

**To be published in Part-I Section-I of the Gazette of India Extraordinary**

**F. No. 6/11/2024-DGTR**  
**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**(Directorate General of Trade Remedies)**  
**4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001**

**Dated:25.03.2025**

**FINAL FINDINGS**  
**CASE NO. – AD(OI) – 10/2024**

**Subject: Anti-dumping investigation concerning imports of Potassium Tertiary Butoxide (KTB) from China PR and United States of America; and imports of Sodium Tertiary Butoxide (STB) from China PR.**

**A. BACKGROUND OF THE CASE**

1. Whereas, Suparna Chemicals Limited (hereinafter also referred to as the “applicant”) filed an application before the Authority in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the ‘Act’) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the ‘Anti-Dumping Rules’ or the ‘Rules’) for the initiation of an anti-dumping investigation concerning imports of Potassium Tertiary Butoxide (hereinafter also referred to as “KTB” or “subject goods” or “product under consideration”) from China PR and United States of America (hereinafter referred to as the “subject countries”); and imports of Sodium Tertiary Butoxide (hereinafter referred to as “STB” or “subject goods” or “product under consideration”) from China PR from (hereinafter also referred to as the “subject country”).
2. And whereas, based on a duly substantiated application with *prima facie* evidence of the dumping and injury due to imports from subject countries filed by the domestic industry, the Authority issued a public notice vide Notification No. 6/11/2024-DGTR dated 28<sup>th</sup> March 2024, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject country/countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

**B. PROCEDURE**

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

- a. The Authority notified the embassies of the subject countries in India about the receipt of the application before proceeding to initiate the investigation in accordance with Rule 5(5) of the Anti-Dumping Rules.
- b. The Authority issued a public notice vide Notification No. 6/11/2024-DGTR dated 28<sup>th</sup> March 2024, published in the Gazette of India, Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from the subject countries.
- c. The Authority sent a copy of the initiation notification to the governments of the subject countries, through their embassies in India, known producers and exporters from the subject countries, known importers / users as well as other interested parties, as per the addresses made available by the applicant and requested them to furnish their views in writing within the prescribed time limit.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Governments of the subject countries, through their embassies in India, in accordance with Rule 6(3) of the Anti-Dumping Rules. A copy of the non-confidential version of the application was circulated to other interested parties.
- e. The Authority forwarded a copy of the public notice initiating the investigation along with Exporter's Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:

Producers/exporters of KTB -

- i. Ascensus Specialties LLC (USA)
- ii. GenChem & GenPharm (Changzhou) Co. Ltd. (China PR)

Producers/exporters of STB –

- i. Sinolite Industrial Co Ltd.
- ii. GenChem & GenPharm (Changzhou) Co. Ltd.
- iii. Shandong Seesuns (Formerly XISACE) New Material technology Co. Ltd.
- iv. Shandong Ruinat Chemical Co Ltd

- f. The embassies of the subject countries in India were requested to advise the exporters/producers to respond to the questionnaire within the prescribed time limit.
- g. GenChem & GenPharm (Changzhou) Co. Ltd, a producer/exporter from China PR, has responded by filing exporter's questionnaire response.
- h. The Authority sent questionnaire to the following known importers / users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.

Users/importers of KTB -

- i. Agrisol
- ii. Arshiya Limited

- iii. IOL Chemicals
- iv. Innovare
- v. K. Raj & Co / Tolani Chemicals
- vi. Kekule Pharma
- vii. Biocon
- viii. Hasmukhray & Co.
- ix. Optimus Drugs
- x. Avra Lab
- xi. Bharat Jyoti Impex
- xii. Sanjay Chemicals
- xiii. Lupin Pharmaceuticals

Users/importers of STB –

- i. Atul Limited
- ii. Sanjay Chemicals
- iii. Neuland Lab
- iv. Syrochem
- v. Thermo Fischer
- vi. Punjab Chemicals
- vii. Meghmani Organics Limited
- viii. Rallis India Limited
- ix. Glenfin Chem
- x. Hindy Lab

- i. A copy of the initiation notification and non-confidential version of the application was sent to the following associations
  - i. FICCI
  - ii. CII
  - iii. ASSOCHAM
  - iv. Pharmaceuticals Export Promotion Council of India
- j. None of the importers/users have responded by filing questionnaire response in response to the initiation of the subject investigation.
- k. A copy of the initiation notification and non-confidential version of the application along with a copy of the economic interest questionnaire was sent to the Department of Chemical & Petrochemicals, Ministry of Chemicals & Fertilizers, on 04.04.2024. However, the Authority has not received any comments
- l. The Authority issued an Economic Interest Questionnaire to the Embassies of the subject countries, all the known exporters, importers and the domestic industry. The response to the Economic Interest Questionnaire has been filed only by the applicant and GenChem & GenPharm (Changzhou) Co. Ltd. (“GenChem & GenPharm”).
- m. The Authority invited views from the interested parties regarding the PCN methodology proposed by the domestic industry. All the interested parties were requested to make their views known in writing within the time limit prescribed.

Based on the comments received from the other interested parties, the Authority notified that no PCN methodology was required, and decided to proceed without PCNs which was notified vide letter dated 29<sup>th</sup> April 2024.

- n. The period of investigation (POI) for the purpose of the present investigation is 1<sup>st</sup> October 2022 to 30<sup>th</sup> September 2023 (12 months). The injury period will cover the periods 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021, 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2022, 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 and the period of investigation.
- o. The Authority has made available the non-confidential version of the submissions made by interested parties. A list of all interested parties was uploaded on the DGTR's website, along with a request for all the parties to email the non-confidential version of their submissions to each of the interested parties.
- p. A request was made to the DGCI&S to provide transaction-wise data of imports of the subject goods for the injury period including the period of investigation (POI), which was received by the Authority. The Authority has relied upon DGCI&S data for the required analysis after due examination of the transactions.
- q. The non-injurious price (NIP) has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- r. The verification of the data provided by the other interested parties and the domestic industry was conducted to the extent considered necessary for the present investigation. The Authority has considered the verified data of the interested parties in its analysis of the present case.
- s. The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in this final findings.
- t. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity for the interested parties to present their views orally in a public hearing held on 3<sup>rd</sup> October 2024. The parties presented their views in the oral hearing and were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- u. The Authority, during the course of the investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this final findings, to the extent possible and verified the data / documents submitted by the domestic industry to the extent considered relevant, practicable and necessary.
- v. Information provided by the 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 as confidential and not disclosed to the 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.

- w. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- x. A disclosure Statement containing the essential facts of the investigation which have formed the basis of the final findings was issued to the interested parties on 11th March, 2025 and the interested parties were allowed time up to 17th March, 2025 to file comment on the same. The comments to statement received the interested parties have considered, to the extent found relevant and non-repetitive, in this final finding notification.
- y. ‘\*\*\*’ in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- z. The exchange rate adopted by the Authority for the subject investigation is 1 US\$ = Rs. 83.21

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

4. At the stage of initiation, the product under consideration was defined as under:

*“3. The products under consideration are "potassium tertiary butoxide" and "sodium tertiary butoxide". They are defined as under:*

*4. Potassium tertiary butoxide or KTB is a chemical compound used as a non-nucleophilic and strong alkoxide base in organic chemistry. It is also known as potassium-t-butoxide, potassium tertiary butylate or potassium-t-butylate and its chemical formula is C<sub>4</sub>H<sub>9</sub>KO. It is produced in the form of powder and / or solution. However, the present investigation concerns in KTB in powder form only. KTB is used in deprotonation reactions, organic synthesis, elimination reaction, condensation reactions, dehalogenation reactions and it is also used in active pharmaceutical intermediates (API).*

*5. Sodium tertiary butoxide or STB is a chemical compound used as a non-nucleophilic and strong base in organic chemistry. It is also known as sodium-t-butoxide, sodium tertiary butylate or sodium-t-butylate and its chemical formula is C<sub>4</sub>H<sub>9</sub>NaO. It is produced in the form of powder and / or solution. However, the present investigation concerns in STB in powder form only. STB is used in various reactions like deprotonation, condensation, base catalysed, rearrangement and ring-opening, and is also used in agrochemicals, pharmaceuticals, colorants, aroma chemicals, polymers, detergents and biodiesel.*

*6. The subject goods are classified under Chapter 29 of Schedule I to the Customs Tariff Act, under the tariff codes 29051490, 29051990 and 29054900. The customs*

*classification is only indicative and is not binding on the scope of the product under consideration.”*

**C.1. Submissions of other interested parties**

5. The other interested parties submitted that there is no need for a PCN-wise analysis for the present investigation.

**C.2. Submissions of the domestic industry**

6. The submissions of the domestic industry with regards to product under consideration and like article are as follows:

- i. There are no differences in the product under consideration produced by the domestic industry and the imported product.
- ii. The product under consideration is not produced or traded in different grades or specifications and does not require determination of PCN for fair comparison.

**C.3. Examination by the Authority**

7. The product under consideration is defined as follows:

*“3. The products under consideration are “potassium tertiary butoxide” and “sodium tertiary butoxide”. They are defined as under:*

*4. Potassium tertiary butoxide or KTB is a chemical compound used as a non-nucleophilic and strong alkoxide base in organic chemistry. It is also known as potassium-t-butoxide, potassium tertiary butylate or potassium-t-butyrate and its chemical formula is  $C_4H_9KO$ . It is produced in the form of powder and / or solution. However, the present investigation concerns in KTB in powder form only. KTB is used in deprotonation reactions, organic synthesis, elimination reaction, condensation reactions, dehalogenation reactions and it is also used in active pharmaceutical intermediates (API).*

*5. Sodium tertiary butoxide or STB is a chemical compound used as a non-nucleophilic and strong base in organic chemistry. It is also known as sodium-t-butoxide, sodium tertiary butylate or sodium-t-butyrate and its chemical formula is  $C_4H_9NaO$ . It is produced in the form of powder and / or solution. However, the present investigation concerns in STB in powder form only. STB is used in various reactions like deprotonation, condensation, base catalysed, rearrangement and ring-opening, and is also used in agrochemicals, pharmaceuticals, colorants, aroma chemicals, polymers, detergents and biodiesel.*

*6. The subject goods are classified under Chapter 29 of Schedule I to the Customs Tariff Act, under the tariff codes 2905 1490, 2905 1990 and 2905 4900. The customs classification is only indicative and is not binding on the scope of the product under consideration”*

8. The subject goods are classified under Chapter 29 of Schedule I to the Customs Tariff Act, under the tariff codes 29051490, 29051990 and 29054900. Accordingly, the Authority has considered the above-mentioned tariff codes for the purpose of the present investigation. The customs classification is indicative only and is not binding on the scope of product under consideration.
9. No interested parties have made any submissions with regard the scope of product under consideration. Accordingly, the Authority has considered the same scope of the product under consideration, as defined in the notice of initiation. Further, the interested parties agreed that there was no need for adoption of a PCN methodology, and accordingly, the Authority has not considered a PCN methodology in the present investigation.
10. On the basis of the information on record, the Authority holds that there is no known difference in the subject goods produced by the domestic industry and imported from the subject countries. The Authority notes that the subject goods produced by the domestic industry and that imported from the subject countries 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 use the two interchangeably. The other interested parties have also not disputed that the goods produced by the domestic industry are comparable to the imported goods. In view of the same, the Authority noted that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject countries.

## **D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING**

### **D.1. Views of other interested parties**

11. No submissions have been made by the other interested parties with regard scope of the domestic industry & standing.

### **D.2. Views of the domestic industry**

12. Following submissions have been made by the applicant with regard to the domestic industry and standing:
  - a. There are no other major producers of KTB and STB in India.
  - b. The applicant is the largest producer of the subject goods. There are other producers in India which have intermittently produced the subject goods in negligible quantities.
  - c. The producer is a small enterprise as defined under the Notification S.O. 1702(E), dated 1<sup>st</sup> June 2020 and belongs to MSME sector.
  - d. The applicant has imported the subject goods from China and Japan on sample basis for testing purposes. In view of the low volume of imports, the applicant should be treated as eligible to constitute domestic industry.

- e. The applicant is not related to any to any exporter of the subject goods in the subject countries or importers of the dumped articles in India.

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

- 13. Rule 2(b) of the Anti-Dumping 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”.*

- 14. The application has been filed by Suparna Chemicals Limited, which is effectively the sole producer of the like article in India. The applicant has highlighted that there are two other producers of the subject goods, Mahidhara Chemicals Private Limited and Nasense Labs Private Limited. However, these producers have only produced the subject goods intermittently, in negligible quantities of \*\*\* to \*\*\* MT per annum.
- 15. The applicant has imported minimal quantities of STB from subject and non-subject countries, on sample basis for purposes of testing. During the period of investigation, the applicant has imported \*\*\* kilogram of STB from China and \*\*\* kilograms of STB from Japan. It is noted that the volume of imports from China is negligible in relation to the subject imports, production of the applicant, sales of the applicant and demand in India.
- 16. It is further noted that the applicant is not related to any exporter or importer of subject goods in India. Since the quantity of imports by the applicant is negligible, the Authority finds that it is eligible to constitute domestic industry under the provisions of Rule 2(b) of the Anti-Dumping Rules.
- 17. It is noted that the applicant is the major producer of like article in India and accounts for a major proportion in Indian production. The Authority, therefore, holds that the applicant producer constitutes domestic industry under Rule 2(b) of the Rules, and the application satisfies the requirements of Rule 5(3) of the Rules.

## **E. CONFIDENTIALITY**

### **E.1. Views of other interested parties**

- 18. No submissions have been made by the other interested parties with regards to confidentiality.

### **E.2. Views of domestic industry**

- 19. No submissions have been made by the applicant with regards to confidentiality.

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

20. The Authority made available the non-confidential version of the information provided by various parties to all the other interested parties as per Rule 6(7) of the Rules.
21. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provide as follows:

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

*(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*

*(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”*

22. The information provided by the interested parties on a confidential basis was examined with regard to sufficiency of such claims. 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, the parties providing information on a confidential basis were directed to provide sufficient non-confidential versions of the information.
23. It is noted that the interested party have not made any submissions regarding the claims of confidentiality made by the applicant. The applicant has not made any comments on the claims of confidentiality claims made by other interested parties. The Authority has made available the non-confidential version of evidence submitted by various interested parties for inspection.

### **F. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN**

#### **F.1. Views of other interested parties**

24. Following submissions have been made by the other interested parties with regard to the normal value, export price and dumping margin: -

- GenChem & GenPharm (Changzhou) Co. Ltd. has cooperated and given complete value chain information, and individual duty should be determined for it.
- The average import price of STB does not reflect the export prices of the cooperative exporters, and may be low on account of imports from non-cooperative exporters.
- Export price from India to European Union cannot be considered as basis for calculation of normal value. European Union is not an appropriate surrogate country having regard to difference in economic development, as evident from stark difference in GDP per capita, and absence of domestic production in European Union.
- The law allows for consideration of price prevailing in market economy third country, which must be domestic selling price in that country and not the import prices into such country. Price of exports from India to third country were rejected as basis for normal value in the case of Glycine.

#### **F.2. Views of the domestic industry**

25. Following submissions have been made by the domestic industry with regard to the normal value, export price and dumping margin:

- China PR should be treated as a non-market economy in accordance with Article 15(a)(i) of China's Accession Protocol and the normal value should be determined in terms of Annexure I, Rule 7 of the Rules.
- European Union should be considered as a surrogate country for the purpose of the present investigation for the calculation of normal value.
- For the purpose of calculation of normal value, price of exports of like article from India to European Union have been considered as the same depict the prevailing prices in European Union.
- Since prices in a market economy third country is available, the normal value must be calculated based on export prices of like article from India as the same follows the inherent precedence in the methodology given under the Para 7 of Annexure – I of the Rules.
- The Hon'ble Supreme Court in the case of Shenyang Mastushita S. Battery Co. Ltd vs Exide Industries Ltd & Others (Appeal (Civil) 6371/2023) also noted that the construction of normal value on a reasonable basis must only be relied upon wherein other methodologies for calculation of normal value cannot be taken.
- European Union is an appropriate market economy third country for the present investigation as it is the largest market for STB and the second largest market for KTB, following only Japan. The price of exports to Japan is higher than that in the European Union.
- Consumption of the product is a key factor showing comparability of prices and European Union serving as the largest market makes its prices appropriate for

consideration as prices prevailing in market economy third country. Even the exporter has claimed that there is no production of subject goods in the European Union. In such a case, the prices prevailing in European Union are governed by import prices of subject goods entering into European Union.

- h. The exporters have not suggested any alternative economy that can be considered for this purpose.
- i. Prices of exports to an appropriate market economy third country has been considered as basis for normal value in previous cases such as anti-dumping investigation of Glazed/Unglazed Porcelain/Vitrified Tiles in polished or unpolished finish with less than 3% water absorption from China (F.N. 7/39/2020-DGTR) wherein the price of exports from India to USA were considered for determination of normal value for China.
- j. The claims of the producer/exporter requesting individual anti-dumping duty and regarding low import prices on account of non-cooperative exporters must be critically examined based on information furnished in its regard.
- k. There is significant dumping even if normal value is constructed for price payable in India.

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

#### **Determination of Normal Value for China PR**

26. The Authority notes the following relevant provisions with regard to the determination of normal value for China PR. Provisions under Para 7 and Para 8 of Annexure I to the Anti- Dumping Rules are as under:

*“7. 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 of the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.*

*“8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the*

*fair value of the merchandise, in accordance with the criteria specified in subparagraph (3).*

*(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an antidumping investigation by the designated authority or by the competent authority of any WTO member country during the three-year period preceding the investigation is a non-market economy country. Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3)*

*(3) The designated authority shall consider in each case the following criteria as to whether: (a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values; (b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts; (c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and (d) the exchange rate conversions are carried out at the market rate. Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph.*

*(4) Notwithstanding, anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti-dumping investigations, by a country which is a Member of the World Trade Organization.”*

27. At the stage of initiation, the Authority proceeded with the presumption of treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China PR to respond to the notice of initiation and provide information on whether their data/information could be adopted for normal value determination. The Authority sent copies of the market economy treatment/supplementary questionnaire to all the known producers/exporters in China PR to provide relevant information in this regard.

28. Article 15 of China's Accession Protocol in WTO provides as follows:

*“(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*

- (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
- (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

*(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b),, 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*

*(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*

*(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”*

29. It is noted that while the provision contained in Article 15 (a)(ii) have expired on 11<sup>th</sup> December 2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15(a)(i) of the Accession Protocol require the criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through information/data to be provided in the supplementary questionnaire on claiming the market economy status.
30. The Authority notes that none of the producers/exporters from China PR have filed the supplementary questionnaire response to rebut the presumptions as mentioned in para 8 of Annexure – I of the Rules. Under these circumstances, the Authority has to proceed in accordance with para 7 of Annexure – I of the Rules.
31. It is noted that paragraph 7 of Annexure-I to the AD Rules stipulates three methods of constructing the normal value for non-market economies: (a) on the basis of price or constructed value in a market economy third country; (b) export price from a third country to other countries, including India; and (c) on any other reasonable basis. The Authority notes that under the provisions of paragraph 7 of Annexure-I to the AD Rules, the normal value must be determined on the basis of the price or constructed value in a surrogate country, or the price of the exports from such country to other countries, including India.
32. The domestic industry has claimed that normal value should be determined based on the prices in the EU in accordance with the framework of the Rules. The domestic industry has claimed that calculation of normal value based on prices in market economy third country is appropriate as the said methodology holds precedence over the other methodologies provided in the Rules.
33. The Authority has examined the relevant parameters for considering whether European Union can be considered as an appropriate market economy third country for determination of normal value for China PR. It is undisputed that there is a significant difference in the levels of economic development between European Union and China. Further it is not forthcoming as to what is the share of Indian exports for the PUC in the overall European Union market and whether the same can be considered as representative of normal value in the European Union. In view of the aforementioned, the Authority does not deem it appropriate to determine normal value based on the Indian exports' price in the European Union.
34. The Authority has therefore determined normal value on the basis of cost of production of applicant, duly adjusted, and after addition for selling, general and administrative expenses, and reasonable profit margin. The constructed normal value so determined for Chinese producers/exporters is mentioned in the dumping margin table.

### **Determination of Export Price for China PR**

#### **KTB**

### **Export price for GenChem & GenPharm (Changzhou) Co. Ltd**

35. Exporters' questionnaire response has been filed by a manufacturer from China PR namely GenChem & GenPharm (Changzhou) Co. Ltd. It is noted from the EQR filed by the aforesaid company, that during the POI, GenChem & GenPharm have exported \*\*\* MT of subject goods for **USD \*\*\*** to India. Adjustments towards Ocean Freight, Marine Insurance, Port Expenses, Bank charges, Commission and Inland freight have been claimed for sales to India. The same has been accepted. Accordingly, the Authority has determined the export price as mentioned in the dumping margin table below.

### **Export price for all other producers/exporters from China PR**

36. The export price for other non-cooperative producers/exporters from China PR has been determined based on the facts available in terms of Rule 6(8) of the Rules.

### **STB**

### **Export price for GenChem & GenPharm (Changzhou) Co. Ltd**

37. Exporters' questionnaire response has been filed by a manufacturer from China PR namely GenChem & GenPharm (Changzhou) Co. Ltd. It is noted from the EQR filed by the aforesaid company, that during the POI, GenChem & GenPharm have exported \*\*\* MT of subject goods for **USD \*\*\*** to India. Adjustments towards Ocean Freight, Marine Insurance, Port Expenses, Bank charges, Commission and Inland freight have been claimed for sales to India. The same has been accepted. Accordingly, the Authority has determined the export price as mentioned in the dumping margin table below.

### **Export price for all other producers/exporters from China PR**

38. The export price for other non-cooperative producers/exporters from China PR has been determined based on the facts available in terms of Rule 6(8) of the Rules.

### **Determination of Normal value for USA**

39. Since no submissions have been made with regard to the manner of determination of normal value for producers from USA, the same have been determined based on facts available. The normal value is considered on the basis of information available which has been determined on basis of cost of production adjusted for reasonable profits.

### **Determination of Export price for USA**

40. The Authority has determined the export price for producers/exporters from USA on the basis of the DGCI&S transaction wise data. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from USA has been determined after making the due adjustments for Ocean Freight, Marine Insurance, Port Expenses, Bank charges, Commission and Inland freight on the basis of facts available.

### **Dumping Margin**

41. The normal value, export price and dumping margin determined in the present investigation are as follows: -

**For KTB**

SN	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)
<b>China PR</b>						
1	GenChem & GenPharm (Changzhou) Co. Ltd.	***	***	***	***	10-20
2	All other	***	***	***	***	20-30
<b>USA</b>						
1	All other	***	***	***	***	10-20

**For STB**

SN	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)
<b>China PR</b>						
1	GenChem & GenPharm (Changzhou) Co. Ltd.	***	***	***	***	0-10
2	All other	***	***	***	***	20-30

**G. EXAMINATION OF INJURY AND CAUSAL LINK**

42. The injury assessment of the domestic industry has been undertaken on a cumulative basis for import of KTB from the subject countries. For, STB, injury assessment has been done on basis of imports from the subject country, that is, China PR.

**G.1. Views of the other interested parties**

43. The submissions made by the other interested parties with regards to injury and causal link are as follows:

- Imports of KTB from China and the US should not be cumulated as such imports do not face the same conditions of competition. There were no imports from China in 2021-22 and 2022-23, and the volume during 2019-20 and the period of investigation was very low.
- While domestic sales remained the same, export sales declined, resulting in a decline in production and capacity utilization. The decline in export sales impacted the cost of production, resulting in losses.

- c. Contractual labour cost is a part of total labour cost and must be normated on capacity utilisation, as per Annexure III of the Rules. Annexure-III does not segregate between fixed labour / permanent labour and contractual labour.
- d. The number of employees for production of KTB has increased despite a decline in performance.
- e. The reason for increase in depreciation cost, interest cost, capital employed and net fixed assets of KTB without an increase in capacity should be examined.
- f. In case of STB, there is an increase in depreciation cost and interest cost without an increase in capacity.

## **G.2. Views of the domestic industry**

44. The submissions made by the domestic industry with regard to the injury and causal link are as follows:

- a. The provision for cumulative assessment under the Rules is a mandatory provision and the conditions set therein are met in the present case.
- b. Volume and price of imports from individual subject countries are not relevant while assessing the need for cumulation. The injury assessment would show that imports from China and the USA, have caused injury even in case import are decumulated.
- c. Despite having sufficient capacity to cater to the entire demand, the imports of KTB have increased.
- d. The differences in price of KTB in other markets and that in Indian market has increased and quadrupled in period of investigation as compared to the base year.
- e. In respect of KTB, the price of raw material, that is, potassium metal has increased since 2021-22. However, the landed price has only increased slightly till 2022-23, but declined thereafter.
- f. In light of the increased imports, the domestic industry has suffered from under-utilized capacities and lost its market share to subject imports.
- g. The landed price has not increased in tandem with selling price of the domestic industry, creating a strain on domestic prices.
- h. The price undercutting has increased in the injury period.
- i. The imports of KTB have suppressed and depressed the prices of the domestic industry.
- j. The domestic industry has been able to maintain its sales of KTB only by making sales at loss making prices. Even then the sales of the domestic industry did not increase in line with the demand for KTB.
- k. The profitability of the domestic industry for KTB has been adversely affected due to selling at loss making prices in an attempt to maintain its market.
- l. The cash profits have declined and turned into cash losses in the period of investigation.
- m. The profitability for KTB in the export market remains decent, which shows that the prices prevailing in the domestic market have caused deterioration in performance of the domestic industry.

- n. The domestic industry has not been able to earn any returns on its investments or earn profits even to meet its debt obligations.
- o. In respect of STB, the condition of the domestic industry is abysmal as it struggles to even continue operations.
- p. The imports of STB have increased significantly in absolute and relative terms taking over a dominant share of the market. The subject imports have increased more than the increase in demand.
- q. The increase in imports of STB coincides with the decline in prices of such imports.
- r. The lower priced imports have pushed the domestic industry to a minority share as the price undercutting increased.
- s. Though the price of raw material, that is, sodium metal, has increased since 2021-22, the landed price of STB did not follow the same trend and declined.
- t. The prices of imports of STB are below the cost of sales of the domestic industry creating a strain on the prices of the domestic industry.
- u. The imports of STB have suppressed and depressed the prices of the domestic industry.
- v. The differences in price of STB in other markets than that in Indian market has increased and is more than double that price in Indian market.
- w. The capacity utilization of the domestic industry has declined as market share of the imports of STB has increased.
- x. The domestic industry has lost its market share despite having sufficient capacity to cater to entirety of demand.
- y. The domestic industry has faced significant losses including cash losses, despite selling at slightly higher prices in an attempt to mitigate losses.
- z. The low-priced imports of STB have adversely impacted the ability to generate employment through contractual labour due to the decline in production.
- aa. The subject imports have adversely impacted the ability to meet its debt obligations and prevented the domestic industry to earn any returns on its investments.
- bb. The number of employees for KTB has increased on account of increase in production and sales thereof.
- cc. There is causal link between dumping and injury, and the injury to the domestic industry is not caused by any other factor.
- dd. The decline in export sales of the domestic industry has not caused injury because even, if the export sales do not decline the domestic industry would face deteriorating profitability for KTB and losses for STB. Moreover, the volume of exports sales is negligible and would not have impacted the performance of the domestic industry.
- ee. The interest cost of the domestic industry is immaterial as compared to total costs incurred by the domestic industry. The same do not have an impact on the overall costs and performance of the domestic industry.
- ff. The domestic industry has undertaken expenses on replacement of dryers and purchase of assets for utility generation, which has resulted in increase in net fixed assets and depreciation costs without increase in production capacity.
- gg. In the present case, the contractual labour hired is contingent on the production levels which makes such labour a variable cost. Contractual labour forms a part of

direct labour and is accounted under variable costs, as provided under the Manual of Operating Procedures. As per practice, such variable costs must not be normated over the injury period.

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

45. The Authority has examined the arguments and counter arguments of the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.
46. Rule 11 of the Anti-dumping Duty Rules, 1995 read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...*”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
47. The submissions made by the domestic industry and other interested parties during the course of investigation with regard to injury and causal link and considered relevant by the Authority are examined and addressed below under the relevant parameters.
48. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority considers all injury parameters for assessing the financial parameters of the domestic industry. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and the other interested parties.

#### **G.3.1. Injury assessment in respect of KTB**

##### **Cumulative assessment of imports**

49. Article 3.3 of WTO agreement and Para (iii) of Annexure II of the AD provide that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that-
  - a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article and

- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

50. The Authority notes that in the present case, the margin of dumping and the volume of imports from both the countries fulfil the requirement specified in the rules for cumulative assessment. With reference to the conditions of competition, it is noted that the exporter has not disputed that the goods imported from China and from USA are competing in the same market, and with the goods supplied by the domestic industry. The domestic producers and exporters from the subject countries sell the like product to the same category of customers and both are competing in the same market. Both the products are being used by the consumers interchangeably.

51. In view of the above, the Authority notes that:

- a. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
- b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
- c. Cumulative assessments of the effects of imports are appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.

52. Accordingly, the Authority notes that it would be appropriate to cumulatively assess the effects of dumped imports of the subject goods from the subject countries on the domestic industry.

**A. Assessment of demand / apparent consumption**

53. For the purpose of the present investigation, the Authority has defined demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below.

Particulars	Unit	2020-21	2021-22	2022-23	POI
Sales of Domestic industry*	MT	***	***	***	***
Trend	Indexed	100	111	106	121
Subject imports	MT	91	108	121	161
Other Countries imports	MT	3	-	-	-
Total Demand	MT	***	***	***	***
Trend	Indexed	100	112	113	138

\*KTB

54. It is seen that the demand for the subject goods has increased during the injury period.

**B. Volume effect of the dumped imports**

55. 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 transaction wise import data procured from DGCI&S. The import volumes of the subject goods from the subject countries and share of the dumped import during the injury investigation period are as follows:

<b>Particulars*</b>	<b>Unit</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>POI</b>
Subject Country	MT	91	108	121	161
China PR	MT	10	-	-	27
USA	MT	81	108	121	135
Others	MT	3	-	-	-
Total Imports	MT	94	108	121	161
Subject Imports in relation to					
Total imports	%	97%	100%	100%	99%
Production	%	***	***	***	***
Trend	Indexed	100	107	137	143
Consumption	MT	***	***	***	***
Trend	Indexed	100	106	119	129

\*KTB

56. It is seen that:

- The volume of subject imports has increased continuously, in absolute terms as well as in relative terms, in the injury period.
- In absolute terms, the subject imports have increased significantly by \*\*\*% in the injury period.
- The imports have also increased in relation to production by \*\*\*% and in relation to consumption by \*\*\*%.
- The subject imports account for \*\*\*% of total demand in the country.
- There are no imports from non-subject countries during the period of investigation.

**C. Price effect of the dumped imports**

57. With regard to the price effect of the imports from the subject countries, it is required to be analysed whether there has been a significant price undercutting by the alleged imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the imports from the subject countries have been examined with reference to price undercutting, price suppression and price depression, if any.

**a) Price undercutting**

58. Price undercutting has been assessed by comparing the landed price of imports with the domestic 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.

Particulars*	Unit	China PR	USA	Subject Countries
Net sales realisation	₹/MT	***	***	***
Landed Price	₹/MT	10,15,450	10,06,185	10,24,865
Price undercutting	₹/MT	***	***	***
Price undercutting	%	***	***	***
Price undercutting	Range	5-15%	5-15%	5-15%

\*KTB

59. It is seen that the price undercutting is positive and significant in the period of investigation.

**b) Price suppression/depression**

60. In order to determine whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the Authority has examined the changes in the costs and prices of the domestic industry over the injury period.

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Cost of sales	₹/MT	***	***	***	***
Trend	Indexed	100	102	127	127
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	101	116	110
Landed price	₹/MT	9,65,789	9,86,641	10,60,490	10,24,865
Trend	Indexed	100	102	110	106

\*KTB

61. It is seen that in 2021-22, the cost of sales, selling price and the landed price have increased at almost the same rate. However, in 2022-23, though the cost of sales increased significantly, the domestic industry was not able to increase its selling price in line with the same, due to the landed price being lower. Thereafter, in the period of investigation, the cost of sales remained the same, while the selling price declined. Over the entire injury period, the cost of sales of the domestic industry increased by \*\*\*%, but the domestic industry was able to increase its selling price by only \*\*\*%. Thus, the imports have suppressed the prices of the domestic industry.

**D. Economic parameters of the domestic industry**

62. Annexure II to the Rules require that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on the domestic

producers of such products. With regard to consequent impact of dumped imports on the 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 capital employed 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, performance of the domestic industry has been examined over the injury period.

**a) Production, capacity, capacity utilization and sales volumes**

63. The performance of the domestic industry with regard to capacity, production, sales and capacity utilization over the injury period was as below

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	139	139	139
Total Production (PUC+ NPUC)	MT	***	***	***	***
Trend	Indexed	100	139	117	112
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	100	84	81
Production (PUC)	MT	***	***	***	***
Trend	Indexed	100	128	111	119
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	111	106	122

\*KTB

64. The Authority notes that the capacity has increased by \*\*\*% in the injury period. The production and sales have also increased. This was due to the increase in capacity and the fact that domestic industry reduced its selling prices to compete with dumped imports. However, the domestic industry has suffered from low-capacity utilization, despite there being significant demand in the country.

65. With regard to the submissions that there is an increase in net fixed assets, depreciation costs and capital employed of the domestic industry without an increase in production capacity, it is noted that the domestic industry incurred expenses on assets for utilities and replacement of dryers.

**b) Market share**

66. Market share of the domestic industry and of imports was as shown in table below:

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Domestic Industry	%	***	***	***	***
Trend	Indexed	100	99	93	88
Subject Countries	%	***	***	***	***
Trend	Indexed	100	106	117	128
Other countries	%	***	-	-	-
Trend	Indexed	100	-	-	-
Total	%	100	100	100	100

\*KTB

67. It is seen that the while the market share of subject imports has increased, market share of the domestic industry and non-subject imports have declined over the injury period. Thus, the imports have taken over the market share of the domestic industry and non-subject countries.

**c) Inventories**

68. Inventory position of the domestic industry over the injury period is given in the table below:

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Opening inventory	MT	***	***	***	***
Closing inventory	MT	***	***	***	***
Average inventory	MT	***	***	***	***
Trend	Indexed	100	55	46	30

\*KTB

69. It is seen that the average inventories with the domestic industry have declined over the injury period.

**d) Profitability, cash profits and return on capital employed**

70. Profits, cash profits and return on capital employed of the domestic industry over the injury period is given in the table below

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Cost of sales	₹/MT	***	***	***	***
Trend	Indexed	100	102	127	126
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	101	108	109
Profit per unit	₹/MT	***	***	***	(***)
Trend	Indexed	100	95	44	(1)
Total Profit/(Loss)	₹ Lacs	***	***	***	(***)
Trend	Indexed	100	105	47	(2)
Cash Profit	₹ Lacs	***	***	***	***
Trend	Indexed	100	103	52	10

Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	120	42	0.1

**\*KTB**

71. The Authority notes that:

- The profit per unit of the domestic industry have declined throughout the injury period and has turned into losses in the period of investigation.
- The return on capital employed and cash profits increased marginally in 2021-22, but declined thereafter.
- The return on capital employed earned by the domestic industry is negligible.

72. The Authority notes that both the selling price and cost of sales of the domestic industry have increased over the injury period. However, the domestic industry has not been able to increase its selling price in line with the increase in cost of sales on account dumped imports. Accordingly, the profits, cash profits and return on capital employed of the domestic industry have declined over the injury period and the domestic industry has faced losses in the period of investigation.

73. The other interested parties have contended that the profitability of the domestic industry has deteriorated as a result of increase in interest cost. However, interest costs of the domestic industry are negligible in comparison to the total costs and do not have a material impact on the overall costs and performance of the domestic industry.

e) **Employment, wages and productivity**

74. Authority has examined the information relating to employment, wages and productivity, as given below.

Particulars*	Unit	2020-21	2021-22	2022-23	POI
No. of Employees	Nos.	***	***	***	***
Trend	Indexed	100	96	109	126
Productivity per day	MT/Day	***	***	***	***
Trend	Indexed	100	128	111	119
Productivity Per employee	MT/Nos	***	***	***	***
Trend	Indexed	100	133	102	95
Salaries & Wages	₹ Lacs	***	***	***	***
Trend	Indexed	100	75	67	82

**\*KTB**

75. It is noted that the number of employees increased over the injury period. The productivity per day has remained constant over the injury. However, the productivity per employee increased in 2021-22 and declined thereafter to the original level. The salaries and wages have declined in the injury period.

**f) Magnitude of dumping**

76. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant.

**g) Growth**

Particulars*	Unit	2021-22	2022-23	POI
Production	%	28	-13%	7%
Domestic Sales	%	11	-4%	15%
Profit/Loss	%	5	-55	-104
Cash Profit	%	3	-49	-80
Return on Capital Employed	%	20	-65	-100

\***KTB**

77. It is noted that the production, sales, profits, cash profits and returns on capital employed have demonstrated negative growth in 2022-23 as compared to previous year. Further, barring production and domestic sales, all parameters have shown deterioration during the period of investigation as well.

**h) Ability to raise capital investment**

78. The Authority notes the profitability of the domestic industry has declined in the injury period. The return on capital employed of the domestic industry declined and is negative in the period of investigation. Thus, the subject imports have adversely impacted the ability of the domestic industry to raise its capital investment.

**i) Factors affecting prices**

79. The Authority notes that the landed price of subject imports is below the selling price and cost of sales of the domestic industry post 2021-22. The imports have prevented price increases, which otherwise would have occurred, and have depressed the prices of the domestic industry. As a result, the domestic industry has been forced to sell at prices below its cost of sales, leading to losses in the period of investigation. Thus, the subject imports have adversely impacted the domestic prices in India.

**G.3.2. Injury assessment in respect of STB**

**A. Assessment of demand / apparent consumption**

80. The Authority has defined demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below.

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Sales of Domestic industry	MT	***	***	***	***

Trend	Indexed	100	179	104	62
Subject imports	MT	16	280	399	291
Other Countries imports	MT	-	0.005	0.006	-
Total Demand	MT	***	***	***	***
Trend	Indexed	100	279	256	175

**\*STB**

81. It is seen that the demand for the subject goods has increased in 2021-22 as compared to base year and thereafter declined during the period of investigation. Overall, the demand has increased in the injury period.

**B. Volume effect of the dumped imports**

82. 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 transaction wise import data procured from DGCI&S. The import volumes of the subject goods from the subject country and share of the dumped import during the injury investigation period are as follows:

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Subject Country	MT	16	280	399	291
Others	MT	-	0.005	0.006	-
Total Imports	MT	16	280	399	292
Subject Imports in relation to					
Total imports	%	100	100	100	100
Indian Production	%	***	***	***	***
Trend	Indexed	100	1009	2126	2625
Indian Demand	%	***	***	***	***
Trend	Indexed	100	627	971	1,043

**\*STB**

83. It is seen that:

- The volume of subject imports has increased till 2022-23 and declined in the period of investigation, with the decline in demand.
- In absolute terms, the subject imports have increased significantly by \*\*\*% in the injury period.
- The subject imports have also increased significantly by \*\*\*% in relation to production and by \*\*\*% in relation to consumption over the injury period.
- The imports account for \*\*\*% of total demand in the country. It is also noted that the product is not imported from any non-subject country.

**C. Price effect of the dumped imports**

84. With regard to the price effect of the imports from the subject country, it is required to be analysed whether there has been a significant price undercutting by the alleged imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the imports from the subject country have been examined with reference to price undercutting, price suppression and price depression, if any.

**a) Price undercutting**

85. Price undercutting has been assessed by comparing the landed price of imports with the domestic 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.

Particulars*	Unit	China PR
Net sales realisation	₹/MT	***
Landed Price	₹/MT	3,48,872
Price undercutting	₹/MT	***
Price undercutting	%	***
Price undercutting	Range	10-20%

**\*STB**

86. It is seen that the price undercutting is positive and significant in the period of investigation. The domestic industry has emphasized that the period in which the volume of subject imports has increased, coincides with the decline in import prices.

**b) Price suppression/depression**

87. In order to determine whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the Authority has examined the changes in the costs and prices of the domestic industry over the injury period.

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Cost of sales	₹MT	***	***	***	***
Trend	Indexed	100	102	129	124
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	101	110	117
Landed price	₹/MT	3,98,923	3,56,282	3,64,536	3,48,872
Trend	Indexed	100	89	91	87

**\*STB**

88. It is noted that in 2021-22, the cost of sales and selling price increased slightly. The landed price declined by \*\*\*% during this period. Subsequently, the cost of sales increased by \*\*\*%, but the selling price could only increase by \*\*\*%, owing to the landed price being much lower. During the period of investigation, the cost of sales

declined by \*\*\*%. However, the domestic industry was able recover its selling price slightly by \*\*\*%. Even then, the selling price remained low, compared to the cost of sales. Over the injury period, the cost of sales increased by \*\*\*%. However, the domestic industry was able to increase its prices by only \*\*\*%, since the landed price reduced. Thus, the imports have suppressed the prices of the domestic industry.

#### **D. Economic parameters of the domestic industry**

89. Annexure II to the Rules require that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on the domestic producers of such products. With regard to consequent impact of dumped imports on the 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 capital employed 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, performance of the domestic industry has been examined over the injury period.

##### **a) Production, capacity, capacity utilization and sales volumes**

90. The performance of the domestic industry with regard to capacity, production, sales and capacity utilization over the injury period was as below:

<b>Particulars*</b>	<b>Unit</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>POI</b>
Capacity	MT	***	***	***	***
Trend	Indexed	100	100	100	100
Total Production (PUC+NPUC)	MT	***	***	***	***
Trend	Indexed	100	139	117	112
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	139	117	112
Production (PUC)	MT	***	***	***	***
Trend	Indexed	100	174	117	69
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	179	104	62

**\*STB**

91. The Authority notes that the capacity has remained constant in the injury period. The production, sales and capacity utilisation of the domestic industry has increased till 2021-22 and declined thereafter in the period of investigation. The domestic industry has not been able to operate at its optimum level or fully utilize its capacity.

92. With regard to the submissions that there is an increase in depreciation costs of the domestic industry without an increase in production capacity, it is noted that the domestic industry incurred expenses on assets for utilities and replacement of dryers.

**b) Market share**

93. Market share of the domestic industry and of imports was as shown in table below:

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Domestic Industry	%	***	***	***	***
Trend	Indexed	100	64	41	36
Subject Countries	%	***	***	***	***
Trend	Indexed	100	627	971	1,043
Other countries	%	-	-	-	-
Total	%	100	100	100	100

\*STB

94. It is seen that the market share of the domestic industry has declined significantly over the injury period. On the other hand, the market share of the subject imports has increased more than ten-fold. The domestic industry has highlighted that the decline in market share has directly resulted in a decline in capacity utilization of the domestic industry.

**c) Inventories**

95. Inventory position of the domestic industry over the injury period is given in the table below:

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Opening inventory	MT	***	***	***	***
Closing inventory	MT	***	***	***	***
Average inventory	MT	***	***	***	***
Trend	Indexed	100	58	72	30

\*STB

96. It is seen that the average inventories with the domestic industry declined in 2021-22, increased in 2022-23 and then again declined in the period of investigation. The domestic industry has submitted that it has made sales at unremunerative prices in said period to retain its customers.

**d) Profitability, cash profits and return on capital employed**

97. Profits, cash profits and return on capital employed of the domestic industry over the injury period is given in the table below:

Particulars*	Unit	2020-21	2021-22	2022-23	POI
Cost of sales	₹/MT	***	***	***	***

Trend	Indexed	100	102	129	124
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	101	110	117
Profit per unit	₹/MT	***	***	(***)	(***)
Trend	Indexed	100	64	(668)	(161)
Total Profit/(Loss)	₹ Lacs	***	***	(***)	(***)
Trend	Indexed	100	115	(695)	(100)
Cash Profit	₹ Lacs	***	***	(***)	***
Trend	Indexed	100	125	(179)	6
Return on Capital Employed	%	***	***	(***)	(***)
Trend	Indexed	100	82	(529)	(117)

**\*STB**

98. The Authority notes that:

- a. The profits, including cash profits of the domestic industry have declined in the injury period. The domestic industry incurred losses in 2022-23 and the period of investigation.
- b. During the period of investigation, the losses of the domestic industry have reduced slightly, due to decline in cost of sales. However, the domestic industry has continued to incur significant losses.
- c. The return on capital employed declined throughout the injury period and was negative in 2022-23 and the period of investigation.

99. The other interested parties have contended that the profitability of the domestic industry has deteriorated as a result of increase in interest cost. However, interest costs of the domestic industry are negligible in comparison to the total costs and do not have a material impact on the overall costs and performance of the domestic industry.

**e) Employment, wages and productivity**

100. Authority has examined the information relating to employment, wages and productivity, as given below.

Particulars*	Unit	2020-21	2021-22	2022-23	POI
No. of Employees	Nos.	***	***	***	***
Trend	Indexed	100	130	115	73
Productivity per day	MT/Day	***	***	***	***
Trend	Indexed	100	174	117	69
Productivity per employee	MT/Nos	***	***	***	***
Trend	Indexed	100	133	102	95
Salaries & Wages	₹ Lacs	***	***	***	***
Trend	Indexed	100	114	82	57

**\*STB**

101. It is noted that number of employees, productivity, and wages have deteriorated in the injury period. The domestic industry has also claimed that the subject imports have adversely impacted the contractual employment generated by the domestic industry, as its contractual labour has declined.

**f) Magnitude of dumping**

102. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant.

**g) Growth**

Particulars*	Unit	2021-22	2022-23	POI
Production	%	73.74	-32.52	-40.79
Domestic Sales	%	78.96	-41.83	-40.23
Profit/Loss	%	15.38	-702.41	-85.54
Cash Profit	%	-30.09	-345.59	-105.64
Return on Capital Employed	%	-17.62	-741.60	-77.91

**\*STB**

103. It is noted that the production, sales and profits improved in 2021-22 as compared to previous year. In 2022-23, production, domestic sales, profits, cash profits and returns on capital employed have shown a negative growth. In the period of investigation, the production and domestic sales have declined further, while profits, cash profits and return of capital employed improved, as compared to 2022-23. However, despite the improvement, the domestic industry has continued to face losses and negative returns.

**h) Ability to raise capital investment**

104. The Authority notes the profitability of the domestic industry has declined in the injury period. From 2022-23, the profits of the domestic industry turned into losses. The profitability improved in the period of investigation as the losses declined. However, the domestic industry continued to incur heavy losses. The returns earned by the domestic industry have also declined and were negative in 2022-23 and the period of investigation. Thus, it is noted that the subject imports have adversely impacted the ability of the domestic industry to raise capital investments.

**i) Factors affecting prices**

105. The Authority notes that the landed price of subject imports is below the selling price and cost of sales of the domestic industry in 2022-23 and the period of investigation. Due to this the domestic industry has been forced to sell at prices below its cost of sales which led to losses in 2022-23 and the period of investigation. Thus, the subject imports have adversely impacted the domestic prices in India.

**H. MAGNITUDE OF INJURY MARGIN**

106. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject countries for calculating the injury margin.

107. The expenses incurred on contractual labour has been considered as part of variable cost as the same is a direct cost depending on the production level.

108. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities.

109. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses are charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price.

110. The landed price for the cooperative exporter has been determined on the basis of the data furnished by the exporters. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.

111. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below-

**Injury margin for KTB**

SN	Name of producers	Non-injurious price	Landed price	Injury margin	Injury margin	Injury margin
		\$/MT	\$/MT	\$/MT	%	Range
<b>China PR</b>						
1	GenChem & GenPharm (Changzhou) Co. Ltd.	***	***	***	***	0-10
2	Any other	***	***	***	***	10-20
<b>USA</b>						
1	Any Exporter/Producer	***	***	***	***	0-10

**Injury margin for STB**

SN	Name of producers	Non-injurious price	Landed price	Injury margin	Injury margin	Injury margin
		\$/MT	\$/MT	\$/MT	%	Range
<b>China</b>						

1	GenChem & GenPharm (Changzhou) Co. Ltd.	***	***	(***)	(***)	(0-10)
2	Any other	***	***	***	***	0-10

## **I. NON-ATTRIBUTION ANALYSIS**

112. The Authority examined whether other factors listed under the Anti-dumping Rules could have caused injury to the domestic industry. As per the Rules, the Authority, *inter alia*, is required to examine any known factors other than dumped imports which are injuring to the domestic industry, so that the injury caused by these other factors may not be attributed to the subsidized imports. The Authority examined whether other known listed factors have caused injury to the domestic industry.

### **a) Volume and value of imports from third countries**

113. It is seen that other than the subject countries, there are no imports from other countries during the period of investigation. Thus, it cannot be said that imports from other countries are causing injury.

### **b) Contraction in demand**

114. The Authority notes that there is no contraction in demand for KTB as the demand of KTB in the country has increased in the injury period. Thus, the domestic industry has not suffered any injury on this account. For STB, while the demand has declined in the period of investigation, the deterioration in the performance of the domestic industry is higher. The domestic industry has also emphasized that had the imports maintained the same market share as at the beginning of the injury period, the domestic sales of the domestic industry would have actually showed an increase, despite the decline in demand. In any case, none of the interested parties have contended that there has been a contraction in the demand for the subject goods. The decline in demand during the period of investigation could be temporary in nature, and may normalize over a period.

### **c) Pattern of consumption**

115. There has been no known material change in the pattern of consumption of the product under consideration, to which the injury suffered can be attributed.

### **d) Conditions of competition and trade restrictive practices**

116. The imports of the subject goods are not restricted in any manner and are freely importable in the country. Since the domestic industry is the sole producer of the subject goods in the country, there is no possibility of inter-se competition between the domestic producers causing injury to the domestic industry.

### **e) Developments in technology**

117. The Authority notes that the investigation has not shown that there was any significant change in technology, which could have caused injury to the domestic industry.

**f) Productivity**

118. The Authority notes that the productivity of the domestic industry has improved over the injury period.

**g) Export performance of the domestic industry**

119. The Authority notes that injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Regarding submission that the decline in export sales has adversely affected the performance of the domestic industry, it is noted that the export sales are negligible and do impact the performance of the domestic industry. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

**h) Performance of other products**

120. The injury suffered cannot be attributed to the performance of other products of the company, as the domestic industry has segregated and provided information relates solely to the performance of the like articles produced by the domestic industry.

**J. FACTORS ESTABLISHING CAUSAL LINK**

121. Analysis of the performance of the domestic industry over the injury period shows injury to the domestic industry. The causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

**Causal link for KTB**

- i. The domestic industry has lost its market share to the subject imports. The volume of subject imports has increased significantly in absolute terms as well as in relation to production and consumption in India.
- ii. The landed price of subject imports is below the cost of sales of the domestic industry. The imports are undercutting the price of the domestic industry.
- iii. The subject imports have suppressed the prices of the domestic industry.
- iv. The domestic industry has been forced to compete with low priced subject imports and as a result, the profitability of the domestic industry has declined in the injury period.
- v. The domestic industry has suffered significant losses in the period of investigation. The cash profits have declined during the period of investigation.
- vi. The domestic industry has earned very low returns on its investment during the period of investigation. This has adversely impacted the ability of the domestic industry to raise capital investment.

**Causal Link for STB**

- i. The subject goods have taken over the market share of the domestic industry. The volume of subject imports has increased significantly in absolute terms as well as in relation to production and consumption in India.
- ii. The imports are undercutting the price of the domestic industry creating a demand for subject goods priced below the cost of sales of the domestic industry.

- iii. The subject imports have suppressed the prices of the domestic industry. The production, capacity utilization and domestic sales of the domestic industry has declined.
- iv. The profitability of the domestic industry has declined sharply as it has suffered significant losses and its cash profits declined during the period of investigation.
- v. The domestic industry has earned negative returns on its investment during the period of investigation.

## **K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

### **K.1. Views of other interested parties**

- 122. The submissions made by the other interested parties with regards to Indian industry's interest are as follows:
  - a. Considering the critical nature of the product, Indian navy and mining industry should not be dependent entirely on supply by one single domestic producer.

### **K.2. Views of domestic industry**

- 123. The submissions made by the domestic industry with regards to Indian industry's interest are as follows:
  - a. Both KTB and KO<sub>2</sub>, are produced using potassium metal which is produced by the domestic industry as the upstream product.
  - b. KO<sub>2</sub> based products are critical chemicals which are supplied to the Indian Navy, nuclear reactors and mining industry.
  - c. Continued plant operations of the domestic industry are essential for the production and supply of KO<sub>2</sub> and therefore critical for India's national interests.
  - d. The domestic industry is an MSME, and providing a level playing field by way of anti-dumping duty is in consonance with the developmental objectives of the government.
  - e. The domestic industry is the only producer for the like article and the injury caused on account of the dumped imports would make the production operations of the domestic industry unviable and result in complete reliance on imports for products critical to national interests.
  - f. The production of like article employs highly sophisticated technology with significant investments allowing it to be at par with the global producers. The imposition of anti-dumping duty is essential for keeping the operations of the domestic industry viable.
  - g. The subject goods are used as catalysts in chemical reactions and active pharmaceuticals intermediates and would have a negligible impact on overall cost for downstream users.
  - h. Lack of participation from user industry shows that the users are not likely to be impacted.
  - i. Continued dumping of the subject goods would render the domestic industry unviable and leave the consumers to the mercy of foreign producers. Such a situation would allow foreign producers to manipulate the prices to the detriment of the Indian consumers.

- j. The domestic industry has merely sought relief by way of imposition of duty which shall ensure fair competition and allow it to earn remunerative returns.
- k. The domestic industry has sufficient capacity to cater to the entirety of demand.
- l. In light of the domestic industry having sufficient capacity to cater to the demand, the imports are entirely unnecessary and reliance on domestic capabilities shall conserve the outgoing foreign exchange and improve the balance of payment account of the country.
- m. Even after excluding captive consumption and export sales for KTB and STB, the domestic industry has a capacity four times the demand.

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

- 124. The Authority notes that the purpose of duty is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to 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 duty does not aim to restrict imports from the subject countries in any way. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India marginally. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would prevent decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
- 125. The Authority issued initiation notification inviting views from all interested parties, including importers, consumers and others. Authority also prescribed a questionnaire for the users/ consumers to provide relevant information with regard to present investigation, including any possible effects of anti-dumping duty on their operations. However, it is noted that barring the domestic industry and one exporter/producer, no other party has made any submissions with regard to public interest.
- 126. The Authority notes that no evidence has been provided to show that imposition of duties may lead to deterioration in the performance of the users. As noted above, despite the Authority providing an opportunity to provide structured and substantiated information, in the response to the economic interest questionnaire, the users have preferred not to participate in the present investigation. In view of the same, the Authority notes that it cannot be concluded that the imposition of measures would result in an adverse impact on the domestic industry. On the other hand, the domestic industry has explained that the product is only a catalyst for the downstream users, and therefore, does not form a significant part of the cost of production of the users.
- 127. With regard to availability of the like article in the country, the Authority notes that the anti-dumping duty does not restrict imports from the subject countries, but only provides a level playing field. In any case, the domestic industry has sufficient capacity to cater to the demand in India.

128. It is also noted that the domestic industry is the sole producer of the like article in India, playing an important role in the supply chain. The domestic industry is a MSME producer.
129. The upstream product of KTB, that is, potassium metal, is also used for production of KO<sub>2</sub>, based products. These KO<sub>2</sub> based products are supplied to the Indian Navy, nuclear reactors and mining industry. \*\*\*% of the potassium metal is used in KTB plant, while \*\*\*% is used in KO<sub>2</sub> plant. If the KTB plant becomes unviable, the upstream potassium metal plant also becomes unviable. Thus, a threat to the viability of the plant operations of the domestic industry poses a serious threat to the production of Potassium metal and is likely to make its production uneconomical. Further, it has also been submitted that the domestic industry is the sole licensed supplier of critical chemicals to the Indian Navy. The domestic industry plays an important role in supplying critical chemicals to the Indian Navy, mining industry and nuclear energy sector. The deteriorating performance of the domestic industry may put the supplies for certain critical sectors in peril.

## **L. POST DISCLOSURE COMMENTS**

### **L.1. Submissions of the other interested parties**

130. The other interested parties have made the following submissions on the disclosure statement issued:
  - i. The time granted for submissions of comments on the disclosure of information is inadequate.
  - ii. With respect to KTB, GenChem & GenPharm (Changzhou) Co. Ltd has been found as a cooperating producer/exporter and has been provided an individual rate of duty. In case there is any further deviation from such an observation, a revised disclosure must be issued with further opportunity to provide comments on the same.
  - iii. With respect to STB, the export price of GenChem & GenPharm (Changzhou) Co. has been considered for determination of an individual dumping margin. In case there is any further deviation from such an observation, a revised disclosure must be issued with further opportunity to provide comments on the same.
  - iv. The landed value for STB determined for GenChem & GenPharm (Changzhou) Co. Ltd is incorrect.
  - v. No information has been provided regarding an adjustment made to the landed price. The landed price may be re-determined and an opportunity may be provided to provide comments.
  - vi. In case the landed value for STB is not re-determined, the relevant legal basis, methodology, quantum, rationale for determination of landed value must be disclosed allowing the exporter to make comments on the same.
  - vii. The export documents such as Bill of entry, Commercial and VAT Invoice and other documents for verification of landed price and export price, have been sought after issuance of disclosure statement, especially since the desk verification was completed in [November 2024].

- viii. The details of reconciliation of export information and documents, provided by the exporter in response to the transaction-wise DG system data given by the Authority, have not been disclosed.
- ix. According to Rule 16 of the AD Rules, no information may be sought after issuance of disclosure statement. Reliance on information sought after issuance of disclosure statement, in the final findings is invalid and contrary to Rule 16.
- x. The request for export related documents is repetitive as all supporting documents for adjustments claimed were submitted at the verification stage.
- xi. Request for Bill of entry, which is a document filed by an importer, from an exporter is not justified.
- xii. The fresh information sought has been requested in the last month of the investigation, and there would not be adequate time for the Authority to objectively analyse and seek clarifications.
- xiii. Adverse facts must not be applied against the exporter for not providing adequate information post issuance of disclosure. Rule 6(8) requires adverse inference only on failure of provision of necessary information in reasonable time and the information sought in the present case is not necessary and a reasonable period was not granted for furnishing the same.
- xiv. The exporter has fully complied with the request of information and in case the same warrants a change in the essential facts of the disclosure statement, a revised disclosure must be issued.
- xv. It appears that the price undercutting determined for the subject goods is higher than the injury margin. This implies that the selling price of the domestic industry is higher than its fair selling price. In view of this, it cannot be concluded that the injury caused to the domestic industry is due to subject imports.
- xvi. The claims of losses incurred by the domestic industry must not be accepted in light of the determination that its actual selling price is higher than its fair selling price.
- xvii. With respect to STB, the injury margin determined for the cooperating producer exporter and all others is in the same range. A higher injury margin for all other producers/exporters of STB must be determined based on facts available, as per consistent practice of the Authority.

## **L.2. Submissions of the domestic industry**

- 131. The domestic industry has made the following submissions on the disclosure statement issued:
  - i. Normal Value can be constructed on any other reasonable basis only after considering that the other methodologies provided under Para 7 of Annexure I of the Rules are not feasible.
  - ii. The applicant has provided information with regard to price in a market economy third country on the basis of export price from India to the EU and the same must be considered in view of the inherent precedence in methodology provided under the Rules.
  - iii. In previous investigation of Glazed/Unglazed Porcelain/Vitrified Tiles in polished or unpolished finish with less than 3% water absorption from China [F.N.

7/39/2020-DGTR], the Authority has considered the export price from India to the USA for the normal value.

- iv. EU is the second largest market for Indian exports of KTB and the largest market for Indian exports of STB. It has not been disputed that there is no domestic production of subject goods in the EU. This makes the export process as the prevailing prices in the EU, suitable for determination of normal value for China.
- v. The export price from India to Japan is higher than that to the EU.
- vi. The cost of captive inputs used for KTB has been optimised based on lowest cost of raw material and highest utilisation level, for determination of non-injurious price. The same is inconsistent with previous practice and Annexure-III of the Rules.
- vii. Optimisation of cost of production of captive inputs is also inconsistent with the position taken by the Authority in its affidavit filed before the Hon'ble High Court of Delhi that captive inputs should be valued at their cost of production as per the books of accounts after necessary examination and reconciliation.
- viii. Findings in the previous investigation of Potassium Carbonate originating in or exported from the European Union, Korea RP, China PR and Taiwan [No.15/12/2014-DGAD] shows that the non-injurious price shall be determined based on cost of production as per records/books of accounts when such records are in accordance with generally accepted accounting principles.
- ix. The CESTAT had remanded the matter in the anti-dumping investigation into imports of Poly Tetra Fluoro Ethylene or PTFE from Russia, wherein, the Authority re-determined the non-injurious price as per cost of production and return, which was earlier, valued as per Excise records with cost plus 110%.
- x. Blanket exclusion of selling and distribution overhead expenses for determination of non-injurious price is contrary to Annexure – III and the Manual of Operating Practices. In fact, the Annexure-III requires apportionment of common selling expenses. At most, the law provides for exclusion of post clearance selling expenses, beyond the ex-factory level, such as commission, discount and freight.
- xi. The freight incurred on account of transfer of captive input from [Vapi] to [Ambernath] forms a part of the cost of raw material as per the Cost Accounting Standard 6 on Material Costs. Such freight must be included in the non-injurious price.
- xii. In view of the above, the non-injurious price of the domestic industry must be re-determined to allow effective remedy to the industry.
- xiii. The information considered for the examination of economic parameters under paragraphs 70, 98 and 103 must be clarified.
- xiv. Information regarding the share of imports in total demand must be kept confidential.
- xv. The disclosure issued does not conclusively note that the causal link between the dumping and injury. The factors establishing causal link must be included in the final findings of the Authority.
- xvi. The anti-dumping duties shall not be against public interest. On the other hand, the absence of duties would render the only domestic producer unviable and leave the consumers at the mercy of foreign producers which will dominate and monopolise

the Indian market to the detriment of the consumers. Such a situation was seen in Anti-dumping investigation into imports of N, N'-Dicyclohexyl Carbodiimide (“DCC”) from China PR (F. No. 06/53/2020-DGTR) and in case, the duties are not imposed, the same may be occur in the present case.

- xvii. Since the upstream product is dependent on the subject goods and is used in critical sectors such as defence, nuclear energy and mining, monopolisation by foreign parties would pose serious threat to national interests.
- xviii. Even after excluding the export sales, captive consumption and production of non-subject goods, the domestic industry has a capacity, four times the demand.
- xix. Imposition of duties would impact positively on the balance of payment account of the country.

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

- 132. As regards the time given for offering comments on the disclosure statement, it is noted that anti-dumping investigations are time bound in nature and adequate time has been provided to the interested parties at different stages of the investigation. As the purpose of the disclosure statement is only to inform essential facts which have been gathered during the course of investigation and not to elicit new information or legal submissions, the time provided is considered reasonable.
- 133. The Authority has examined the response provided by GenChem & GenPharm (Changzhou) Co. Ltd. (which has been given individual margin) based on the information furnished.
- 134. The landed price of STB considered for GenChem & GenPharm (Changzhou) Co. Ltd. is based on the response filed by the exporter. The comments raised by the exporter in respect of landed price have been addressed and the landed price has been re-determined in accordance with relevant law.
- 135. The Authority notes that in the interest of investigation, the Authority may seek relevant information for checking accuracy of information furnished. The export documents sought from the exporter has allowed verification of information based on which an individual margin has been given to GenChem & GenPharm (Changzhou) Co. Ltd.
- 136. It has been found that the subject imports from both cooperative and non-cooperative producers have been dumped and injury is caused to the domestic industry on account of certain imports. Thus, the submissions regarding price undercutting have been examined and addressed above.
- 137. As regard to the request for a higher injury margin for all other exporters/ producers of STB, it is noted that the injury margin for all others has been determined based on facts available as per the Rules.

138. The Authority considers that all relevant parameters have been considered for determination of normal value for China. For the reasons already recorded in relevant section, the Authority considers it inappropriate to determine export price from India to Europe as representative of normal value in EU.
139. As regards valuation of captive inputs, the Authority considers that Annexure-III requires the Authority to consider optimised cost for captive input in case such captive input has been valued in the books at cost.
140. As regards exclusion of some selling and distribution expenses, the Authority holds that Annexure-III requires exclusion of these expenses which are post manufacturing and at ex-factory level.
141. With respect to the clarifications sought regarding the economic parameters examined, the injury assessment above ipso facto addresses the concerns raised.
142. The examination of injury and causal link has been done based on the information on record and the same establishes a clear causal link between the dumping and injury caused to domestic industry.
143. The Authority has noted that the duties are in public interest and the imposition of duties would not cause deterioration in the performance of the users. All relevant submissions have been considered in this regard.

## **M. CONCLUSION & RECOMMENDATIONS**

144. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes the following:-
  - i. The Authority holds that the applicant provided a duly substantiated application, based on which the present investigation was initiated. The present investigation was initiated by the Authority based on the data/ information provided by the domestic industry and *prima facie* satisfying that there is sufficient evidence of the dumping, injury and causal link.
  - ii. The product under consideration is Potassium Tertiary Butoxide (KTB) from China and the United States of America; and Sodium Tertiary Butoxide from China.
  - iii. KTB is a chemical compound also known Potassium-t-butoxide, Potassium Tertiary Butylate or Potassium-t-butylate, used as an intermediate in deprotonation reactions and found in active pharmaceutical intermediates (API).
  - iv. STB is known as Sodium-t-butoxide, Sodium Tertiary Butylate or Sodium-t-butylate, used as an intermediate in reactions such as like deprotonation, condensation, base catalyzed, rearrangement and ring-opening and applied in agrochemicals, pharmaceuticals, colorants, aroma chemicals, polymers, detergents and biodiesel.

- v. The Authority has not adopted a PCN methodology in the present investigation, considering that both STB and KTB each is produced and sold in one form only.
- vi. Since no producer from China filed request for market economy treatment, Chinese producers have been considered as operating in a non-market economy and the information given by the domestic industry for determination of normal value was not found appropriate. Based on this, normal value for China has been determined on a reasonable basis, which is based on cost of production of the domestic industry with reasonable adjustments and after including reasonable profits.
- vii. The normal value and export price for cooperative producer/exporter has been determined based on the information provided by such party, after due verification of such information.
- viii. Considering the normal value and export price determined, the dumping margin for the subject goods from the subject countries is positive and above *de minimis*.
- ix. Dumped imports of KTB have caused injury to the domestic industry, as is evident from the following summarized factors
  - a. The demand for the subject goods increased during the injury period.
  - b. Imports of the subject imports have increased significantly during the injury period, both in absolute terms and in relation to production and consumption in India.
  - c. There are no imports from non-subject countries.
  - d. Imports of the product are undercutting the prices of the domestic industry in the market. Further, effect of dumped imports has been to cause price suppression in the market. The domestic industry has not been able to increase its prices in proportion to the increase in cost of production.
  - e. The dumped imports have led to gross underutilization of production capacities, loss of market share to the domestic industry. Performance of the domestic industry has deteriorated in respect of profits, cash profits and return on investment. The domestic industry has suffered financial losses, cash losses and negative return on investment in the period of investigation.
  - f. The domestic industry has suffered injury as a result of the dumped goods from the subject countries.
  - g. The injury margin is positive and above *de minimis*.
  - h. No other factor has caused injury to the domestic industry.
  - i. The domestic industry has suffered material injury as a result of the dumped imports.
- x. Dumped imports of STB have caused injury to the domestic industry, as is evident from the following summarized factors
  - a. The demand for the subject goods increased over the injury period.
  - b. Imports of the subject imports have increased significantly over the injury period, both in absolute terms and in relation to production and consumption in India.
  - c. There are no imports from non-subject countries.
  - d. Imports of the product are undercutting the prices of the domestic industry in the market. Further, effect of dumped imports has been to cause price

suppression in the market. The domestic industry has not been able to increase its prices in proportion to the increase in cost of production.

- e. Dumped imports have led to deterioration in performance of the domestic industry in respect of parameters such as production, sales, capacity utilization, market share, profits, cash flows, return on investment and growth. The domestic industry has suffered significant financial losses, cash losses and negative return on investment.
- f. The domestic industry has suffered injury as a result of the dumped goods from the subject country.
- g. The dumping margin is positive and above de minimis, and injury margin is positive.
- h. No other factor has caused injury to the domestic industry.
- i. The domestic industry has suffered material injury as a result of the dumped imports.

xi. The imposition of anti-dumping duty is in the public interest. This is evident from the following:

- a. The subject goods are used as catalysts and are not a significant part of cost of production of users.
- b. There is no evidence to show the imposition of anti-dumping duty would adversely impact the performance of users.
- c. The domestic industry has the capacity to cater to the entire Indian demand.
- d. The imposition of duty would not affect the availability of the product.
- e. The domestic industry is the sole producer and an MSME entity.
- f. The viability of plant operations of the domestic industry affects the production of potassium metal, an input for KO<sub>2</sub> based products supplied to the Navy, mining industry and nuclear energy sector.
- g. Non-imposition of duties is likely to render domestic industry unviable making the market vulnerable to supply only by foreign producers.
- h. Imposition of duties shall also contribute to the foreign exchange reserves of the country.

145. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that imposition of anti-dumping duty is required to be imposed on the subject goods. Therefore, Authority considers it necessary and recommends imposition of anti-dumping duty on imports of subject goods from the subject countries.

146. 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 the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of anti-dumping duty on the imports

of KTB, originating in or exported from China PR and the United States of America and imports of STB from China PR, for a period of 5 years from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below.

**DUTY TABLE**

<b>SN</b>	<b>Heading</b>	<b>Description</b>	<b>Country of Origin</b>	<b>Country of Export</b>	<b>Producer</b>	<b>Amount</b>	<b>Unit</b>	<b>Currency</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>	<b>(7)</b>	<b>(8)</b>	<b>(9)</b>
1	29051490, 29051990 and 29054900	Potassium Tertiary Butoxide (KTB)	China PR	Any country, including China PR	GenChem & GenPharm (Changzhou) Co., Ltd.	929	MT	USD
2	-do-	-do-	China PR	Any country including China PR	Any producer other than producer mentioned at S. No. 1 above	1,710	MT	USD
3	-do-	-do-	Any country other than China PR and USA	China PR	Any	1,710	MT	USD
4	-do-	-do-	USA	Any country including USA	Any	984	MT	USD
5	-do-	-do-	Any country other than China PR and USA	USA	Any	984	MT	USD
6	29051490, 29051990 and 29054900	Sodium Tertiary Butoxide (STB)	China PR	Any country including China PR	GenChem & GenPharm (Changzhou) Co., Ltd.	NIL	MT	USD
7	-do-	-do-	China PR	Any country including China PR	Any producer other than producer mentioned at S. No. 6 above	304	MT	USD
8	-do-	-do-	Any country other than China PR	China PR	Any	304	MT	USD

**N. FURTHER PROCEDURE**

147. An appeal against the determination of the Designated Authority in these final findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.



(Darpan Jain)  
Designated Authority