

F. No. 15/7/2014-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi-110011

Dated the 19th June, 2015

Notification
(Final Findings)

Subject: Sunset review of anti-dumping duty imposed on the imports of Phosphoric Acid of all grades and all concentration (excluding Agriculture/Fertilizer Grade) originating in or exported from Korea RP.

No. 15/7/204-DGAD:-Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the "Act") and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as "Rules");

A. BACKGROUND OF THE CASE

2. WHEREAS, having regard to the above Act and the Rules, the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation in respect of the imports of Phosphoric Acid of all grades and all concentration (excluding Agriculture/Fertilizer Grade) (hereinafter referred to as the "subject goods" or "product under consideration" also) originating in or exported from Korea RP (hereinafter referred to as Korea RP or the subject country also) and recommended definitive anti dumping duty vide Final Findings Notification No 14/07/2007-DGAD dated 11th November, 2009. Definitive anti dumping duty was levied by the Central Government vide Custom Notification No 140/2009-Customs dated 15.12.2009.

3. AND WHEREAS M/s Gujarat Alkalies & Chemicals Ltd and Punjab Chemicals and Crop Protection Limited, major manufacturer of the subject goods in India, approached the Authority with a duly substantiated application requesting for sunset review of the definitive anti-dumping duty earlier imposed vide Ministry of Finance Notification No. 140/2009-Customs dated 15.12.2009 on the imports of the subject goods originating in or exported from the subject country and seeking the continuation of anti-dumping duty on the grounds that cessation of anti dumping duty is likely to lead to continuation or recurrence of dumping and injury.

4. Having satisfied that the petitioners M/s Gujarat Alkalies & Chemicals Ltd and Punjab Chemicals and Crop Protection Limited have prima facie substantiated the need for a review, the Designated Authority considered it appropriate to initiate sunset review vide notification no. 15/07/2014-DGAD dated 20th June, 2014. The validity of the antidumping duty on the imports of the subject goods from the subject country was extended by the Central Government up to 21st June 2015 vide Notification No. 32/2014-Customs (ADD) dated 23rd July, 2014.

B. GENERAL PROCEDURE

5. The procedure described below has been followed with regard to the investigation:
- a. The embassy of the subject country in New Delhi was intimated about the initiation of the investigation in accordance with Rules.
 - b. The Authority issued a notification no. 15/07/2014-DGAD dated 20th June, 2014 initiating sunset review investigations, which was published in the Gazette of India Extraordinary.
 - c. The Authority forwarded a copy of the public notice to the known producers and/or exporters in the subject country and provided them opportunity to provide relevant information and make their views known in writing within forty days from the date of the letter in accordance with the Rules.
 - d. The Authority forwarded a copy of the public notice to all the known importers and/or consumers of subject goods in India and advised them to provide relevant information and make their views known in writing within forty days from the date of issue of the letter in accordance with the Rules.
 - e. The Authority provided copies of the non-confidential version of the application to the known producers and/or exporters and the Embassy of the subject country in India in accordance with the Rules. A copy of the non-confidential application was also made available for other interested parties, on request.
 - f. The Authority sent a questionnaire to elicit relevant information to the government of subject country, including known exporters/producers in accordance with the Rules. However none of the exporters/producers from the subject country filed response to the questionnaire.
 - g. Questionnaire was sent to known importers or users for providing necessary information in accordance with the Rules. The Authority provided opportunity to the industrial users of the product under consideration, to furnish information considered relevant to the investigation regarding dumping, injury and causality. None of the importers filed response to the questionnaire. However, Sandeep Organics Pvt Ltd, Mumbai, an importer, filed its legal submissions.
 - h. The Authority held a public hearing on 11th March, 2015 to provide an opportunity to the interested parties to present relevant information orally. Only the domestic industry attended the public hearing and filed written submissions of the information presented orally. The Authority has considered these written submissions received from the domestic industry.
 - i. Arguments raised and information/evidence provided by the interested parties during the course of the investigation, to that extent the same are considered relevant to the present investigation, have been appropriately considered by the Authority.
 - j. The Authority during the course of investigation satisfied itself as to the accuracy of the information supplied upon. The Authority conducted on-the-spot verification at the premises of the domestic industry to the extent considered relevant and necessary. Additional/ supplementary details regarding injury were sought from the domestic industry, which were also received.
 - k. The Authority made available non-confidential version of the evidence presented by domestic industry through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
 - l. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting

Principles (GAAP) and the information furnished by the applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

- m. Investigation was carried out for the period starting from April, 2013 to March, 2014(12 months and has been referred to as the period of investigation or POI). The examination of trends in the context of injury analysis covered the periods 2010-11, 2011-12, 2012-13 and the POI.
- n. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority shall record findings on the basis of the facts available.
- o. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted, and such information has been considered confidential and not disclosed to other interested parties.
- p. A Disclosure Statement containing the essential facts in this investigation which formed the basis of the Final Findings was issued to the interested parties on 12.06.2015. Only the Domestic Industry responded to the Disclosure Statement and no opposing interested party responded to the said Disclosure Statement. The post Disclosure Statement submissions received from the domestic industry have been considered, to the extent found relevant, in this Final Findings Notification.
- q. **** in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.
- r. The exchange rate for the POI has been taken by the Authority as Rs. 60.85= 1 US\$.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

6. The product under consideration in the present investigation is “Phosphoric Acid of all grades and all concentration (excluding Agriculture/Fertilizer Grade) originating in or exported from Korea RP.

7. Phosphoric Acid is a clear, colourless, odourless, non-volatile, rather viscous, syrupy liquid, commonly used as an aqueous solution of 85% solution can be corrosive, although non-toxic when diluted. Phosphoric Acid is used for the production of sodium phosphate, calcium phosphate, magnesium phosphate, ammonium phosphate, pharmaceutical applications, beverages, seed processing, sugar juice and sugar refining, food phosphate manufacturing, etc. Phosphoric Acid is an inorganic chemical classified under Chapter 28 of the Customs Tariff Act and subheading number 2809.20 of Indian Trade Classification (based on harmonized commodity system). The classification is, however, indicative only and in no way binding on the scope of the present investigation.

8. The Designated Authority noted as follows in the Final Findings of the original investigation vide notification dated 15th December, 2009:

“The product under consideration in the present investigation is Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade).”

9. The Authority notes that one importer Sandeep Organics Pvt Ltd has contended that:

(i) Domestic industry packing is mainly in 50 kgs HM-HDPE carboys. While, Korea exports mainly now in 330 kgs net drum. Price varies according to the packing. 330 kgs packing is cheaper & 50 kgs is costlier.

(ii) There is difference in quality with regards to p205, iron (Fe), chloride (Cl), fluoride (F), CA, MG, heavy metal Pb (lead), arsenic (AS), acetic acid (CH₃COOH) contents when compared between domestic industry & Korea.

(iii) Domestic industry manufactures minimum 85% purity concentration/aqueous solution only. There should be no anti dumping on imports of 75% purity concentration/aqueous solution from Korea, lower the purity concentration/aqueous solution, lower is the price & vice versa.

(iv) Domestic industry manufactures technical grade only. There should be no anti dumping on imports of food grade from Korea. Food grade is costlier & technical grade is cheaper.

(v) Recycled phosphoric acid is inferior & cheaper. There should be no anti dumping on recycled phosphoric acid.

10. Fertilizer/agriculture grade has been specifically excluded from the scope of product under consideration.

11. As regards the claim on difference in packing cost, the Authority notes that the submission is not substantiated and no evidence has been placed to show alleged difference.

12. As regards the argument that there is difference in quality of imported goods as compared to domestically produced goods, the Authority notes that the claim has not been substantiated and furthermore it is not even the claim of the interested party that difference in quality lead to non substitution of the product.

13. As regards the argument that domestic industry manufacturers only 85% purity and, therefore, imports of subject goods with 75% purity should be excluded, the Authority notes that the claim is baseless and incorrect. Transaction wise import data shows that only 21.75 MT out of total 2,960 MT were silent on the concentration of Phosphoric Acid 85% purity, remaining transactions have description of 85%.

14. As regards the argument that Domestic industry manufactures technical grade only, the Authority notes that Punjab Chemicals and Crop Protection Limited, who has expressly supported the investigation, produces food grade. Thus the Indian industry produces food grade and therefore food grade cannot be excluded from the scope of product under consideration.

15. As regards the argument that there should be no anti dumping on recycled phosphoric acid, the Authority notes that no reasoning or evidence has been submitted to justify the claim.

16. Considering the information on record, the Authority concludes that the scope of the product under consideration remains the same as considered in the original investigation, i.e., the product under consideration is Phosphoric Acid of all grades and all concentrations excluding all forms of Agriculture/Fertilizer Grade.

D. DOMESTIC INDUSTRY AND STANDING

Submissions by the Domestic Industry

17. The following submissions have been made by the domestic industry with regard to scope of the Domestic Industry and Standing:

- i. The present petition has been filed by Gujarat Alkalies & Chemicals Ltd. and Punjab Chemicals and Crop Protection Ltd which constitute domestic industry for the product under consideration in India.
- ii. Aditya Birla, the other Indian producer, has supported the investigation and also provided complete information to the Authority.
- iii. Petitioners alone constitute ‘a major proportion’ of Indian production and the petitioners, therefore, satisfy the requirement of standing under the Rules and constitute the domestic industry. Thus, the application has been made by or on behalf of the domestic industry.

Views of the Importers, Consumers, Exporters and Other Interested Parties

18. None of the interested parties have made submissions with regard to scope of the Domestic Industry and its standing.

Examination by Authority

19. 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”

20. The application was filed by M/s Gujarat Alkalies & Chemicals Ltd. and M/s Punjab Chemicals and Crop Protection Ltd. At the time of initiation, the production of these two companies constituted a major proportion in Indian production which was 50.36% and 1.40% respectively. However, post initiation, Punjab Chemicals and Crop Protection Ltd. failed to furnish the costing and financial data. On the other hand, post initiation, M/s Aditya Birla Chemicals Ltd, another major producer of the subject goods (48%), provided information pertaining to their production and the assessment of injury and non injurious price. There is no other known producer of the product under consideration in India.

21. Since Punjab Chemicals and Crop Protection Ltd. did not furnish the costing and financial data, the Authority is not considering this company as part of the domestic industry as has been done by the Authority in some other similarly placed investigations. However, the Authority considers it appropriate to include Aditya Birla Chemicals as part of the domestic industry. As

per the records available to the Authority, the combined production of Gujarat Alkalies & Chemicals Ltd and Aditya Birla Chemicals constitutes almost 99% of Indian production.

22. On the basis of the above, the Authority has determined the standing of the applicants and concludes that Gujarat Alkalies & Chemicals Ltd. and Aditya Birla Chemicals constitute domestic industry within the meaning of the Rules, as combined production of these companies accounts for a major proportion of the domestic production of the subject goods during the POI.

E. NORMAL VALUE, EXPORT PRICE, DUMPING MARGIN

Views of the domestic industry

23. The following submissions have been made by the domestic industry with regard to dumping margin:

- i. Korea RP is a market economy country and, therefore, normal value in case of Korea RP should be determined in accordance with Section 9A (1) (c) of the Customs Tariff Act, 1975.
- ii. Efforts were made to get evidence of price of product concerned in the domestic market of Korea RP. Efforts were also made to get any evidence of price from the published sources. There is no publication which provides prices of the product under consideration in Korea RP.
- iii. The product prices are not publicly available. The prices are transacted between the producers and consumers and, therefore, the same are not in the public domain. In view of the same, the normal value has been constructed. The petitioners have determined the normal value for Korea RP on the basis of estimates of cost of production based on best available information, with addition of selling, general and administrative expenses.
- iv. The export price has been determined considering the volume and value of imports for the proposed period of investigation as per data released by the secondary source. Export price has been determined as the per unit weight import price from the subject country.
- v. The export price has been adjusted for the expenses that have been incurred by the exporter for exporting the material to India.
- vi. The exporters from Korea RP are continuing to dump the subject goods in the Indian market.

Views of the Importers, Consumers, Exporters and Other Interested Parties

24. Sandeep Organics Ltd, an importer has made submissions as under.

- (i) Domestic industry is incurring additional expenses such as handling charges, packing charges, transport charges, central sales tax, agent's commission, agent's profit, warehouse charges etc.
- (ii) Exporter from Korea is Canko Marketing Inc. There is difference in duty structure. CVD in domestic industry is 12%, 2% & 1%. While, CVD in Korea is 12% only. There is special additional duty of 4% on imports from Korea. Basic duty on phosphoric acid is 5%. Basic duty from Korea under free trade agreement against Korea-India

Comprehensive economic partnership agreement preferential certificate of origin combined declaration and certificate is 4.69%.

- (iii) Import price of Korea is USD 725- 750 pmt CIF nhava sheva. Export data from Busan port of Korea should be considered.

Examination by Authority

25. Under section 9A (1) (c) of the Act, the normal value in relation to an article means:

- (i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or
- (ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either
 - (a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

26. The Authority sent questionnaires to the known exporters from the subject country, advising them to provide information in the form and manner prescribed. However, none of the producer/exporter from subject country has co-operated in this investigation by filing their Questionnaires' responses.

27. As regards the argument that Domestic industry is incurring additional expenses, the Authority notes that even the exporters incur additional expense and in any case, the comparison is made at similar level.

28. As regards the argument that Korea has preferential duty, the Authority notes that concession on duties does not justify unfair trade by the countries. The concessional duties have no impact on the dumping margin.

29. As regards the argument that imports price of Korea is USD 725- 750 pmt CIF, the Authority notes that the average import price for the period 2013-14 comes higher. Thus the claim of the interested party would show further dumping and injury being caused to the domestic industry.

30. In the absence of cooperation from any producers/exporters in the subject country, the Authority has determined the normal value on the basis of facts available in terms of Rule 6(8) of AD Rules read with Article 6.8 of the WTO Agreement.

31. Accordingly, the Authority has determined the normal value, export price and dumping margin in respect of producers/exporters of the subject country as follows.

Normal Value for all producers/exporters from Korea RP

32. As provided under the law, the Authority is required to consider selling price of the product when meant for consumption in the domestic market of Korea RP for determining

normal value in Korea RP. The petitioners claimed that there is no evidence of actual selling price prevailing in the domestic market of the Korea RP. None of the exporters in Korea has cooperated with the Authority with questionnaire response. The Authority notes that in the absence of any response from any Korean producer in the form and manner prescribed, the normal value cannot be determined on the basis of questionnaire response of a producer in the Korea RP. The Authority has, therefore, constructed the normal value by considering the cost of production of the most efficient domestic industry, international price of major raw materials, including selling, general & administrative costs and reasonable profits. The imports data shows that import consignments of Phosphoric Acid (Food and Technical Grade) from Korea RP range from 20 kg. to 215.6 MT. Since it may not be commercially viable to import such small quantity of Phosphoric Acid in loose form in ship loads, the Authority notes that imports of the Phosphoric Acid during POI can be made in packed form only. The normal value is as indicated in the Dumping Margin Table below.

Export price for all producers/exporters from Korea RP

33. Since none of the exporters from the subject country has responded to the Authority, the Authority has determined the Export Price in respect of imports from Korea RP on the basis of best information available in accordance with the Rules. The petitioners had determined export price on the basis of imports of the product under consideration in India, as reported by secondary sources. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the injury period. The Authority has adopted the transaction wise data procured from the DGCI&S and determined the export price considering all imports of the product under consideration in India. Price adjustments have been made on the basis of claims made by the petitioners in view of non cooperation from the exporters from Korea RP. The export price has been adjusted for ocean freight, marine insurance, commission, port expenses, inland freight expenses, bank charges to determine ex-factory export price of the product under consideration. The export price is as indicated in the Dumping Margin Table below.

Dumping Margin Table

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

| Normal Value (Packed) | Export Price (Packed) | Dumping Margin (packed) | Dumping Margin | Dumping Margin Range |
|--------------------------|--------------------------|----------------------------|----------------|-------------------------|
| US\$/MT | US\$/MT | US\$/MT | % | % |
| *** | *** | *** | *** | 35-45 |

F. ASSESSMENT OF INJURY AND CAUSAL LINK

Views of the Domestic Industry

35. The submissions made by the Domestic Industry with regard to injury and casual link are as follows:

- i. There is a significant increase in the demand for the product under consideration over the injury period.
- ii. Imports from the subject country declined in 2011-12, increased in 2012-13 and declined thereafter in the proposed investigation period. However, imports have again increased in the post POI.
- iii. Price undercutting without anti dumping duty is significant. The subject imports are likely to severely undercut the prices of the domestic industry, which would cause serious injury to the Domestic Industry, in the event of cessation of duties.
- iv. A comparison has also been made between the landed price of imports and non-injurious price. It may be seen that landed price of imports is far below the non-injurious price in the proposed period of investigation.
- v. Production, capacity utilization and sales of the domestic industry have remained almost at constant levels with slight changes over the injury period. Imposition of anti-dumping duty has thus helped the domestic industry in dealing with the injury earlier caused by the dumped imports of the subject goods from the subject country.
- vi. In view of the demand supply gap in the domestic market, the petitioners have proposed to enhance their capacity by 1 lac MT. However, if the past one decade history of the product under consideration is considered on cumulatively basis, it would be seen that the domestic industry has not been able to earn profits. In such a situation, cessation of anti dumping duty would lead to recurrence of injury. This would certainly make the domestic industry incapable of expanding capacity.
- vii. The market share of the domestic industry has declined. Market share of dumped imports from Korea RP has also declined. However, the market share of Korea is significant considering the presence of anti-dumping duty.
- viii. Profitability of the domestic industry improved throughout the injury period. Cash profits, profits before interest and return on capital employed improved over the injury period. The domestic industry suffered injury in 2010-11 due to influx of dumped imports from Israel and Taiwan. Thereafter, the Domestic Industry recovered due to presence of anti-dumping duties against Israel, Taiwan as also against Korea RP.
- ix. Inventories with the Domestic Industry have decreased over the injury period.
- x. The domestic industry has been growing in terms of profits and return on investment. Sales and production have remained at constant levels because of the anti-dumping duty protecting the domestic industry from injury due to dumped imports.
- xi. The dumping margin is not only more than de minimis but also very substantial.

Views of the Importers, Consumers, Exporters and Other Interested Parties

36. Sandeep Organic Ltd has made the following submissions with regard to injury and causal link.

- (i) Domestic industry is making profit. Inventory & capital utilization of domestic industry needs to be checked
- (ii) Production capacity of domestic industry is only 80 tonnes per day.

Examination by the Authority

37. Rule 11 of the AD Rules read with its 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....” While considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

38. Rule 23 of the Rules provide that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that the domestic industry has not suffered injury during the current period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.

39. 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.

40. As regards the argument that Domestic industry has capacity of only 80 MT/day, the Authority notes that the capacity with the domestic industry is 150 MT/day. Moreover, imposition of anti dumping duty does not restrict imports. It only provides for a level playing field and checks unfair trade.

41. As regards the impact of the dumped imports on the domestic industry, para (iv) of Annexure-II of the AD 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.”

42. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production,

capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

Assessment of Demand

43. For the purpose of determining the demand, the Authority has considered sales of the Indian producers and imports from various sources. The demand of the product in India has been computed as the sum of domestic sales of the Indian producers and known imports from various countries. The demand so assessed is shown in the following table:

| Particulars | Units | 2010-11 | 2011-12 | 2012-13 | POI |
|----------------------------------|-------|---------|---------|---------|--------|
| Sales of Domestic Industry | MT | 34,844 | 45,057 | 46,637 | 48,366 |
| Sales of Other Indian Producer | MT | 1,146 | 625 | 780 | 721 |
| Subject country-Imports | MT | 8,778 | 4,545 | 5,844 | 2,960 |
| Countries attracting ADD-Imports | MT | 24,740 | 19,018 | 18,891 | 16,267 |
| Other Countries-Imports | MT | 1,851 | 3,071 | 5,507 | 8,133 |
| Total demand/consumption | MT | 71,359 | 72,316 | 77,659 | 76,447 |

44. It is noted that the apparent consumption of the subject goods has increased over the injury period.

Volume Effects of Dumped Imports

Import Volume and Market Share

45. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S. The volume of imports of the subject good from the subject country has been analyzed as under:

| Particulars | Units | 2010-11 | 2011-12 | 2012-13 | POI |
|---------------------------|-------|---------|---------|---------|--------|
| Subject country-Imports | MT | 8,778 | 4,545 | 5,844 | 2,960 |
| Other Countries | MT | 26,591 | 22,090 | 24,398 | 24,400 |
| Total Imports | MT | 35,369 | 26,635 | 30,242 | 27,360 |
| Market share in Imports:- | | | | | |
| Subject country-Imports | % | 24.82 | 17.06 | 19.32 | 10.82 |
| Other Countries | % | 75.18 | 82.94 | 80.68 | 89.18 |
| Market share in demand:- | | | | | |
| Subject Country | % | 12.30 | 6.28 | 7.52 | 3.87 |
| Countries attracting ADD | % | 34.67 | 26.30 | 24.33 | 21.28 |
| Other Countries | % | 2.59 | 4.25 | 7.09 | 10.64 |
| Domestic Industry | % | 48.83 | 62.31 | 60.05 | 63.27 |
| Other Indian Producer | % | 1.61 | 0.86 | 1.00 | 0.94 |
| Imports from subject | % | 24.45 | 9.91 | 12.62 | 5.95 |

| Particulars | Units | 2010-11 | 2011-12 | 2012-13 | POI |
|---|-------|---------|---------|---------|------|
| country in relation to production | | | | | |
| Imports from subject country in relation to consumption | % | 12.30 | 6.28 | 7.52 | 3.87 |

46. It is seen that the imports from the subject country have declined over the injury period. The share of the subject imports in total imports as well as in relation to the demand has declined. Imports have also declined in relation to production and consumption of the product in the country.

Price Effect

47. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products 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. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any.

Price undercutting and price underselling

48. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. The following table shows the net selling price of the domestic industry, landed price of the dumped imports and the price undercutting.

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|---|------------|---------|---------|---------|-------|
| Korea RP | | | | | |
| Landed price of imports without ADD (packed) | Rs/MT | *** | *** | *** | *** |
| Net Sales Realisation-Packed | Rs/MT | *** | *** | *** | *** |
| Price Undercutting (packed) | Rs/MT | *** | *** | *** | *** |
| Price Undercutting (%) | % | *** | *** | *** | *** |
| Price Undercutting (%) | % Range | 30-40 | 20-30 | 20-30 | 20-30 |
| Landed price of imports with ADD (packed) | Rs/MT | *** | *** | *** | *** |
| Net Sales Realisation-Packed | Rs/MT | *** | *** | *** | *** |
| Price Undercutting (packed) | Rs/MT | *** | *** | *** | *** |
| Price Undercutting (%) | % | *** | *** | *** | *** |
| Price Undercutting (%) | % Range | 10-20 | 0-10 | 0-10 | 0-10 |

49. The Authority notes that the landed price of imports is below the selling price of the domestic industry. Further, the price undercutting is quite significant. Thus cessation of anti dumping duty is likely to undercut the prices of the domestic industry to a significant extent.

Price underselling

50. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The imports of Phosphoric Acid can be made in packed and loose form. The domestic industry has argued in the application that imports are being reported in packed form only. The imports data shows that import consignments of Phosphoric Acid (Food and Technical Grade) from Korea RP range from 20 kg. to 215.6 MT. Since it may not be commercially viable to import such small quantity of Phosphoric Acid in loose form in ship loads, the Authority notes that imports of the Phosphoric Acid of Food and Technical Grade during POI can be made in packed form only.

51. The analysis shows that the landed value of subject imports was below the cost of production and non-injurious price of the domestic industry as can be seen from the table below.

| Particulars | Unit | Without ADD | With ADD |
|------------------------------|--------|-------------|------------|
| Non Injurious Price (packed) | Rs./MT | *** | *** |
| Landed Price (packed) | Rs./MT | *** | *** |
| Price underselling | Rs./MT | *** | *** |
| Price underselling % | % | *** | *** |
| Price underselling % | Range | 15-25 | (-5)-(-10) |

52. It is noted that during the investigation period, the landed price of the subject goods from the subject country is far below the cost of production and non injurious price determined for the domestic industry, resulting in price underselling.

Price Suppression and Depression

53. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of selling price of the domestic industry has been compared with the cost of production. The data given below shows that both cost of production and selling price have increased over the injury period and the increase in selling price is significant. Thus, it is noted that there is no price suppression/ depression in the domestic market with anti dumping duty being in force. However, it is noted that the landed price of imports has remained significantly below the level of not only the selling price but also the cost of sales. Thus it is noted that while imposition of anti dumping duty has led to reduction on dumped and injuriously priced imports, cessation of anti dumping duty is likely to lead to depressing effect on the prices of the domestic industry in the market, causing injury to the domestic industry.

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|--|---------|---------|---------|---------|-----|
| Landed price of imports- without ADD in packed form | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 133 | 154 | 161 |
| Landed price of imports- with ADD in packed form | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 126 | 145 | 154 |
| <i>Cost of Sales</i> | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 107 | 117 | 127 |
| <i>Selling Price</i> | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 119 | 135 | 143 |

Economic Parameters affecting Domestic Industry

54. As per Annexure II to the AD Rules, the Authority is required to examine the impact of the dumped imports on the domestic industry concerned, which includes 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 the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, various economic parameters of the domestic industry have been analyzed as follows.

Sales, Capacity, Production, and Capacity Utilization

55. The performance of the domestic industry in respect of sales, capacity, production, and capacity utilization has been as follows:

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|----------------------|------|---------|---------|---------|--------|
| Capacity | MT | 50,730 | 50,730 | 50,730 | 50,730 |
| Production | MT | 34,741 | 45,252 | 45,486 | 49,073 |
| Capacity Utilization | % | 68.48 | 89.20 | 89.66 | 96.73 |
| Sales volume: | | | | | |
| -Domestic | MT | 34,844 | 45,057 | 46,637 | 48,366 |
| -Exports | MT | 71 | 36 | 165 | 105 |
| -Total Sales | MT | 34,915 | 45,092 | 46,802 | 48,471 |

56. It is seen that the production, sales and capacity utilization of the domestic industry has increased over the investigation period as a consequence of imposition of anti dumping duty on dumped imports. The petitioners have submitted with relevant evidence that they intended to expand capacity by 1 lac MT in view of the demand.

Market share in Demand

57. The effects of the dumped imports on the domestic sales and the market share of the domestic industry have been as below:

| Market Share in Demand | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|----------------------------|------|---------|---------|---------|--------|
| Sales of Domestic Industry | % | 48.83 | 62.31 | 60.05 | 63.27 |
| Sales of Other Producer | % | 1.61 | 0.86 | 1.00 | 0.94 |
| Subject Country – Imports | % | 12.30 | 6.28 | 7.52 | 3.87 |
| Countries attracting ADD | % | 34.67 | 26.30 | 24.33 | 21.28 |
| Other Countries - Imports | % | 2.59 | 4.25 | 7.09 | 10.64 |
| Total | % | 100.00 | 100.00 | 100.00 | 100.00 |

58. It is seen that the market share of the domestic industry in demand has increased whereas the market share of imports has declined.

Profits, return on investment and cash flow

59. The cost of sales, selling price and profit/loss of the domestic industry have been analyzed as follows:

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|---------------|----------------|---------|---------|---------|-------|
| Cost of sales | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 107 | 117 | 127 |
| Selling price | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 119 | 135 | 143 |
| Profit/Loss | Rs./MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 744 | 1,063 | 1,022 |
| Profit/Loss | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 962 | 1,423 | 1,418 |
| PBIT | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 763 | 1,100 | 1,372 |
| Cash Profit | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 289 | 389 | 375 |
| ROI | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 731 | 979 | 946 |

60. It is seen that:

- a. Cost of sales has consistently increased over the injury period.
- b. Selling price of the domestic industry has also increased sharply over the injury period.
- c. Profitability of the domestic industry has also increased significantly over the injury period with slight decline in the POI as compared to previous year.
- d. Cash profits and return on investment have shown marked improvement over the injury period.

Inventories

61. The data relating to inventory of the subject goods are shown in the following table:

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|---------------|----------------|---------|---------|---------|-----|
| Opening stock | MT | *** | *** | *** | *** |
| Closing Stock | MT | *** | *** | *** | *** |
| Average Stock | MT | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 100 | 79 | 66 |

62. It is seen that inventories with the Domestic Industry have declined over the injury period.

Employment and wages

63. The position with regard to employment and wages is as follows:

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|---------------------|----------------|---------|---------|---------|-----|
| Number of employees | No. | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 98 | 94 | 93 |
| Wages | Rs. Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 115 | 114 | 159 |

64. It has been contended by the domestic industry that considering the fact that the domestic industry comprises multi product companies, these parameters may not show the potential adverse effect of dumping. It is noted that the number of employees has remained in the similar range. Wages paid have, however, increased significantly in the POI.

Productivity

65. Data relating to productivity shows as follows:

| Particulars | Unit | 2010-11 | 2011-12 | 2012-13 | POI |
|---------------------------|----------------|---------|---------|---------|-----|
| Productivity per day | No. | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 130 | 131 | 141 |
| Productivity per Employee | No. | *** | *** | *** | *** |
| <i>Trend</i> | <i>Indexed</i> | 100 | 133 | 139 | 152 |

66. It is noted that productivity of the domestic industry has increased over the injury period following the movement of production of the domestic industry.

Factors affecting prices

67. Consideration of the subject import prices and import prices from 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 would show that

the landed value of subject imported material is significantly below the selling price of the domestic industry, causing significant price undercutting in the Indian market. The benchmark for the Indian producers' prices are the import prices into India. Imports from other countries are attracting anti dumping duty. There is no viable substitute to this product. Demand for the product was showing significant increase and could not have been a factor responsible for causing injury to the domestic industry. It is thus evident that the only factor responsible for the domestic industry prices are the import prices of the product from countries dumping the goods and the cost of production of the domestic industry. As the information shows, landed price of imports are below the cost of production, selling price and non injurious price of the domestic industry and, therefore, imports are likely to influence the prices of the domestic industry in the market.

Magnitude of Dumping

68. Dumping margin determined for the subject country is above de minimis and significant.

Conclusion on Injury

69. In view of the above, it is proposed to conclude that performance of the domestic industry has improved in terms of various economic parameters. Performance of the domestic industry has shown positive developments in respect of various economic parameters such as production, sales, capacity utilization, profits, return on investments and cash flow in the discipline of the anti dumping duty. It is, therefore, concluded that anti dumping duty has prevented decline of the domestic industry from dumped imports and has resulted in improvement in the performance of the domestic industry. Though the volume of dumped imports has declined, the imports are entering the domestic market at significantly dumped price. The dumping margin and injury margin determined are significantly positive. Further, the landed price of imports is below not only the cost of production but also the selling price and non injurious price of the domestic industry in the POI. In such a scenario, cessation of the anti dumping duty is likely to adversely affect the prices of the domestic industry and is likely to result in significant price depression. Should the domestic industry be forced to reduce its prices to the level of landed price of imports, it shall be forced to sell the product at prices significantly below the non injurious price of the domestic industry.

Likelihood of Continuation or Recurrence of Dumping and Injury

Views of the domestic industry

70. Domestic industry has made following submissions with regard to likelihood of continuation or recurrence of dumping and injury

- a. Dumping Margin determined in previous investigations and present petition are significant and clearly shows likelihood of dumping and consequent injury in the event of cessation of anti dumping duty.
- b. The subject foreign producers are holding huge production capacities. The known capacity amounts to around 1,05,600 MT which is more than demand/consumption of subject good in India. In case of cessation of the present duty, dumping from subject country is likely to increase and cause injury to the Domestic Industry.

- c. The fact that the exports were at dumping prices despite existing anti-dumping duty, it is likely that in case of cessation of the present duty, exports from the subject country at dumped prices would increase and cause injury to the Domestic Industry.
- d. The foreign producers are intensely focused on the exports. In the event of cessation of duty, these exporters are likely to increase their exports to India at dumped prices.
- e. Price undercutting without anti-dumping duty is very high. It is only due to the effect of anti-dumping duties in place that Domestic Industry is not suffering injury. Thus, it is apparent that if anti-dumping duties currently in place are allowed to expire, the imports would cause severe price undercutting which would cause material injury to the Domestic Industry.
- f. Decline in imports post imposition of duty and positive dumping margin in such imports implies likelihood of dumping in the event of withdrawal of duty and in itself justifies extension of anti dumping duty.
- g. The petitioners refer to the US policy on conducting sunset review investigations and submit that the parameters applied by the US, when applied to the present case would establish the need for extension of anti dumping duty.
- h. The Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Such being the case, availability of such low priced imports from the subject country in the market is definitely causing an adverse impact on the domestic industry. This is further established by the long term dumping practice by the subject exporters and other sources dumping the product.
- i. In the event of cessation of current anti-dumping duty, the domestic industry will have to either reduce the selling price by the amount of ADD or the domestic industry would lose sales volumes. In either case, domestic industry will suffer material injury.
- j. In the event of cessation of current anti-dumping duty and if Domestic Industry is constrained to sell at the import prices, the Domestic Industry would suffer losses. The return on investment and cash profit would also be negative. Therefore, cessation of anti-dumping duty would have significant adverse effect on the prices in the market.
- k. In the event of cessation of current anti-dumping duty, should the Domestic Industry choose to maintain its price at the same level, the import volume will increase, given significant price difference between the domestic and import prices. This is likely to cause significant deterioration in sales, production and capacity utilization of the domestic industry.
- l. Though the share of exports from Korea RP has declined in the proposed POI, India has remained one of the major export destinations for exporters of subject goods in the subject country.
- m. The subject exporters are selectively dumping in India and find India a lucrative market. In the event of revocation of duty, the imports from Korea RP will intensify as the exporters with surplus capacity will aim to maximize the utilization of the capacities.
- n. Korea RP is a major exporter of the product concerned and is exporting the product to many countries. The Korean producers hold significant exporting capacities of the product under consideration. The petitioners have analyzed volume and value of exports from Korea RP to various countries globally. This information is verifiable from Korean Customs as well. It would be seen that majority exports made by Korea RP globally are at dumped and injurious price.
- o. The prices at which subject goods are being imported are substantially lower than the normal value. Therefore, in case of expiry of duty, exporters from the subject country are likely to continue dumping practices.

Views of the Importers, Consumers, Exporters and Other Interested Parties

71. None of the interested party has made any submission on likelihood of continuation or recurrence of dumping and injury.

Examination by the Authority

72. The Authority has examined the contention of the domestic industry and also examined the likelihood of continuation or recurrence of dumping and injury as follows:

i. Price undercutting, suppression, depression in the absence of measures

73. The Authority examined the effect of cessation of anti dumping duty in terms of price undercutting, suppression and depression effect on the prices of the domestic industry in the market and its consequent impact on the domestic industry for the POI, i.e., 2013-14. It is seen that the landed price of imports is materially below the cost of production and selling price.

74. It is thus evident that should the present duty be allowed to cease and should the domestic industry sell the product at prices matching the import prices from Korea RP, the domestic industry would suffer financial losses, negative cash flows and negative return on investment.

ii. Significant dumped and injurious exports from the subject country

75. The Authority has no information available to the extent that any other country has initiated anti dumping investigation or imposed ADD against Korea for the subject goods. The domestic industry in its submissions before the Authority claimed that the subject goods are being exported by the exporters from the subject country at a price which is a dumped price. In this regard, the information relating to subject exports to various countries globally were examined by the Authority on country by country basis for the POI. Export data for subject country has been considered as per the Korea custom data. Considering these prices as FOB export prices, dumping margin and injury margin were determined for these transactions, after due adjustments (from FOB to ex factory in respect of dumping margin and from FOB to landed price in respect of injury margin).

| | Period 2013-14 | | |
|-----------------------------|----------------|------------|--------|
| | Dumped | Non Dumped | Total |
| Volume in MT | 9,218 | 621 | 9,839 |
| % | 93.69 | 6.31 | 100.00 |
| Net Export Price in US\$/MT | 792 | 2,871 | 986 |

| | Injurious | Non Injurious | Total |
|-------------------------------|-----------|---------------|--------|
| Volume in MT | 7,554 | 2,286 | 9,840 |
| % | 76.77 | 23.23 | 100.00 |
| Landed Price in US\$/MT | 916 | 1,644 | 1,085 |
| Landed Value in India US\$/MT | 827 | | |
| NIP in US\$/MT | 989 | | |

76. It is seen from the above Table that total volume of exports from the subject country to various countries globally during the POI was significant. Further, significant exports were made at dumped and injurious price from Korea RP. It is thus seen that a significant proportion of subject country's exports made to third countries were at dumped prices, and at a price where domestic industry would suffer injury, if these exports are diverted to Indian market. Further, considering demand in India, this volume of exports at dumping and injurious prices is quite significant.

iii. Surplus capacities with the foreign producers who are export oriented

77. As per the records, the capacity with the producers in Korea RP amounts to around 1,05,600 MT which is significantly beyond demand in the Korean local market. Evidence provided by the domestic industry shows capacities with various exporters as follows:

| SN | NAME | CAPACITY/PRODUCTION |
|----------|---------------------------|--|
| Korea RP | | |
| 1 | Daeyang International Co. | 500 Metric Ton/Tons per Month |
| 2 | Soheungchem Co Ltd | 1000 Metric Ton/Metric Tons per Month |
| 3 | Metachem Corp | 1,500 Metric Ton/Metric Tons per Month |
| 4 | ST Chemical | 300 Metric Ton/Metric Tons per Month |
| 5 | Semyoung Tech Co Ltd | 3,000 Metric Ton/Metric Tons per Month |
| 6 | OCI Corporation | 2,500 Metric Ton/Metric Tons per Month |
| 7 | Canko Marketing Inc | 1700 Metric Ton/Tons per month |

78. The following table shows percentage of exports by the exporters in the subject country as provided by the domestic industry.

| SN | Name of known foreign producer/exporter | Export Orientation |
|----------|---|--------------------|
| Korea RP | | |
| 1. | Daeyang International Co | 41% - 50% |
| 2. | Soheungchem Co Ltd | 41% - 50% |
| 3. | Metachem Corp | 31% - 40% |
| 4. | JKI International | 51% - 60% |
| 5. | Semyoung Tech Co Ltd | 61% - 70% |
| 6. | Namduck Moolsan Co Ltd | 41% - 50% |
| 7. | Canko Marketing Inc | 91% - 100% |
| 8. | BR Corporation | 71% - 80% |

79. In view of the above, it is noted that there exists significant capacity with the exporters from the subject country and the exporters are highly export oriented. Further, with the growing market in India which is quite price sensitive, it is likely that cessation of anti dumping leads to intensified imports at dumped and injurious price causing recurrence of injury to the domestic industry.

iv. Price attractiveness of Indian market

80. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, the exporters from the subject country would further channelize their output in the Indian market in view of the significant capacity with it. Further, despite India having imposed anti-dumping duties on subject imports, the price at which subject goods are being exported to India is much lower than average export price to other countries. Exports to India are being made at prices significantly lower than price for third countries.

81. Thus the subject country is dumping goods in India with higher intensity as compared to other countries. This clearly establishes likelihood of recurrence of injury to the domestic industry.

Causal Link

82. Under Section 9A (5) of the Act, the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties. Accordingly, the Authority has concluded that the dumped imports are likely to intensify and cause injury if antidumping duty were to be revoked. Notwithstanding, the Authority has examined whether other listed known factors could have caused or are likely to cause injury to the domestic industry.

- (a) Volume and value of imports not sold at dumped prices: - Imports from other countries are either attracting anti dumping duties or are at higher prices.
- (b) Contraction in demand: - The Authority notes that the demand of the product under consideration has shown a positive growth in the injury period with slight decline in the POI in comparison to the year 2012-13. Hence, contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry.
- (c) Changes in the patterns of consumption:- The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.
- (d) Trade restrictive practices of and competition between the foreign and domestic producers:- There is no trade restrictive practice which can contribute to the injury to the domestic industry.
- (e) Developments in technology: - It is noted that the technology for production of the product has neither undergone any material change nor is likely to change in future. Developments in technology, therefore, do not appear to be a possible factor of injury. The domestic industry is producing the product under consideration for the past several years. The technology adopted by domestic industry is comparable to the technology adopted by other players world-over.
- (f) Performance of other products produced and sold by the domestic industry: - The domestic industry comprises multi-product companies. However, injury analysis has been made with respect to the product under consideration only.

- (g) Productivity:- It is noted that productivity of the domestic industry has shown a growth. Possible decline in productivity does not appear to be a cause of injury to the domestic industry.

Magnitude of Injury and Injury margin:

83. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI. Thus compared, the proposed injury margin is worked out as under:

| Country/exporter | Unit | Korea RP | | Unit | Korea RP |
|------------------------------|--------|----------|-----|-------|----------|
| Non Injurious Price (packed) | Rs./MT | *** | *** | *** | *** |
| Landed Price (packed) | Rs./MT | *** | *** | *** | *** |
| Injury Margin (packed) | Rs./MT | *** | *** | *** | *** |
| Injury Margin % | % | *** | *** | *** | *** |
| Injury Margin % Range | Range | 15-25 | | Range | 15-25 |

84. It is seen that the injury margin is significant.

G. INDIAN INDUSTRY’S INTEREST:

85. 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/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

86. 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.

H. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

H.1 Post Disclosure Statement submissions by the opposing Interested Parties

87. None of the exporters/importers/users and other opposing interested parties has made any post Disclosure Statement submissions.

H.2 Post Disclosure Statement submissions by the Domestic Industry

88. Following are in brief the post Disclosure Statement submissions made by the domestic industry:

- (i) The product under consideration continues to be exported from subject country at prices below normal value, resulting in continued dumping.
- (ii) The performance of the domestic industry has improved in view of existing anti dumping duty.
- (iii) Imports are at prices not only below selling price but also cost of production of the domestic industry.
- (iv) There is clear likelihood of dumping and consequent injury in the event of cessation of present anti-dumping duties from subject country.
- (v) M/s Punjab Chemicals and Crop Protection Limited is producing food grade, thus, food grade is being produced and sold in the domestic market and, therefore, cannot be excluded from the scope of the product under consideration. In any case, there is no known import of food grade phosphoric acid from Korea and therefore question of exclusion in any case does not arise.
- (vi) The price undercutting without prevailing anti dumping duties is positive.
- (vii) The import prices are materially below selling price of the domestic industry. The consumers would, therefore, switch to imported product in the event of cessation of anti dumping duty which will lead to significant increase in imports of the product.
- (viii) Determination of NIP is inappropriate and is leading to unduly low protection to the domestic industry. Given the high age of the plant, higher rate of return for the domestic industry needs to be considered.
- (ix) Anti dumping duty should be imposed only as fixed quantum in US dollars.
- (x) Since the dumping and injury to the domestic industry is based on the likelihood of dumping and injury to the domestic industry, any modification to the quantum of duty would not be appropriate. Therefore, petitioner submits that the quantum of duty is not required to be modified and the existing duties should only be extended.

H.3 Examination by the Authority

89. The Authority has reached to the conclusion that the above arguments of the domestic industry are repetitive and have already been dealt with by the Authority in the Disclosure Statement earlier and have also been dealt with again in the Final Findings Notification under appropriate headings and also as under:

- i. As regards continued dumping, the investigation has shown that the product has been exported from Korea RP at prices below normal value, thus, resulting in continued dumping of the product.

- ii. As regards improvement in performance of the domestic industry, the Authority notes that the performance of the domestic industry has improved over the current injury period. However, being a sunset review investigation, the Authority is required to examine both continuation and likelihood of dumping and injury to the domestic industry. The investigation has shown that the injury to the domestic industry is likely in the event of cessation of anti dumping duty. The landed price of imports is below the selling price, cost of production and non injurious price of the domestic industry. Thus, injury to the domestic industry is likely in the event of cessation of anti dumping duty.
- iii. As regards price undercutting, the Authority notes that the investigation has shown that the landed price of imports is below the selling price of the domestic industry. Thus, the imports are likely to undercut the prices of the domestic industry in the market in the absence of anti dumping duty.
- iv. As regards inappropriate quantum of non injurious price and low quantum of protection to the domestic industry, the Authority has calculated the NIP as per the guidelines laid down in Annexure-III.
- v. As regards form of measure and unit of currency, the Authority has noted the argument of the domestic industry and its practice and accordingly recommended the anti dumping duty in this Finding.
- vi. As regards the request for extension of same quantum of anti dumping duty, it is noted that there were significant imports in the present POI and, therefore, the dumping margin and injury margin determined are representative and appropriate to determine quantum of anti dumping duty. The Authority, therefore, considers it appropriate to modify the level of duty in this Finding.
- vii. The Authority notes that the duties are in force on imports of the subject goods originating in, or exported from Taiwan and Israel vide Notification No. 19/2012-Customs (ADD) dated 4.4.2012. Further, duties are also in force on imports Phosphoric Acid-Technical Grade and Food Grade originating in or exported from China PR vide Notification No. 33/2013-(ADD) dated 31.12.2013.

I. CONCLUSION

90. The Authority notes that none of exporters from the subject country participated in the investigation, i.e., they neither submitted post initiation responses nor participated in the Oral Hearing or made any post Disclosure Statement submissions. However, only Sandeep Organics Pvt Ltd, Mumbai, an importer, filed its legal submissions after the initiation. Having regard to the contentions raised, information provided and submissions made by the domestic industry and M/s Sandeep Organics Pvt Ltd, Mumbai, the facts available before the Authority and on the basis of above analysis including analysis of likelihood of continuation of dumping and injury and post Disclosure Statement submissions made by the Domestic Industry, the Authority concludes that:

- (i) Product under consideration continues to be exported by producers and exporters from the subject country to India below its normal value resulting in dumping and causing injury to the domestic industry.

- (ii) Both dumping margin and injury margin are significant and positive in respect of producers and exporters from the subject countries, implying likelihood of intensified dumping and consequent injury to the domestic industry.
- (iii) The anti dumping duty on the subject goods originating in or exported from the subject country to India is required to be extended/modified further for a period of five years after analysis of the latest data.

J. RECOMMENDATIONS

91. Having concluded as above, the Authority is of the view that the antidumping measure is required to be recommended to offset dumping of the subject goods originating in or exported from the subject country and its consequential injury to the domestic industry.

92. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, anti dumping duty equal to the amount indicated in the table below is recommended to be imposed concerning all imports of the subject goods, originating in or exported from the subject countries, by the Central Government.

DUTY TABLE

| Sl. No | Sub-heading | Description of goods | Country of Origin* | Country of Export | Producer | Exporter | Amount | Unit of Measurement | Currency |
|--------|-------------|---|--------------------|-------------------|----------|----------|--------|---------------------|----------|
| 1 | 28092010 | Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade) | Korea RP | Korea RP | Any | Any | 162.52 | MT | US\$ |
| 2 | 28092010 | Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade) | Korea RP | Any Other | Any | Any | 162.52 | MT | US\$ |
| 3 | 28092010 | Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade) | Any Other | Korea RP | Any | Any | 162.52 | MT | US\$ |

**Note: Where there is overlapping of antidumping duty on the subject goods with respect to a subject country in different customs notifications, the duty applicable to that subject country shall be the one imposed under the customs notification in which the said country has been specifically mentioned under the Column "Country of Origin"*

93. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
94. An appeal against the order of the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J K Dadoo)
Designated Authority