</sup> June 2012 published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.

- (vi) The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- (vii) The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
- (viii) The Authority provided a copy of the non-confidential version of application to the known exporters and the embassy of the subject country in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- (ix) The Authority sent questionnaires to elicit relevant information to the following known exporters in subject country in accordance with Rule 6(4) of the AD Rules:

Shanghai Amino-Chem Co. Ltd. 31/F King Tower, No. 28 Xinjinqiao Road, Pudong, Shanghai, 201206 P.R.C
Jaingsu Tianjiayi Chemical Co., Limited Nijiaxiang, Zhouzhuang, Jiangyin, Jiangsu, China 214423

- (x) In response to the initiation notification, the following exporters / producers from China PR have responded:

S.N.	Name of Exporter/ Producer	Exporter/ Producer
1	Zhejiang Amino Chem Co. Ltd.	Producer & Exporter
2	Changshan Haichang Chemical Co. Ltd.	Exporter
3	Jiangsu Tianjiayi Chemical Co. Ltd.	Producer

- (xi) Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

Aaishwariya Chemicals Pvt. Ltd. 263/2, Phase-2, GIDC, Vatva, Ahmedabad-382445
Ankur Chemicals G 1 - 198, Gudli Industrial Area, Udaipur.
Aries Organics Pvt.Ltd. Plot No.441, Phase-II, G.I.D.C. Vatva, Ahmedabad-382445
Chemworld Inc 409, Haash Business Centre, Near Ankur School, Fateh Nagar, Paldi, Ahmedabad
Hexone Interchem Pvt. Ltd.

Opp. Katwad Patiya, N.H. No.8, Dalpur, Tal-Prantij, Dist-Sabarkantha, 393002,Gujarat
Indo Colchem Ltd. Plot No.36,Phase-II, GIDC, Vatva, Ahmedabad-382445, Gujarat
Krishna Industries L/30/46/1&2,Phase-III,GIDC, Naroda, Ahmedabad-382330,Gujarat
Macsen Laboratories Ambamata Ki Ghati, Village Titerdi, Tehsil Girva, Udaipur , 313001
Novacid Pvt.Ltd. 263/A-B, G.I.D.C., Pandesara, Surat, Gujarat
Prashant Industries Plot No:3408/D, Phase-IV, G.I.D.C. Estate, Vatva, Ahmedabad-382445, Gujarat
Shree Pushkar Petro Products Ltd. B-103 MIDC Lote Parshuram, Taluka Khed, Dist Ratnagiri
Solar Dyes Industries Plot No.8103,GIDC Estate, Sachin, Surat,394230,Gujarat
Hindprakash International A-414,Atma House, Opp. Old RBI, Ahmedabad
Yash Chemex Inc Plot No : 457,Phase-II, G.I.D.C Estate ,Vatva, Ahmedabad-382445
Anil Colours Industries Pvt. Ltd. Plot No.125/1,GIDC Estate, Nandesari, Gujarat
Aries Dye Chem Industries C-1/260,Phase II,GIDC, Vatva, Ahmedabad-382445, Gujarat
Bodal Chemicals Ltd Unit I Plot No.110, Phase-II, G.I.D.C.Estate, Vatva, Ahmedabad, Gujarat
Chhatariya Dye Stuff P.Ltd Near G.I.D.C.Estate, Mahuva, Bhavanagar-364290, Gujarat
Hexone Interchem Pvt. Ltd. Palak,Sahjanand Park, Jeevan Dhara Society, Gayatri Mandir Road, Mahavirnagar, Himmat Nagar – 383001
Jainik Industries 605-A,Phase-IV,Gidc,Vatva, Ahmedabad-382445, Gujarat
Loxim Industries Limited. Plot No. 105/109-A,ECPL Road, Village- Ekalbara, Padra Dist., Vadodara,391440
Monica Industries C/1,421,422,Phase-II, Near Vinzol Crossing, G.I.D.C., Vatva, Ahmedabad-382445
Orjet Intermediates Pvt. Ltd. C-1/B-13,Phase-II, G.I.D.C., Vatva, Ahmedabad-382445, Gujarat
Rohan Dyes & Intermediates Ltd. Plot No.115-117,123, Phase-I, G.I.D.C., Vatva, Ahmedabad-382445.
Shreeji Organics Plot No.3421,Phase-IV, G.I.D.C., Vatva, Ahmedabad-382445, Gujarat
Synthopharma Chemicals C-1-220-221/3, Phase - II,G.I.D.C, Naroda, Ahmedabad-382330, Gujarat
Chemex Chemical 107,Udyog Kshetra, Link Road, Mulund (W),400080, Mumbai

(xii) In response to the initiation notification, the following importers have commented

1. The Dyestuffs Manufacturers' Association of India
2. M/s. Ravi Dyeware Co. Ltd. (Importer)
3. M/s Lonsen Kiri Chemical industries Ltd.

(xiii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. During the investigation proceedings, the interested parties mentioned above as well as the domestic industry submitted information pertinent to the investigations and submissions made by all interested parties have been taken into account in present findings.

(xiv) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis.

(xv) Further information was sought from the applicant and other interested parties to the extent deemed necessary.

(xvi) The Non-injurious Price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry;

(xvii) Investigation was carried out for the period starting from 1<sup>st</sup> October 2010 to 31<sup>st</sup> December 2011(POI). The examination of trends, in the context of injury analysis covered the period from 2008-09, 2009-10, 2010-11 and POI.

(xviii) Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs.46.58 as per customs data.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

2. The product under consideration in the present investigation is 'Meta Phenylene Diamine' (MPDA). Commercially, it is also called MPD or MPDA. Under normal (room) conditions, it is a colourless or white colour solid, which tends to turn red, purple (dark colour) in air, on storage. Meta Phenylene Diamine has two amino groups attached to a Benzene ring, at Meta position, with respect to each other. It is an isomer of o- Phenylene Diamine (Ortho

Phenylene Diamine) and *p*- Phenylene Diamine (Para Phenylene Diamine). There are no known grades of the product under consideration. Meta Phenylene Diamine functions as a chemical intermediate. MPDA as a chemical intermediate is used for manufacturing dyes, engineering polymer, aramid fiber and in photography & medical applications.

3. 'Meta Phenylene Diamine' is classified under Chapter 29 at subheading no. 29215120 in the Customs Tariff Act. However, Customs classifications are indicative only and in no way binding on the scope of this investigation.

### **B.1 Views of Exporters, Importers, Consumers and other Interested Parties**

4. The following are the views of Zhejiang Amino Chem:
  - a) There are four types of MPDA produced by the company – grey molten (99.5%), grey flake (99.9%), white molten (99.9%) and white flake (99.9%).
  - b) The company has exported grey molten and white flake to India in the investigation period.

### **B.2 Views of the Domestic Industry**

5. The following are the views of the domestic industry:
  - a) The product under consideration in the present petition is 'Meta Phenylene Diamine', also referred to as MPDA in this petition. Other names of the product under consideration are *m*- Phenylene Diamine, 1,3- diaminobenzene, 1, 3- Benzenediamine, *m*- Aminoaniline, *m*- Benzenediamine, *m*- Diaminobenzene, 1,3- Phenylenediamine, 3- Aminoaniline, *m*- Fenylenediamin, Phenylenediamine, *m*, *m*- Aminoaline and Phenylenediamine, meta. Commercially, it is also called MPD or MPDA.
  - b) Under normal (room) conditions, it is a colourless or white colour solid, which tends to turn red, purple (dark colour) in air, on storage.
  - c) Meta Phenylene Diamine has two amino groups attached to a Benzene ring, at Meta positions, with respect to each other. It is an isomer of *o*- Phenylene Diamine (Ortho Phenylene Diamine) and *p*- Phenylene Diamine (Para Phenylene Diamine).
  - d) There are no known grades of the product under consideration.

### **B.3 Examination by the Authority**

6. The Authority has noted the arguments advanced by various interested parties. It is noted that the difference in the physical form of the product does not mean that the product is of different grades. While claiming that the product under consideration is produced in different forms, the responding exporter has not provided any information to establish that these different grades differ significantly in terms of their associated costs and prices. Nor the responding exporter has provided any verifiable evidence nor sought exclusion of any particular product type. Thus, all types of the product under consideration are within the scope of present investigations.
7. Accordingly, the product under consideration is defined as *Meta Phenylene Diamine* (MPDA).
8. The subject goods fall under Tariff Item '29215120' of the Customs Tariff. However, Customs classifications are indicative only and in no way binding on the scope of the present investigation and proposed measures.

#### **B.4 Like Article**

9. Rule 2(d) of the AD Rules defines like article as follows:

*“an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has the characteristics closely resembling those of the articles under investigation”.*

10. The applicant has claimed that the subject goods produced by the domestic industry are identical to the product under consideration being imported into India . The applicant claimed that there is no known difference in applicant's product and product under consideration exported from the subject country and the two are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. There is no significant difference in the subject goods produced by the applicant and those exported from the subject country and both are technically and commercially substitutable. None of the responding interested parties have disputed the claim of the applicant in this regard.
11. The Authority has examined the matter and notes that there is no known difference in subject goods produced by the domestic industry and exported from subject country. The subject goods produced by the domestic industry and that imported from subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the

opposing interested parties has raised any objection in this regard. In view of the same, the subject goods produced by the petitioner company are being treated as domestic like article to the product under consideration imported from the subject country in accordance with the anti dumping Rules.

### **C. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

12. Rule 2 (b) of the AD rules defines domestic industry as under:

*“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”*

13. The application was filed by M/s Aarti Industries Ltd, Mumbai (referred to as the applicant) as the domestic industry of the subject goods in India. The applicant is the only producer of MPDA in the Country and, therefore, the production of the applicant accounts for 100% of domestic production of like article in India. None of the interested parties have raised any objection with regard to standing and domestic industry status of the applicant. In view of the above and after due examination, it is held that the applicant satisfies the requirements of standing and domestic industry in terms of Rule 2(b) and Rule 5(3) of the AD Rules respectively.

### **D. DUMPING MARGIN**

#### **D.1 Normal value in China PR**

##### **D.1.1 MET Examination and normal value for all producers and exporters from China PR**

14. The Authority notes that in the past three years China PR has been treated as non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China PR is to be treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules for the purposes of preliminary determination.

15. As per Paragraph 8 of the 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 PR by providing information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The cooperating exporters/producers of the subject goods from 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 labor, 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.
16. The Authority notes that responding producers/exporters of the subject goods from China PR have submitted their questionnaire responses and responses to the market economy questionnaire consequent upon the initiation notice issued by the Authority and have sought to rebut the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporters have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows.

#### **D.1.2 Responding producers/Exporters seeking MET**

17. The following claims have been submitted by Zhejiang Amino Chem Co. Ltd., Changshan Haichang Chemical Co. Ltd. and Jiangsu Tianjiayi Chemical Co. Ltd. in respect of grant of market economy treatment. All these producers and exporters of subject goods have sought MET treatment.

##### **D.1.2.1 Zhejiang Amino-Chem Co. Ltd.**

###### **Submissions made by the company on the issue of MET and Dumping Margin**

18. M/s Zhejiang Amino has claimed that it is \*\*\*\*\*% owned by Zhejiang Longsheng Group Co., Ltd and \*\*\*\*\*% owned by Metrogem Holdings Limited. In its submission, the company claims that it is a foreign (co-operative or equity) joint venture of Zhejiang Longsheng Group Co., Ltd. which is a publicly listed company on Shanghai Stock Exchange and Metrogem Holdings Limited is an investment company registered in Hong Kong. It has also been submitted that M/s Shanghai Amino Chem Co Ltd (affiliated company) is a trading company and has not exported the subject goods during the POI.

19. It has been submitted that Zhejiang Hongsheng Chemical Co., Ltd. is an affiliated company which also produces MPDA and Shanghai Amino-chem Co., Ltd. is an affiliated company which also trades in the subject merchandise. It is also submitted that another affiliated company Hangzhou Longshan Chemical Co., Ltd. is also a raw material supplier of Zhejiang Amino. It has also been submitted that it is not formed by locals and is not owned by the state partly or fully or by local/regional authorities. Further, it has been submitted that it is not the one in transformation from States or local bodies to privatization. The producer/exporter has submitted that raw materials and utilities, although procured from both affiliated and non-affiliated suppliers, are at normal rates and not on special or subsidized rate.. It has also been claimed that that Chamber of Commerce is not at all involved in the setting of export prices or quantities of the subject merchandise. Further, they have submitted that the bankruptcy and property laws of the country are equally applicable on the company. Further, no local/regional authority or state is involved in setting prices/ quantities for sale and there is no restriction on export, production or sale and that the company has been never involved in barter trade. It is also noted that Zhejiang Amino sells the subject goods in the domestic market directly to its customers.

#### **D.1.2.2 Changshan Haicheng Chemical Co., Ltd., China PR (exporter)**

##### Submissions made by the Exporter on the issue of MET and Dumping Margin

20. Haicheng Chemical has claimed that it is \*\*\*% owned by Mr. \*\*\* and \*\*\*% owned by Mr. \*\*\*. In its submission, the company claims that it is a fully Chinese limited liability company.

21. It has been submitted by Haicheng Chemical that it is only an exporter of the merchandised goods and has no role in its production. It also has been submitted that there is no other affiliated company dealing in production, sale or distribution of subject goods. It is noted from the response that M/s Haicheng purchased the product concerned in domestic market from two suppliers and then export to the world market including India. One is Shanghai Amino-Chem™ Co., Ltd. (hereinafter referred to as Amino). The other is Jiangsu Tianjiayi Chemical Co., Ltd.(hereinafter referred to as Tianjiayi). The present response has been filed as a combination of Tianjiayi as producer and Haicheng as exporter.

22. It has also been submitted that while it is formed by two private Chinese citizens, it is not owned by the state partly or fully or by local/regional authorities. Further, it has been submitted that it is not the one in transformation from States or local bodies to privatization. The exporter has submitted that since it is not a producer, it does not procure raw materials. It is also submitted that that Chamber of Commerce is not at all involved in the setting of export prices or quantities of the subject merchandise. Further, they have submitted that the bankruptcy and property laws of the country are equally applicable on the company. Further, no local/regional authority or state is involved in setting prices/ quantities for sale and there is no restriction on export, production or sale and that the company has been never involved in barter trade. It is also noted that Haicheng Chemical sells a very negligible quantity of subject goods in the domestic market.

### **D.1.2.3 Jiangsu Tianjiayi Chemical Co., Ltd., China PR (producer).**

#### **Submissions made by the Producer on the issue of MET and Dumping Margin**

23. Jiangsu Tianjiayi has claimed that it is \*\*\* % owned by \*\*\* and \*\*\* % owned by \*\*\* . In its submission, the company claims that it is a fully Chinese limited liability company and both shareholders are of Chinese nationality.

24. It has been submitted by Haicheng Chemical that it is only a producer of the merchandised goods and has never exported subject goods to India. It also has been submitted that there is no other affiliated company dealing in production, sale or distribution of subject goods. It has also been submitted that Jiangsu Nijiexiang Group Co., Ltd. acts as the parent company of the producer.

25. Further it has been submitted that although it is formed by locals it is not owned by the state partly or fully or by local/regional authorities. Further, it has been submitted that it is not the one in transformation from States or local bodies to privatization. The producer has submitted that raw materials and utilities are procured at normal rates and not on special or subsidized rate. However, no evidence has been provided to establish that the prices of inputs substantially reflect market values. It is also submitted that that Chamber of Commerce is not at all involved in the setting of export prices or quantities of the subject merchandise. Further, they have submitted that the bankruptcy and property laws of the country are equally applicable on the company. Further, no local/regional authority or state is involved in setting prices/ quantities for sale and there is no restriction on export, production or sale and that the company has been never involved in barter trade. It is also noted that Jiangsu Tianjiayi sells the subject goods in the domestic market directly to its end-users and trading companies which in turn may or may not export it.

### **D.1.3 Views of the Domestic Industry on the issue of MET treatment and dumping**

26. The following are the views of the domestic industry:

- (i) Para 8(2) of Annex I to Antidumping Rules 1995 casts a presumption that any country that has been determined to be, or has been treated as NME country for purposes of an anti-dumping investigation by the Authority themselves or by the competent authority of any WTO member country during the three year period preceding the investigation, shall be treated as a NME country. The Authority itself, in every investigation conducted by it in the last three years, has treated China PR as a Non-Market Economy country. It is well known that almost every WTO member including USA and the European Union have repeatedly been treating China PR as a NME country.
- (ii) Proviso to Paragraph 8(2) of Annex I to the Antidumping Rules 1995 provides that exporters may rebut the presumption by providing information and evidence that establishes China PR is not a NME country.

- (iii) Paragraph 8(3) of Annex I to AD Rules provides that individual exporters may provide information and evidence to establish that market economy conditions prevail for them. The claim made by the co-operating exporters under this paragraph however should not be accepted for various reasons provided in subsequent paragraphs.
- (iv) At the outset it is pertinent to point out that the responses, besides being inadequate and insufficient in terms of information, also does not meet the set proforma provided by the authority. In blatant disregard of the proforma which specifically requires 'strict adherence' firstly, Appendices A & B have been placed at the end of the response while other appendices too do not meet the set format.
- (v) While there is rarely any information furnished in the non-confidential version in any of the responses, the information provided elsewhere is incomplete and merely acts as a 'reference book' or replica of sample format. Being devoid of relevant information the responses do not provide any opportunity for domestic industry to make objective comments.
- (vi) On the MET status claimed by Zhejiang Amino it is submitted that the same may be rejected and the exporter cannot be given market economy treatment on the following grounds:
  - 1) Former chairman, Mr. Ruan Shuilong, of the holding company Longsheng Group Co., Ltd. is a well known member of the Communist Party of China. This is in the light of the fact that the current chairman Mr. Ruan Weixiang of the holding company is son of Mr. Ruan Shuilong thus, establishing a strong nexus between the State and exporter.
  - 2) Further, one of the affiliate companies, Hangzhou Longhsan Chemical Co. Ltd. used to be a well known state-owned factory and it has only recently seen a turnaround in its shareholding pattern. This company is also one of the major suppliers of raw material to the exporter. Thus, exporter's independence from State actions is highly doubted.
  - 3) China Commodity Net under the auspices of Ministry of Commerce (China) does function as a chamber of commerce in helping decide prices and Shanghai Amino-Chem Co. Ltd. (affiliated company) is one of the members of the network.
  - 4) In the absence of objective evidence claims of raw materials supplies from related companies at a fair market price in ordinary course of business cannot be accepted. It cannot be denied that such procurement may have involved intermediary products like MDNB from these affiliates.
  - 5) In light of the investment policy of the Hangzhou Bay Shangyu Industrial Park which provides for various incentives and concessions for investments and export sales (supported by evidence enclosed herewith) the exporter cannot be given a market economy status. The same applies to the Export Tax rebate of 17% which fact itself has been conceded to by the Exporter in its response.

- 6) Further, one of the affiliates Shanghai Amino-Chem Co., Ltd. is claimed only to be a trader but evidence on the contrary highlight a fact the even Shanghai Amino-Chem has capacity of 25,000 MT/year for MPDA in addition to exporter's own capacity of 55000 MT/year.
- (vii) On the MET status claimed by Jiangsu Tianjiayi and Changshan Haicheng it is submitted that the same may be rejected and the exporter-producer combination cannot be given market economy treatment. In the absence of relevant information relating to members of board of shareholders and directors as also raw material suppliers and other business information the independence of both the producer as well as the exporter is highly dubious. Further, the role played by M/s. Jiangyin Nijiaxiang Chemical Co. Ltd. in raw material procurement by the producer make it ineligible for claiming such a treatment.

#### **D.1.4 Examination and determination of normal value by the Authority**

##### **Determination of Normal Value for producers and exporters in China PR**

27. *In this connection Para 7 of Annexure I of the Rule provides that*

*“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments”*

28. The Authority notes that in the past three years China PR has been treated as non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules for the purposes of present determination.

29. As per Paragraph 8 of the 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 PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The cooperating

exporters/producers of the subject goods from 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 criteria enumerated therein.

30. The Authority notes that responding producers/exporters of the subject goods from China PR have submitted their questionnaire responses and they have submitted response to the market economy questionnaire consequent upon the initiation notice issued by the Authority and sought to rebut the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporters have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows.

**Examination of the MET response of M/s Jiangsu Tianjiayi Chemical Co. Ltd. China PR**

31. The Authority notes that M/s Jiangsu Tianjiayi Chemical Co. Ltd. China PR is a Chinese Limited Liability Company with two shareholders namely:

- a) M/s Jiangsu Tianjiayi Investment Co. Ltd and
- b) M/s Jiangsu Nijianxiang Group Co. Ltd. China PR

32. M/s Jiangsu Tianjiayi Chemical Co. Ltd. China PR is a subsidiary of M/s Jiangsu Nijianxiang Group Co. Ltd. China PR. As per Article of Association submitted by Jiangsu Tianjiayi Chemical Co. Ltd, the company was incorporated on \*\*\*. It has been claimed by the Exporter that Jiangsu Tianjiayi Investment Co. Ltd. has \*\*\* Chinese individual shareholders and Jiangsu Nijianxiang Group Co. Ltd. is owned by \*\*\* Chinese individual shareholders. It is noted that M/s Jiangsu Tianjiayi chemical Co ltd sells the subject goods in the domestic market directly to its end-users and trading companies which in turn may or may not export it. It is also noted that this company is a producer of subject goods and has not exported subject goods to India directly.

33. The Authority notes that the Company has claimed that there is \*\*\* Board of Directors in Tianjiayi. There is a Board of Shareholders consisting of \*\*\* shareholders who are corporate entities. There is one Executive Director who is also the manager of the Company. Though, it has been submitted that it is formed by locals and not owned by the state or funded partly or fully or by local/regional authorities, no evidence has been submitted that it is not the one in transformation from States or local bodies to privatization. Though the producer has submitted that raw materials and utilities are procured at normal rates and not on special or subsidized rate, no evidence has been provided to establish that the prices of inputs substantially reflect market values. Further, no evidence has been provided that land use rights and procurement of machinery has been made as per market rates.

34. Thus, with regards to pricing of raw materials, utilities, land use rights, and machinery it is noted that , it has not been established that the prices of raw materials and utilities reflect the market values. Thus, on the basis of their response, it is not possible to provisionally conclude the fact that their raw materials and utility prices reflect the market values. Hence, pending

examination of the issues including ownership and control, its impact on the cost and prices and business decisions of the company, and verification of the same, the Authority is of the view that this producer- exporter from China PR cannot be granted market economy status for the preliminary determination. In view of the above the Authority has decided not to grant market economy status to the company at this stage. A final view in this matter will be taken by the Authority after verification of information submitted by M/s Jiangsu Tianjiayi Chemical Co. Ltd. China PR in the MET Questionnaire response. In the circumstances the Authority proceeds with the provisions of para 7 of Annexure-I to the Rules for determination of Normal Value for M/s Jiangsu Tianjiayi Chemical Co. Ltd. China PR.

### **MET examination of M/s Zhejiang Amino-Chem Co., Ltd. (“Zhejiang Amino”)**

35. M/s Zhejiang Amino-Chem Co., Ltd. (“Zhejiang Amino”) has filed Exporter questionnaire response and market economy questionnaire response (MET) in this matter as a producer and exporter of the subject goods. It has been submitted that Zhejiang Amino produces the product concerned, sells them in the domestic market and exports them to other countries including India. M/s Zhejiang Hongsheng Chemical Co., Ltd. (“Zhejiang Hongsheng”), a related company, is a producer of resorcinol, where during the production process the intermediary product, i.e. MPDA is produced and majority of MPDA produced were for its own captive use. However, a very small percentage of finished MPDA were sold to Zhejiang Amino on occasion that Zhejiang Amino could not fulfill its orders in the domestic market and Zhejiang Hongsheng did not export MPDA to India during the POI. Further, it has been submitted that M/s Shanghai Amino-Chem Co., Ltd. Is a related company and is involved as a trading company. It has been submitted that M/s Shanghai Amino-Chem Co., Ltd. did not produce the subject merchandise but was involved in the sales of MPDA in domestic market during the POI. However, it has been submitted that M/s Shanghai Amino-Chem Co., Ltd did not export MPDA to India during the POI.

36. It has been submitted that Zhejiang Amino is primarily owned by share holders. However, in the response to the MET Questionnaire, the company has not given any account of the transformation from State/ local bodies to privatization. From the MET questionnaire response, it is noted that the Zhejiang Amino is a part of Group Company however market economy response has filed by the company only on behalf of Zhejiang Amino. With regards to pricing of raw materials and utility they have failed to prove whether the suppliers of raw materials are private person or state or state enterprise. Thus, with regards to pricing of raw materials, utilities, land use rights, and machinery it is noted that , it has not been established that the prices of raw materials and utilities reflect the market values. Thus, on the basis of their response, it is not possible to provisionally conclude the fact that their raw materials and utility prices reflect the market values. Hence, pending examination of the issues including ownership and control, its impact on the cost and prices and business decisions of the company, and verification of the same, the Authority is of the view that this producer- exporter from China PR cannot be granted market economy status for the preliminary determination. In view of the above the Authority has decided not to grant market economy status to the company at this stage. In view of the above the Authority has decided not to grant market economy status to the company at this stage. A final view in this matter will be taken by the Authority after verification of information submitted by M/s Zhejiang Amino-Chem Co., Ltd. China PR in the MET Questionnaire response. In the circumstances the Authority proceeds with the provisions of para 7 of Annexure-

I to the Rules for determination of Normal Value for M/s M/s Zhejiang Amino-Chem Co., Ltd China PR.

37. As stated above, Authority does not consider it appropriate to give market economy treatment to the above producer, who has claimed market economy treatment as per the reasons mentioned above. The Authority has therefore constructed the Normal value for all the producers of subject goods from China PR considering international prices of major raw materials, consumption and conversion cost of domestic industry and a suitable profit margin.

#### **D.1.5 Determination of Normal Value for all producers and exporters from China PR**

38. Under the circumstances, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the above named Chinese companies and the Authority has to proceed 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. On the basis of the price in a market economy third country, or
- b. The constructed value in a market economy third country, or
- c. The price from such a third country to other countries, including India.
- d. If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

39. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. No information with regard to prices and costs prevalent in these markets have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country at this stage. Pending further examination of the issues, for the purpose of preliminary determination the Authority proceeds to provisionally construct the normal value based on any other reasonable basis..

40. Therefore, the normal value has been constructed based on cost of input, and conversion cost of domestic industry as verified by the Authority and reasonable profit margin.

#### **Export Price determination of M/s Jiangsu Tianjiayi Chemical Co. Ltd. China PR (producer) exported through Changshan Haicheng Chemical Co. Ltd. (exporter).**

41. The Authority notes that M/s Jiangsu Tianjiayi Chemical Co. Ltd. China PR has exported the subject goods through M/s Changshan Haicheng Chemical Co. Ltd. which

has claimed to be an unrelated trader from China. It is also noted from the response that M/s Changshan Haicheng has also sourced the subject goods from another unrelated producer M/s Amino Shanghai. It is noted that Amino Shanghai is not related to Changshan Haicheng and has not participated in the investigation. It is also noted from their response and pending onsite verification that during the period of investigation M/s Changshan Haicheng has sourced \*\*\* Mt of the subject goods from Jiangsu Tianjiayi. Out of total purchases of subject goods from Jiangsu Tianjiayi \*\*\* has been sold by M/s Changshan Haicheng in domestic market in China and \*\*\* Mt were exported to India after the period of investigation. In effect Changshan Haicheng has exported \*\*\* Mt of subject material during the period of investigation.

42. It is noted that in their response, M/s Changshan Haicheng has provided transaction-wise information relating to exports to India in the form and manner prescribed. The Authority notes that the export sales to India are on CIF basis. Adjustments have been claimed by the exporter in respect of overseas freight, overseas insurance, commission, handling, bank charges and credit cost. The total adjustment claimed by the exporter on these heads is allowed at this stage subject to verification for the purpose of Preliminary Findings. Thus, the net export price i.e. export price at ex-factory level, for goods produced by Jiangsu Tianjiayi Chemical Co. Ltd. and exported by Changshan Haicheng Chemical Co. Ltd. China PR, is provisionally determined and is mentioned at the table showing dumping margin.

#### **Determination of Export Price of M/s Zhejiang Amino**

43. It is noted that M/s Zhejiang Amino has reported export of \*\*\* MT of MPDA to India during the POI. The sales to Indian customers are in CIF terms. The exporter has claimed adjustments towards domestic freight, ocean freight, handling charges and marine insurance to India, and credit expenses to arrive at ex-factory export price. However, it is noticed that no adjustment towards the non-refundable VAT has been made though the exporter is required to pay VAT @17% of the invoice value and is entitled for a refund a part of the VAT paid on export. Such adjustments have been made based on the invoice value. Pending further clarification and verification of the claims made, including the VAT adjustments, the Authority has determined the export price of the above exporter as mentioned in the table showing dumping margin.

#### **Export Price determination for Non cooperating producers and exporters from China PR**

44. Export price in respect of product under consideration for other producers and exporters has been determined as per facts available. For the purpose, the Designated Authority has considered questionnaire response filed by the responding exporters and Indian customs data relating to imports of the product under consideration in India. Price adjustments have been allowed on the basis of facts available. The export sales to India

(net of all the adjustments) has been considered as ex-factory export price, which have been compared to the normal values of the product under consideration to determine the dumping margin. After the analysis of the data, the dumping margin is worked out as mentioned in the table.

45. After the analysis of the data, the dumping margin is worked out as mentioned in the table.

Producer	Exporter	NV	EP	DM	DM %
Jiangsu Tianjiayi Chemical Co. Ltd	Changshan Haicheng Chemical Co. Ltd.	***	***	***	25-35
Zhejiang Amino-Chem Co. Ltd	Zhejiang Amino-Chem Co. Ltd	***	***	***	25-35
Any Other producer/exporter from China PR	Any Other producer/exporter from China PR	***	***	***	35-45

## **E. INJURY**

### **E.2. Submissions made by Domestic Industry**

46. The domestic industry has argued that:

- (a) Imports from the subject country have increased in absolute terms and in relation to production and consumption in India;
- (b) Imports from the subject country are undercutting the prices of domestic industry to a significant extent. The import price is undercutting the domestic price, in spite of low prices already offered by the domestic industry.
- (c) Whereas the cost of production was increasing, the selling prices declined. Further, even when there was some decline in the cost of production (in earlier years), the decline in prices was more than the decline in costs. Overall, the imports are suppressing and depressing the domestic prices.
- (d) Production, sales and capacity utilization of the domestic industry improved till 2010-11 and then declined in the POI. The market share of the domestic industry also declined.

- (e) Performance of the domestic industry with regard to profits, return on investment and cash profits was declining and became negative in POI.
- (f) Wages and productivity have improved.
- (g) Dumping margin as a measure of extent of dumping is quite significant.

**E.3 The following submissions have been made by the exporters / importers and other interested parties with regards to injury parameters to the domestic industry:**

47. At the outset, it is submitted that the non-confidential version of the petition is wholly deficient and inadequate to enable the other parties to render their comments. It seriously hampers our right to provide meaningful rebuttal through adequate and essential submissions to enable the Authority to arrive at fair conclusions.

**Demand and Market Share**

48. It may be noted from the table below that the demand of the product under consideration was increasing till 2009-10. The same has however declined during 2010-11 and in the period of investigation. Therefore, any decline in market share during POI as compared to 2009-10 and 2010-11 should be seen in the light of the decline in the demand.

**Capacity, Production and Capacity Utilization**

49. The production of petitioner during 2008-09 was 684 MT which went up to 1,151 MT during POI. As a result, the capacity utilization which was only 19% during 2008-09 increased to 32% during POI. Further, it may be noted that demand in India of the subject goods has declined during POI as compare to 2009-10 and 2010-11. Therefore, any decline in the production and capacity utilization during POI as compared to 2009-10 and 2010-11 should be seen in the light of the decline in the demand.

50. It is very interesting to note that despite of the negative price undercutting during 2008-09, the petitioner was operating the plant for subject good at 19%. Thus, there is no injury to the domestic industry on account of alleged imports from subject country.

**Sales Volume**

51. It can be observed that the sales volume of the petitioner in the domestic market has increased by 19% over the base year.

52. It is also relevant to point out that despite negative price undercutting during 2008-09, the sales volume of the petitioner in the domestic market was at lowest level whereas it should have been at highest levels. An obvious question would then arise as to what prevented the petitioner from raising its volume during the 2008-09 when the price undercutting was negative. Further, it may be noted that demand in India for the subject good has declined during POI as compared to 2009-10 and 2010-11. Therefore, any decline

in the sales during POI as compared to 2009-10 and 2010-11 should be seen in the light of the decline in the demand. Thus, there is no injury to the domestic industry on account of alleged dumped imports from subject country.

### **Cost of Production**

53: It is submitted that the cost of production of the petitioner is abnormally high as compared to other foreign producers. The capacity utilization of the petitioner was in the range of 19% to 44% during entire injury period. As a result of lower plant utilization, the cost of production of the petitioner was highly inflated by fixed cost. Even though there was negative price undercutting during base year, the petitioner could not improve its capacity utilization. In fact, during that time capacity utilization was at lowest level which is 19%. Therefore, the Authority is requested to kindly look into critically the entire cost structure of the petitioner as explained above and set aside the higher cost of production caused by inefficiencies while conducting injury examination during investigation.

### **Profitability**

54. It is submitted that losses to the petitioner has occurred between 2010-11 and the POI, when volumes of the alleged dumped imports increased by only 545 MTs compared to an increase of 1,264 MTs in 2009-10, when the petitioner was still making profits. Moreover the drop in the demand of subject good on the domestic market should have created deteriorating effects on its profitability. Thus, any injury to the petitioner is because of higher cost as the petitioner was inefficient and the same cannot be attributed to alleged dumped imports from subject country.

### **Price Undercutting**

55. The petitioner managed to increase its sales volume from 614 MTs in 2008-09 to 1,228 MTs in 2010-11 and 730 MTs in the POI. If there was an existence of such price undercutting in real terms as determined by the petitioner, the domestic industry would have been hard put to maintain its sales volume rather show such an increase in sales volume. Thus, there is no correlation between net sales realization vis-à-vis landed price of subject goods.

## **E.3. Examination by the Authority**

56. Rule 11 of Antidumping Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles..." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to suppress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

57. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.
58. Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
59. The Authority has considered the views of the interested parties and addressed the same appropriately. The specific submissions of interested parties have been dealt with by the Authority at appropriate places in these findings while examining the injury parameters to the domestic industry.
60. The Authority has analyzed injury parameters in accordance with the rules. 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 treated 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.
61. As regards the capacity utilization of the domestic industry being low, the Authority has considered the best capacity utilization attained by the domestic industry during the injury period and POI in order to eliminate the inefficiencies in operation for the purpose of determination of non-injurious price for the domestic industry. In this regard, it is further noted that the domestic industry has a composite production facility producing a number of chemicals. The domestic industry is also producing captively the major input i.e MDNB which is used for the manufacture of MPDA. There are separate capacities for manufacture of both MDNB and MPDA .The Authority has appropriately considered the optimum usages of capacities ,as per consistent practice ,in order to eliminate the higher costs on account of inefficient uses. As regards the reduction in the demand for the subject goods, over the injury period, it has been claimed by the domestic industry that there are imports of the subject goods under other classifications as well. For the purpose of the preliminary findings and pending further investigations, the Authority has examined the response and notes that while there was a reduction in the demand for the subject goods, the decline in the

volume of imports from the subject countries was very insignificant as compared to the loss of sales of the domestic industry. Further, during the POI the landed value of imports declined significantly in spite of an increase in the input cost. With regard to the fact that the petition is grossly deficient, it is noted that the application accepted by the Authority for initiation was duly documented. With regard to the construction of the normal value of subject goods, it is noted that constructed normal value of the subject goods have been determined by taking into account the prevailing international price of the benzene. Further, during the process of investigation, it was noted that the procurement price of benzene of domestic industry was noted to be in line with the prevailing international price of benzene.

### **E.3.1 Volume Effect of dumped imports and Impact on domestic Industry**

#### **Import Volumes and share of subject country**

62. 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.”*

63. It is noted that the imports from China PR have recorded a significant increase in absolute terms during injury period i.e. from 1,841 in 2008-09 to 2,983 during POI(2,386 annualised). It is also noted that the imports of the subject goods from other subject country have also shown a significant increase over the injury period in absolute terms during the same period. However, the increase is much less than increase from subject countries. Further, imports have increased significantly in absolute terms. Imports from other countries have, at the same time, have increased. However, the volume of these imports is not very significant and most of these imports have been noted to at a price higher than the export price from subject country.

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Imports -						
China PR	MT	1,841	3,105	2,654	2,983	2,386
Other Countries	MT	1	0	64	235	188
Total Imports	MT	1,842	3,105	2,718	3,217	2,574
Market Share in Imports						
China PR	%	99.94	100.00	97.66	92.70	92.70
Other Countries	%	0.06	0	2.34	7.30	7.30

**a) Assessment of Demand and Market Share**

64. The Designated Authority has determined demand as the sum of domestic sales of the domestic industry, sales of other Indian producers and imports of the subject goods in India from all sources. The demand so assessed is shown in the following table. It is seen that demand for the subject goods had grown significantly in 2009-10 and then declined in 2010-11 and the POI. However, it is noted that demand of subject goods had increased in the POI as compared to base year 2008-09. The authority further notes that even though there was some decline in the demand for the subject goods during the POI, the decline in the share of domestic industry was notably higher than the decline in the volume of imports from subject countries

Demand	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Sales of Domestic Industry	MT	614	1,006	1,228	913	730
Subject countries-Imports	MT	1,841	3,105	2,654	2,983	2,386
Other Countries-Imports	MT	1	0	64	235	188
Total demand	MT	2,456	4,111	3,946	4,131	3,304
<i>Trend</i>		<i>100</i>	<i>167</i>	<i>161</i>	<i>135</i>	<i>135</i>
<b>Market Share in Demand</b>						
Sales of Domestic Industry	%	25.00	24.47	31.13	22.11	22.11
Subject countries-Imports	%	74.96	75.53	67.26	72.21	72.21
Other Countries-Imports	%	0.04	0.00	1.61	5.68	5.68

65. It is noted that both, the imports from the subject country and sales of the domestic industry, have increased significantly up to 2010-11 and declined thereafter in POI. It is also noted that the market share of imports of subject goods from the subject country has remained significant during the injury period and has, in fact, increased significantly during the POI from the preceding year. It is also noted that even as the demand for the product has declined significantly, share of domestic industry showed increase in 2010-11 only. However, during the POI, the share of domestic industry declined as against the preceding year. Further the market share of the domestic industry was lowest in the POI, as compared to the base year.

**E.3.2 Price Effect of the Dumped imports on the Domestic Industry**

**a) Price Undercutting**

66. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

*"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."*

67. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product 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 this regard, a comparison was made between the landed value of the product concerned and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. This comparison showed that during the period of investigation, the subject goods originating in the subject country were imported in the Indian market at prices which were lower than the domestic industry selling prices. It is thus noted that imports of subject goods were undercutting the domestic prices and margin of undercutting is considered significant in case of imports from China PR.

68. The price undercutting margin is determined as below:

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Net Selling Price	Rs./KG	***	***	***	***	***
<i>Trend</i>		100	104	92	87	87
Landed price of imports	Rs./KG	182.96	147.71	148.68	135.24	135.24
<i>Trend</i>		100	81	81	74	74
Price Undercutting	Rs./KG	(***)	***	***	***	***
Price Undercutting	%	(***)	***	***	***	***
Price Undercutting	Range	Negative	5-15%	2-10%	5-15%	5-15%

69. It is noted from above that both the net selling price of the domestic industry and the landed price of imports from China PR have declined over the injury period. However, the landed price has declined more than the net selling price. Thus, the imports of subject goods from the subject country undercut the prices of the domestic industry by 5-15% during the POI.

#### **b) Price Suppression and Depression**

70. The cost and price movement of the domestic industry and the landed value of imports from the subject countries have been compared over the injury period to examine whether the

effect of dumped imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Landed price of imports	Rs./KG	182.96	147.71	148.68	135.24	135.24
<i>Trend</i>		<i>100</i>	<i>81</i>	<i>81</i>	<i>74</i>	<i>74</i>
Net Selling Price	Rs./KG	***	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>104</i>	<i>92</i>	<i>87</i>	<i>87</i>
Cost of Sales	Rs./KG	***	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>87</i>	<i>76</i>	<i>95</i>	<i>95</i>

71. The Authority notes from the above that the selling price of the subject goods produced by the domestic industry has declined by \*\*\*% during the injury period as against \*\*\*% decline in the cost of sales of the subject goods produced by the domestic industry. Further, the cost of production increased significantly during the POI as compared to the previous year while the selling price declined. Thus, it is noted that there is price suppression on account of imports of subject goods from the subject country. Further, as there is decline in the selling price of the subject goods produced by the domestic industry, it is noted that the domestic industry has suffered price depression during the injury period. The Authority notes that during the POI, there was significant increase in the input cost of the subject goods. As a result the cost of production of the domestic industry increased significantly. On the other hand, in spite of increase in the prices of basic raw materials, the landed value of imports of subject goods declined significantly during the same period. As a result the domestic industry was not able to increase its selling prices commensurate with the increase in the cost of production. This resulted in significant erosion of profitability of the domestic industry during the POI.

#### **Price underselling margin**

72. The Authority has also examined price underselling if any, suffered by the domestic industry on account of dumped imports from the subject country. After examination, it is determined that the domestic industry has suffered significant price underselling during the investigation period.

Particulars	Unit	POI
Non Injurious Price Rs/Kg		***
Landed Price	Rs/Kg	***

Price underselling	Rs/Kg	***
Price underselling (%)		25-35

### **E.3.3 Economic parameters of the domestic industry**

73. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

#### **(a) Capacity, Production, Capacity Utilization and sales**

74. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:-

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Capacity	MT	3,600	3,600	3,600	4,500	3,600
Production	MT	684	1,327	1,592	1,439	1,151
Capacity Utilization	%	19%	37%	44%	32%	32%
Sales Domestic	MT	614	1,006	1,228	913	730
Demand	MT	2,456	4,111	3,946	4,131	3,304

75. It is noted that the production, sales and capacity utilization of domestic industry has increased up to 2010-11 and then declined in POI. Further it is noted that though the demand for the product has increased by 35%; the Domestic Industry could utilize only 32% of its total capacity in the POI. It is also noted that the domestic industry lost significant sales due to dumped imports of subject goods from the subject country.

**(b) Profits, Return on Capital Employed and Cash Profit**

76. The Profits, return on investment and cash flow of the domestic industry has been examined as under:

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Cost of Sales	Rs/KG	***	***	***	***	***
<i>Trend</i>		100	87	76	95	95
Selling price	Rs/KG	***	***	***	***	***
<i>Trend</i>		100	104	92	87	87
Profit/loss per Unit	Rs/KG	***	***	***	***	***
<i>Trend</i>		(100)	33	35	(153)	(153)
Profit/loss	Rs.Lacs	***	***	***	***	***
<i>Trend</i>		(100)	54	69	(182)	(182)
Profit before Interest	Rs.Lacs	***	***	***	***	***
<i>Trend</i>		(100)	183	211	(272)	(272)
Profit before Interest	Rs./kg	***	***	***	***	***
<i>Trend</i>		(100)	112	106	(229)	(229)
Return on capital employed	%	***	***	***	***	***
<i>Trend</i>		(100)	155	177	(260)	(260)
Cash Profit	Rs.Lacs	***	***	***	***	***
<i>Trend</i>		(100)	119	146	(222)	(222)
Cash profit per unit	Rs./kg	***	***	***	***	***
<i>Trend</i>		(100)	73	73	(187)	(187)

77. The profitability of the domestic industry in respect of domestic sales of subject goods has been examined. The Authority notes the following:

- (i) The domestic industry has losses in 2008-09. The profitability of the domestic industry for the subject goods improved. The improvement in profitability of domestic industry was noted on account of increase in volume of sales, reduction in cost as well as on account of better sales realization. However, the profitability has significantly deteriorated during POI. The decline in profitability of the domestic industry was noted, as the domestic industry was not able to increase its sales realizations commensurate with the increase in the cost of production during POI. On

the other hand the landed value of imports declined in spite of the increase in the input cost.

(ii) It is noted that the cash profits of the domestic industry have seen a trend similar to the profitability.

(iii) The return on capital employed has been determined considering profit before interest and capital employed for the product concerned. It is noted that return on capital employed has significantly deteriorated in POI.

**(c) Employment and wages:**

78. The Status of employment levels and wages of the domestic industry has been as under:

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Wages	Rs.Lacs	***	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>223</i>	<i>291</i>	<i>224</i>	<i>224</i>
Employment	Nos.	***	***	***	***	***

79. The Authority notes that employment level with the domestic industry has almost remained stagnant whereas wages increased up to 2010-11 and then declined in the POI.

**(d) Productivity**

80. The productivity of the domestic industry is given in the following table:

Productivity	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Per day	MT	***	***	***	***	***
Index		100	194.36	233.33	168.72	168.72
Per employee	MT	***	***	***	***	***
Index		100	184.71	221.61	152.98	152.98

81. It is noted that the productivity has increased up to 2010-11 and then declined in the POI as the production of the domestic industry declined.

**(e) Inventories**

82. The Designated Authority has examined the inventory level of the domestic industry, which is given in the following table:-

Stock ( Volume)	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Opening	MT	4	1	1	3	3
Closing	MT	1	1	36	21	21
Average	MT	2	1	19	12	12
Index		100	50	950	600	600

83. It is noted that the inventory of the domestic industry has increased substantially during the period of investigation.

**(f) Factors Affecting Domestic Prices**

84. Consideration of the import prices from the subject country and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from the subject country is below the selling price of the domestic industry, causing significant price undercutting in the Indian market. It is further noted that most of imports of subject goods from other countries are at much higher prices. There is no viable substitute to this product. It is also noted that demand for the subject goods was showing significant increase during the injury period and this could not have been a factor affecting domestic prices. Thus, the principal factors affecting the domestic prices is landed value of subject goods from subject country and cost of raw materials.

**(g) Ability to raise capital**

85. With regard to ability to raise investments, it is noted that the domestic industry has not been able to utilize the existing capacities during injury period. It is further noted that the existing capacity is sufficient to meet the demand of the product in the country.

86. The Petitioner has argued that given the current state of affairs where the product is consistently not performing well because of persistent dumping, any fresh investments is not envisaged.

**(h) Growth**

87. On examination of various economic parameters of the domestic industry, the Authority notes that both the volume parameters such as production and sales, and price parameters of the domestic industry show improvement up to 2010-11 and then it shows decline in the POI. Thus, the growth of the domestic industry is adverse on the volume parameters. On the price

parameters also, the growth is positive till 2010-11 and thereafter the growth is negative. The domestic industry has recorded a negative growth both in volume terms and financial terms in the POI as compared to previous year 2010-11. Further, the market share of the domestic industry shows negative growth despite existing capacities in the Country. Thus, overall growth of the domestic industry was adverse.

Growth (year by year)	Unit	2008-09	2009-10	2010-11	POI (annualized)
Production	%	-	93.94	19.98	(7.68)
Sales Volume	%	-	63.81	22.11	(20.52)
Profit/Loss per unit	%	-	***	***	(***)
Return on Investment	%	-	***	***	***
Market Share	%	-	(0.53)	6.66	(9.02)

**(i) Magnitude and Margin of Dumping**

88. It is noted that the imports coming into India from the subject country are above the de minimis level of dumping margin. The dumping margin determined from subject country is considered significant.

**E.4 Causal Link**

89. As per the AD Rules, the Designated Authority is, inter alia, required to examine any known factors other than dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. The Authority has examined whether other factors listed under the AD Rules could have contributed to injury to the domestic industry. The examination of causal link has been done as follows:

**(a) Imports from third countries and other Known Factors**

90. During the POI, more than 92% imports were from the subject country. Imports from third countries were negligible and could not have caused injury to the domestic industry. The Authority notes that most of imports of subject goods from countries other than the subject countries were at a price higher than that from the subject country. Further, these imports were negligible.

**(b) Contraction in demand and / or change in pattern of consumption**

91. The Authority notes that the demand for the subject goods has shown significant increase during the injury period except during the POI. A further analysis of the data by the Authority indicates that the decline in the volume of dumped imports was significantly lower than the decline in the sales of the domestic industry. Therefore, the domestic industry suffered injury primary on account of dumped imports than on account of any change in the demand. From the available information, no change in the pattern of consumption was noted.

**(c) Trade Restrictive practices of and competition between foreign and domestic producers**

92. It is noted that there is a single market for the subject goods where dumped imports from the subject country compete directly with the subject goods supplied by the domestic industry. It is noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

**(d) Developments in Technology**

93. There is no allegation of developments in technology, nor has the investigation so far shown that possible injury to the domestic industry could have been caused by developments in technology.

**(e) Export performance**

94. The petitioner has significant exports. However, the Authority has considered only domestic operations and domestic profitability.

**(f) Productivity of the Domestic Industry**

95. It is noted that there is no material change in productivity of the domestic industry. Possible decline in productivity cannot be the reason for the established injury to the domestic industry.

**E.4.1 Parameters establishing causal link**

96. The Authority notes that while listed known other factors do not show that injury to the domestic industry has been caused by these factors, following parameters show that injury to the domestic industry has been caused by dumped imports.

(a) Market share of the domestic industry declined in POI and that of subject imports increased as a result of increase in imports.

(b) Imports were causing significant price undercutting in the domestic market. As a consequence, sales volumes of the domestic industry declined far more than the decline in demand in the POI as compared to the previous year 2010-11 and the decline in the

share of domestic industry was notably higher than the decline in the volume of imports from subject countries.

- (c) Dumped imports from the subject country are depressing the prices of the domestic industry. As, the domestic industry has tried to align its selling prices close to the landed prices, there has been a decline in prices whereas the cost of production has increased. It is noted that price depression being felt by the domestic industry is due to lower prices of dumped imports from the subject country and this depression has increased in the POI.
- (d) Thus, it is noted that the domestic industry is forced to decrease prices in the POI in spite of increase in cost, due to presence of dumped imports in the market resulted in decline in profits and return on investment.
- (e) Landed price of imports were undercutting and underselling the prices of the domestic industry. As a result of the price undercutting, price underselling and significant volume of imports from the subject country, the market share and overall profitability of the domestic industry has declined.
- (f) Decline in sales volumes and market share of the domestic industry resulted in decline in production of the domestic industry in the POI. Consequently, capacity utilization of the domestic industry also declined

97. The Authority has determined non-injurious price for the domestic industry taking into consideration cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports of the responding producers and exporters to determine injury margin. The injury margins have been worked out as follows:

Producer	Exporter	NIP	LP	IM	IM%
Jiangsu Tianjiayi Chemical Co. Ltd	Changshan Haicheng Chemical Co. Ltd.	***	***	***	15-25
Zhejiang Amino-Chem Co. Ltd	Zhejiang Amino-Chem Co. Ltd	***	***	***	15-25
Any Other producer/exporter from China PR	Any Other producer/exporter from China PR	***	***	***	25-35

98. The level of dumping margins and injury margins as determined are considered significant.

#### **E.5 Conclusion on Injury and causation**

99. There has been a significant increase in the volume of dumped imports from the subject country at the absolute level. The market share of dumped imports in total imports of subject goods has remained significantly high. It is also noted that the dumped imports were undercutting the prices of the domestic industry in the market. It is also determined that the dumped imports have had significant adverse price effect in terms of price depression and price underselling. Further, the dumping margins from responding producers and exporters from the subject country have been determined and are considered significant.
100. It is noted that dumped imports of subject goods from the subject country have adversely impacted the production and sales levels of the domestic industry. Further, it is also noted that the dumped imports have had significant adverse price effect in terms of price depression and price suppression which in turn have led to significant deterioration in profits and return on investments. Therefore, the Authority concludes that the domestic industry has suffered material injury and such injury has been caused significantly by price and volume effects of dumped imports from the subject country. The Authority therefore, provisionally holds that material injury to the domestic industry has been caused by the dumped imports of subject goods from the subject country.

#### **F. Indian industry's interest & other issues:**

101. 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 country in any way; and therefore, would not affect the availability of the product to the consumers.
102. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

#### **G. Recommendations**

103. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that:
- (a) The product under consideration has been exported to India from the subject country below normal value.

- (b) The domestic industry has suffered material injury on account of subject imports from the subject country.
- (c) The material injury has been caused by the dumped imports of subject goods from the subject country.

104. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports of product under consideration has been compared with the non-injurious price of the domestic like product produced by domestic industry determined for the period of investigation.

105. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount indicated in Col 7 of the table below is recommended to be imposed on all imports of subject goods originating in or exported from China PR.

Duty table

Col. No.	1	2	3	4	5	6	7	8	9
SN	Heading/ subheading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount of duty	Unit	Currency
1	29215120	'Meta Phenylene Diamine' (MPDA)	China PR	China PR	Jiangsu Tianjiayi Chemical Co. Ltd	Changshan Haicheng Chemical Co. Ltd.	0.57	Kg	US\$
2	29215120	'Meta Phenylene Diamine' (MPDA)	China PR	China PR	Any combination other than mentioned in Sr. no. 1 of above producer and exporter		0.78	Kg	US\$

3	29215120	'Meta Phenylene Diamine' (MPDA)	China PR	China PR	Zhejiang Amino-Chem Co. Ltd Ltd	Zhejiang Amino-Chem Co. Ltd	0.61	Kg	US\$
4	29215120	'Meta Phenylene Diamine' (MPDA)	China PR	China PR	Any combination other than mentioned in Sr. no. 3 of above producer and exporter		0.78	Kg	US\$
5	29215120	'Meta Phenylene Diamine' (MPDA)	China PR	Any other than China PR	Any	Any	0.78	Kg	US\$
6	29215120	'Meta Phenylene Diamine' (MPDA)	Any other than China PR	China PR	Any	Any	0.78	Kg	US\$

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

#### **H. Further Procedure**

107. The following procedure would be followed subsequent to notifying the preliminary findings: -

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- (b) Exporters, importers, the applicant and other interested parties known to be concerned may make known their views, within forty days from the date of the publication of the Preliminary findings in the official gazette. Any other interested party may also

- make known its views within forty days from the date of publication of these findings;
- (c) The Authority would hold a hearing to hear the views of various interested parties orally;
  - (d) The Authority would conduct further verification to the extent deemed necessary;

**(J S Deepak)**  
**Designated Authority**