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**Government of India
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)**

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5, Parliament Street, New Delhi-110001

3 rd April , 2017

NOTIFICATION

Final Finding

Subject: Anti-Dumping Investigation concerning import of ‘Amoxycillin’ originating in or exported from China PR.

F.NO. 14/05/2015-DGAD: Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof,

1. WHEREAS M/s Aurobindo Pharma Limited (herein after referred to as the applicant/domestic industry) had filed an application before the Designated Authority (hereinafter referred to as this Authority), in accordance with the Act, and the Rules, alleging dumping of Amoxycillin (hereinafter referred to as the subject goods), originating in or exported from China PR (herein after also referred to as subject country) and requested for initiation of an investigation for levy of anti dumping duties on the subject goods.
2. As part of the preliminary scrutiny, the department had written a letter to the Department of Pharmaceuticals and asked for the list of producers of the subject goods in India along with the data of production, production capacity and imports of the subject goods from the subject country, if any for the period 2011-12 to 2014-15.
3. AND WHEREAS, the Authority, on the basis of sufficient prima facie evidence of dumping, injury and causal link submitted by the applicant, issued a public notice dated 27th April, 2016, in accordance with Rule 6(1) of the Rules, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods, originating in or exported from the subject country, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

A. Procedure

4. Procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority.
 - i. In terms of sub-Rule 5 of Rule 5, the Authority notified the Embassy of the subject country in India about the receipt of the application from the domestic industry requesting for initiation of antidumping investigation.
 - ii. The Embassy of the subject country in New Delhi was also informed about the initiation of the investigations in accordance with Rule 6(2).
 - iii. The Designated Authority sent copy of initiation notification to the Embassy of the subject country in India, known exporters from the subject country, known importers in India and other interested parties, as per the information available with it, as well as the domestic industry. Parties to this investigation were requested to file questionnaire responses and make their views known in writing within prescribed time limit. Copies of the letter, petition and questionnaire sent to the exporter, were also sent to the Embassy of the subject country along with a list of known exporters/ producers with a request to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time.
 - iv. Copy of the non-confidential version of the petition filed by the domestic industry was made available to the known exporters and the Embassy of the subject country in accordance with Rule 6(3) supra.
 - v. Exporters' Questionnaires were sent to the following known exporters from the subject country in accordance with the Rule 6(4) to elicit relevant information.
 - a. M/s North China Pharmaceutical Co. Ltd.
 - b. M/s CSPC Inner Mongolia Changsheng Pharma Co.
 - c. M/s Zhejiang Medicines & Health Product I&E Co.
 - d. M/s Shanghai Sunrise Chemical Co. Ltd.
 - e. M/s Team Crown Trading Limited
 - vi. The following producers/exporters, exporting the subject goods originating in or exported from the subject country, have filed questionnaire responses:
 - a. M/s North China Pharmaceutical Co. Ltd.
 - b. M/s North China Pharmaceutical Group Semisyntech Co. Ltd.
 - c. M/s Zhuhai United Laboratories Trading Co. Ltd.
 - d. The United Laboratories (Inner Mongolia) Co. Ltd.
 - e. Zhuhai United Laboratories Co. Ltd.
 - f. M/s Inner Mongolia Changsheng Pharmaceutical Co. Ltd.
 - g. M/s Shanghai Sunrise Chemical Co. Ltd.
 - h. M/s Team Crown Trading Limited

- vii. Apart from the above responses the following interested parties also filed submissions:
- a. China Chamber of Commerce for Import & Export of Medicines & Health Products
 - b. Zhuhai United Laboratories Co. Ltd. and its Affiliates
 - c. Inner Mongolia Changsheng Pharmaceutical Co. Ltd. and its Affiliates
 - d. North China Pharmaceuticals Group Semisyntech Co. Ltd. and its Affiliates
- viii. Questionnaires were sent to the following known importers and consumers of subject goods in India calling for necessary information, in prescribed formats, in accordance with Rule 6(4):
- a. M/s Ajanta Pharma
 - b. M/s Maxheal Pharmaceuticals (India) Ltd.
 - c. M/s Laborate Pharmaceutical India Limited
 - d. M/s Kopran Limited
 - e. M/s Medi Pharma Drug House
 - f. M/s Alkem Laboratories Ltd.
 - g. M/s Medicef Pharma
 - h. M/s Tuton Pharmaceuticals
 - i. M/s Flamingo
 - j. M/s Ranbaxy Laboratories Ltd.
 - k. M/s Alkem
 - l. M/s Mankind Pharma
 - m. M/s Laborate
 - n. M/s Cipla
 - o. M/s Abbott India
 - p. M/s Mcleods
 - q. M/s Medreich
- ix. None of the importers/users of the subject goods have filed the importer questionnaire responses.
- x. Letters were sent to other known producers of the subject goods, inviting them to participate in the investigation. Response has been received from the following Indian producers of the subject goods in India confirming their support to the investigations:
- a. M/s DSM Sinochem Pharmaceuticals India Pvt. Ltd.
 - b. M/s Gujarat Dyestuff Industries
 - c. M/s G. G. Chemicals & Pharmaceuticals Pvt. Ltd.
 - d. M/s Penam Laboratories Ltd.
 - e. M/s Dalas Biotech
 - f. M/s Parabolic Drugs
 - g. M/s Asiatic Drugs and Pharmaceuticals
- xi. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years and the period of investigation, which was received by the

Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports after due examination of the transactions and discarding the data relating to unrelated products; The Authority has also procured data from DG (Systems) to complement DGCI&S data;

- xii. The Authority made available non-confidential version of the evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xiii. Optimum cost of production and cost to make and sell the subject goods in India, based on the information furnished by the petitioner on the basis of Generally Accepted Accounting Principles (GAAP), was worked out so as to ascertain whether anti dumping duty lower than the dumping margin would be sufficient to remove injury to domestic industry. The Non-injurious price (NIP) has been determined by the Authority in terms of the principles laid down under Annexure III to the Anti-dumping Rules;
- xiv. The Authority held an oral hearing on 4th August, 2016 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry, exporters from China PR and importers. The interested parties who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the views expressed by opposing interested parties.
- xv. Due to change in the incumbency of the Designated Authority and in line with the judgment of the Hon'ble Supreme Court in the ATMA case, another oral hearing was conducted by the new Designated Authority on 12th January, 2017. The parties, who presented their views in the 2nd oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xvi. On the spot verification of the data of the domestic industry, as well as that of the cooperating exporters, was carried out to the extent considered necessary.
- xvii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this finding.
- xviii. 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 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.
- xix. 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 findings on the basis of the facts available.

- xx. *** in this finding represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- xxi. In accordance with the Rules, the Authority disclosed the essential facts of the present investigation to all interested parties vide a disclosure statement issued on 16th February, 2017. The domestic industry and the other interested parties filed their comments on the disclosure statement. The comments of the interested parties have been addressed in this finding to the extent considered relevant.
- xxii. Investigation was carried out for the period of investigation starting from 1st October 2014 to 31st December 2015 (15 months). However, the injury investigation covers the period 2012-13, 2013-14, 2014-15 and the POI.
- xxiii. The Authority has taken weighted average exchange rate for the POI (October 2014 to December 2015) as Rs 64.17/US\$.

B. Product under Consideration and Like Article

- 5. The product under consideration notified in the initiation notification is “Amoxicillin”. The product under consideration is also known as Amoxicillin Trihydrate.

B.1 Views of the Domestic industry

- 6. The domestic industry has made following submissions with regard to the product under consideration:
 - i. The product under consideration is Amoxicillin or Amoxicillin Trihydrate. Amoxicillin Trihydrate is a semi synthetic antibiotic, an analog of ampicillin, with a broad spectrum of bactericidal activity against many Gram-positive and Gram-negative microorganisms. Chemically, it is (2S, 5R, 6R)-6-[(R)-(-)-2-amino-2-(p-hydroxyphenyl) acetamido]-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo [3.2.0] heptane-2-carboxylic acid trihydrate.
 - ii. Amoxicillin is a white or almost white, crystalline powder, slightly soluble in water, very slightly soluble in ethanol (96%) and practically insoluble in fatty oils. It dissolves in dilute acids and dilute solutions of alkali hydroxides.
 - iii. Amoxicillin is used to reduce the development of drug-resistant bacteria.
 - iv. It is clarified that the following products do not form part of the product under consideration –
 - a. Amoxycillin Sodium Sterile and Flucloxacillin Sodium Sterile,
 - b. Amoxicillin Trihydrate Compacted Ampicillin Trihydrate Compacted
 - c. Amoxicillin Trihydrate and Clavulanate Potassium.

B.2 Submissions by exporters, importers and other interested parties

- 7. Opposing interested parties have raised the following issues with regard to the scope of product under consideration:

- i. Import data relied upon by the applicant shows that the applicant has considered “Amoxicillin Sodium” and “Amoxicillin Sodium with Clavulanate Potassium” also in the scope of PUC.
- ii. Amoxycillin Sodium and Amoxycillin Sodium with Clavulanate potassium cannot be chemically interchangeable with Amoxicillin Trihydrate. They are three different products. Therefore, Amoxicillin Sodium and Amoxicillin Sodium with Clavulanate Potassium should be specifically excluded from the scope of PUC for the sake of clarity and correctness.

B.3 Examination by the Authority

8. The Authority notes that the product under consideration is “Amoxycillin”, also known as Amoxycillin Trihydrate. The following types of products are however, excluded from the scope of the product under consideration: *Amoxycillin Sodium Sterile and Flucloxacillin Sodium Sterile, Amoxicillin Trihydrate Compacted Ampicillin Trihydrate Compacted and Amoxicillin Trihydrate and Clavulanate Potassium.*
9. Amoxycillin Trihydrate is a semi synthetic antibiotic, an analog of ampicillin, with a broad spectrum of bactericidal activity against many Gram-positive and Gram-negative microorganisms.
10. Amoxycillin is used to reduce the development of drug-resistant bacteria. To maintain the effectiveness of Amoxycillin and other antibacterial drugs, Amoxycillin should be used only to treat infections that are proven or strongly suspected to be caused by bacteria.
11. Amoxicillin being an organic chemical is categorized under Chapter 29 of the Customs Tariff Act under subheading 29411030. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigations.
12. Petitioner has claimed that there is no known difference in subject goods produced by the Indian industry and the subject goods imported into India from the subject country. Subject goods produced by the Indian industry and imported in India are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. They are technically and commercially substitutable. The consumers are using the domestically manufactured and imported Amoxycillin interchangeably. The Authority notes that for the purpose of the present investigation, the goods produced by the petitioner are being treated as like article of the product imported from the subject country within the meaning of the Rule 2(d) of the Rules.

C. Domestic Industry and Standing

13. The present application has been filed by M/s Aurobindo Pharma Ltd., who is a domestic producer of the product under consideration in India.

C.1 Views of the Domestic industry

14. The petition has been filed by M/s. Aurobindo Pharma Ltd., Hyderabad as a domestic producer of the product under consideration. There are some other known producers of Amoxicillin in India.
15. The petitioner has claimed that DSM Sinochem Pharmaceuticals India Pvt. Ltd. has supported the petition. However, DSM has communicated its support directly to the Designated Authority.
16. The petitioner has submitted that they do not have access to actual production information of other Indian producers and there is no publicly available information in the Country in this regard. The petitioner made efforts to collect accurate information by sending communications to the other known producers to co-operate in the investigations by providing the relevant information. The petitioner has further contended that merely because the other companies are unwilling to cooperate with the authority, the same does not imply that rights of the petitioner should be compromised. In the absence of any publicly available information, petitioner has assessed the production of other producers based on their own market intelligence. Therefore, the assessment given in the petition is based on best estimates on conservative side (i.e., overstated in order to ensure that the actual information in any case should not disturb the standing of the petitioner). Petitioner has argued that actual production of the other companies is lower than the assessment of petitioner. Further, no information whatsoever has been provided by other interested parties demonstrating that the claim made by the petitioner is inappropriate.
17. The petitioner has very low captive consumption as compared to its total production. Even if captive consumption is not considered the petitioner will continue to fulfill the standing requirements.
18. The interested party is misleading the Authority in interpreting that the DA is required to mandatorily exclude captive consumption for determining standing. In fact, contrary to the argument of the interested party, the decision of WTO is clearly to consider total production while determining standing. Further, in any case, liberty given to the authority to exclude captive consumption in certain situation does not imply that the DA is bound to exclude captive in all cases.
19. Petitioner has argued that a major proportion means significant and important share and not 50% or more shares. Petitioner has also referred to the practice of the Designated Authority in the past cases in this regard and the decision of the CESTAT in the matter concerning Lubrizol vs Designated Authority. Since the production of petitioner constitutes a major proportion, whether or not the other Indian producers cooperate with the Authority, the petitioner has claimed entitlement to protection under the law and considers to have satisfied the standing requirements and constitute domestic industry within the meaning of the Anti Dumping Rules.

C.2 Submissions by exporters, importers and other interested parties

20. The interested parties have made the following submissions with regard to the standing of the domestic industry:

- i. In order to become Domestic Industry, the applicant must represent a major proportion of the total domestic production in India. The phrase ‘major proportion’ has to be interpreted to reflect a substantial portion of the domestic production and not just a mere one third as is the case with the domestic industry.
- ii. Domestic industry should include domestic producers as a whole and not a fragment of total domestic producers.
- iii. The DA should get full details about the producers in India and their actual production, not estimated, before the investigation is initiated in accordance with Rule 5(3).
- iv. The Petition is silent about the Methodology adopted for working out the estimated production of Indian Producers. Further, the estimates are claimed as confidential information.
- v. In addition to the 6 producers claimed to be only producers in India, there are so many other producers of Amoxicillin in India.
- vi. More than 50% of the production of the applicant is captively consumed or exported by the Petitioner Company. This indicates that the analysis of injury for the initiation was based on about 15% of the total domestic production of the applicant producer. It cannot be regarded as representative analysis of injury for and on behalf of the domestic industry. Reference to Final Finding No. 14/9/2016-DGAD dated 20th Oct., 2016 in respect of Anti-dumping investigation concerning imports of “Low Ash Metallurgical Coke” originating in or exported from Australia and China PR and CESTAT Final Order Nos. 6 to 15/2000-AD, dated 21-1-2000 in Appeal Nos. C/692 to 697/98-AD and C/63 to 66/ 99-AD, in respect of PIG IRON MFRS. ASSCN. Versus Designated Authority, MIN. OF COMMERCE
- vii. Application filed by the applicant is not complete unless more than 60% producers do not file questionnaire responses with the authority.
- viii. Injury analysis shall not be complete unless data of economic parameters is not examined by the Designated Authority in respect of all producers of the subject goods in India.
- ix. It has been specifically submitted that DSM Sinochem Pharmaceuticals India Pvt. Ltd. (“DSM”) has supported the petition. However, the Exporters have not been provided with any communication evidencing the same.
- x. The investigating authorities cannot exclude the domestic producers except for permissible exceptions under Article 4(1) of the AD Agreement.
- xi. The degree of support or opposition to the application has not been determined by the Authority.
- xii. Any support or opposition to an application can only be after filing of application and prior to the initiation of investigation which is not the case in the present investigation.
- xiii. A non-confidential version of the support letter should be placed in the public file for inspection by the interested parties.
- xiv. The imperative nature of Rule 5(3) of AD Rules leaves no room for doubt that any support or opposition to an application can only be after filing of application and prior to the initiation of investigation which is not the case in the present investigation.

C.3 Examination by the Authority

21. The Authority notes that the application has been filed by M/s Aurobindo Pharma Ltd., who is a domestic producer of the product under consideration in India, seeking imposition of anti dumping duty on imports of Amoxycillin from the subject country and commanding 34% of the total production of the subject goods in India, and has provided relevant information.
22. The Authority notes that there are some other known producers of the product under consideration besides the petitioner, namely:
- (a) DSM Sinochem Pharmaceuticals India Pvt. Ltd.
 - (b) Dalas Biotech
 - (c) Parabolic Drugs
 - (d) Penam Laboratories Ltd.
 - (e) Asiatic Drugs and Pharmaceuticals
 - (f) G. G. Chemicals & Pharmaceuticals Pvt. Ltd.
 - (g) Gujarat Dyestuff Industries
23. Letter from M/s DSM Sinochem Pharmaceuticals India Pvt. Ltd. supporting the petition is on record of the Authority. They have provided details regarding their Capacity, Production, Domestic Sales, Deemed Exports, Exports Sales, Captive Consumption and Closing Stocks. M/s DSM Sinochem Pharmaceuticals India Pvt. Ltd. is representative of the total domestic production of the product under consideration.
24. Further, response has been received from M/s Gujarat Dyestuff Industries, M/s G. G. Chemicals & Pharmaceuticals Pvt. Ltd. and M/s Asiatic Drugs & Pharmaceuticals Pvt. Ltd. in support of the investigations being conducted. However, no further information has been received from these parties. It has been contended by one of the opposing interested parties whether only a letter of support is sufficient to make the standing or the supporting company must file questionnaire response also to show its real intent. The petitioner has rebutted the above contention by stating that a supporter is not required to submit complete questionnaire response unless the supporter company desires to for the purpose of establishing standing.
25. With regard to the contention of the opposing parties that it is the responsibility of the DA to get full details about the actual production of other producers in accordance with Rule 5(3), it is noted that the Designated Authority is required to make determination on the basis of material and information available on record including the contents of the petition. The Designated Authority is required to satisfy itself with regard to sufficiency of the evidence.
26. The Authority has considered the information provided by the other producers of the product and wherever such information is not available the Authority has relied on the best information available for the assessment of total Indian production. It is found that the share of the producers expressly supporting the investigation is significant to constitute "major proportion". Therefore, the Authority holds that petitioner is eligible to be treated as the domestic industry within the meaning of the term in the Rules for the purpose of this investigation within the meaning of Rule 2(b) of the Rules and holds that the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

D. Interested Parties to the investigation

27. The Authority notes that following producers/exporters of subject goods from China PR have submitted their responses to the exporter's questionnaire and their data has been verified to the extent considered necessary.

- a. M/s North China Pharmaceutical Co. Ltd.
- b. M/s North China Pharmaceutical Group Semisyntech Co. Ltd.
- c. M/s Zhuhai United Laboratories Trading Co. Ltd.
- d. The United Laboratories (Inner Mongolia) Co. Ltd.
- e. Zhuhai United Laboratories Co. Ltd.
- f. M/s Inner Mongolia Changsheng Pharmaceutical Co. Ltd.
- g. M/s Team Crown Trading Limited
- h. M/s Shanghai Sunrise Chemical Co. Ltd.

28. Apart from the above responses, the following interested parties have also filed submissions:

- a. China Chamber of Commerce for Import & Export of Medicines & Health Products
- b. Zhuhai United Laboratories Co. Ltd. and its Affiliates
- c. Inner Mongolia Changsheng Pharmaceutical Co. Ltd. and its Affiliates
- d. North China Pharmaceuticals Group Semisyntech Co. Ltd. and its Affiliates

29. However, none of the exporters/ producers has claimed Market Economy Treatment.

30. Letters have been received from the following Indian producers, supporting the investigations:

- a. DSM Sinochem Pharmaceuticals India Pvt. Ltd.
- b. Gujarat Dyestuff Industries
- c. GG Chemicals & Pharmaceuticals Pvt. Ltd.
- d. M/s Asiatic Drugs and Pharmaceuticals

31. None of the importers or users of the subject goods have filed importers' questionnaire response/injury submissions.

E. Miscellaneous issues raised by the interested parties

F.1 Submissions by exporters, importers and other interested parties

32. The interested parties have raised several issues with respect to the present investigation, including methodologies of dumping determination adopted by the domestic industry in its petition and their injury claims. While the issues regarding dumping and injury determination have been dealt in the appropriate places in this finding, the general issues raised by the parties to the investigation have been examined hereunder to the extent they are relevant. For the sake of brevity, the submissions of the

parties and issues raised therein have been summarized as follows:

- a. That excessive confidentiality has been claimed by the domestic industry and most of the vital data pertaining to the claims of dumping and injury have been kept confidential thereby denying the interested parties to meaningfully understand and comment upon them;
- b. That the domestic industry has not provided a soft copy in excel file of the transaction-wise sorted import data along with the original/raw import data obtained from IBIS. Rule 5(2), the application proforma and the guidelines issued by the Hon'ble Authority under the Indian anti-dumping law as per trade notice 1 of 2013 and trade notice 2 of 2004, require the domestic industry for disclosure of the import data in excel file;
- c. That the use of IBIS information is not appropriate as IBIS has reported several transactions which are duplicate;
- d. That the company-wise production and sales volume details of the domestic producers other than the applicant have been kept as confidential;
- e. That the sales of other domestic producers in 2014-15 are identical with the figures of POI and have not been altered. It is clear from the above that the domestic industry has provided misleading information with a view to show injury to the domestic industry whereas the same does not exist;
- f. That investigation must be terminated for failure to provide copy of application in timely manner. Revised application with expanded POI was filed 37 days after the initiation and was not immediately put in the public file for reasons unknown;
- g. That there is an overlapping period of six month in the POI and the previous year which has made it difficult for the exporters to understand the non-confidential version of the Application as the indexed trends can be misleading. The domestic industry should have provided separate data/information as regards the period April 2015 to December 2015.
- h. No details of price underselling and injury margin have been provided in the non-confidential application.
- i. The Applicant has claimed to have provided DGCI&S import statistics in their written submissions. Transaction-wise import data is confidential in nature and disclosure of the same is contrary to dissemination policy of DGCI&S. the Authority may put the Applicant under strict scrutiny on its source of DGCI&S data and correctness of the same.

F.2 Views of the Domestic Industry

33. The domestic industry, in its submissions, has refuted the arguments of the interested parties. The submissions of the domestic industry, in this respect, have been summarized as follows:

- a. That the exporters have claimed most of the information as confidential and no proper summarization has been provided by them.
- b. That the interested parties have not disclosed all such information that they are obliged to disclose under the Rules and practice being followed by the Designated Authority in this regard;

- c. That nothing excessive has been claimed confidential by the petitioner. The petitioner has provided sufficient reasoning to claim costing information as confidential.
- d. Further, confidentiality has been claimed on information not publically available.
- e. As per the requirement, the petitioner has provided transaction-wise import data along with the non-confidential petition and post-initiation submissions. There is no legal requirement for soft copies of import data being made available to other interested parties.
- f. The petitioner has clearly mentioned in the petition that it has relied on the IBIS import information. In fact, the IBIS data on which the petitioner relied while making the application is available in the public domain on payment of nominal charges.
- g. Further, the Petitioner has submitted a soft copy of the Petition using MS Word to the Designated Authority in the confidential version.
- h. There is no obligation on the petitioner to provide the same in the non confidential version in the manner in which the opposing parties want. The right of the interested parties is limited to have a copy of the petition which they already have. The confidential application is made to the Designated Authority and never served to the interested parties. There is no law which requires the petitioner to provide some particular information in a particular format in the non confidential version for the convenience and ease of the other interested parties.
- i. The petitioner has provided all the evidence on which it relied for establishing dumping, injury and a causal link between such dumped imports and alleged injury. The requirement in the law is of the evidence and not of the evidence in any particular format. Rule 5(2) or any other rule in the Rules for that matter, nowhere mentions that the import statement relied should be in a particular format in the non confidential version.
- j. All non-confidential information has been provided including the transaction-wise data as well as the source of information in accordance with the rules and trade notice.
- k. The domestic industry has provided best available information. Petitioner's understanding is that other Indian producers' production has not undergone any change in POI as compared to preceding year.
- l. The legal requirement is filing of a copy of the petition filed under Rule 5(1) which formed the basis of initiation of investigation. The said document was available in public file immediately after initiation. The investigations were initiated on 27th April 2016 and copies of non-confidential version of the petition forming the basis of initiation were submitted by the domestic industry on 3rd May 2016. The petitioner submitted post-initiation submissions for the POI extended by the Authority on 3rd June 2016. The interested parties were not barred from filing questionnaire responses for this reason. The Designated Authority has provided ample opportunity to the interested parties to defend their interests. The Designated Authority has not rushed with interim measures. In fact, the Designated Authority has not considered interim measures and therefore the interested parties have got additional time to defend their interests.
- m. The requirement under the Rules is to consider the information for the POI as a

whole. There is no such requirement to submit information in fragmented form. Further, the trade notice clearly states that there can be overlap. Above all, the Designated Authority has issued numerous findings wherein POI was overlapping with the preceding years. It is an established practice in India.

F.3 Examination by the Authority

34. Various miscellaneous issues raised by the interested parties have been examined. As far as the issues raised by the interested parties and the domestic industry regarding the confidentiality claims are concerned, the Authority notes that to the extent possible and practicable the confidentiality claims of various parties submitting the information have been examined and confidentiality claims admitted on the basis of nature of information provided by the parties.
35. As regards the transaction-wise import data submitted by the petitioner at the time of initiation and inclusion of certain items which are not covered under product under consideration is concerned, the Authority notes that at the time of initiation prima facie evidence submitted by the domestic industry was relied upon. However, subsequently the petitioner procured DGCI&S transaction-wise import data after due authorization from the Authority. The Authority has made an analysis of the transaction-wise import data obtained from DGCI&S and only those transactions clearly identified as product covered under the investigation have been taken into account for all determinations.
36. As far as adequacy of information submitted by the petitioner in its application is concerned, the Authority notes that prima facie evidence submitted by the petitioner was examined by the Authority before initiation of the investigation and on being satisfied with adequacy of the prima facie evidences; the subject investigation was initiated. However, the actual determination is based on actual data of the responding exporters and other facts available with the Authority. Therefore, the interest of the parties has not been compromised in any manner.
37. As regards the timely submissions, the Authority notes that interested parties were given ample opportunity to defend their interests and file questionnaire responses.
38. As regards overlapping period of six months in the POI and the previous year, the Authority notes that there is no legal bar to have overlapping POI and in fact a number of findings have been issued by the Authority wherein POI was overlapping with the preceding years.
39. Other issues raised by the interested parties have been addressed in the respective sections in this finding.

F. Normal Value, Export Price and Dumping Margin

40. The investigation was initiated against the goods originating in or exported from China PR. As noted earlier the following producers/exporters of the subject goods from China PR have filed exporter questionnaire responses. However, none of these producers/exporters has submitted Market Economy Questionnaire for claiming MET:

- a. M/s North China Pharmaceutical Co. Ltd.
- b. M/s North China Pharmaceutical Group Semisynthec Co. Ltd.
- c. M/s Zhuhai United Laboratories Trading Co. Ltd.
- d. The United Laboratories (Inner Mongolia) Co. Ltd.
- e. Zhuhai United Laboratories Co. Ltd.
- f. M/s Inner Mongolia Changsheng Pharmaceutical Co. Ltd.
- g. M/s Shanghai Sunrise Chemical Co. Ltd.
- h. M/s Team Crown Trading Limited

G.1 Submissions by exporters, importers and other interested parties

41. Following issues have been raised by other interested parties with regard to normal value, export price and dumping margin:

- a. The item-wise details of constructed normal value as well as normal value have been kept as confidential in the petition and only the ranges for the normal value have been given.
- b. The domestic industry has not provided any evidence with regard to the adjustments claimed for net export price.
- c. The methodology used for computation of the normal value is in violation of Annexure I (7) of the AD Rules. The Authority is required to construct normal value after sequentially applying the different methods mentioned in Annexure I (7) of the AD Rules, and only if construction by the first two methods is not possible, reliance can be placed on the third method.
- d. The normal value in China may be determined on the basis of normal value prevailing in Australia or by considering the import price of like article from the market economy third country to India.
- e. One of the interested parties [M/s Inner Mongolia Changsheng Pharmaceutical Co., Ltd.] has contended that normal value in the current investigation should be determined on the basis of their domestic sales and the cost of the subject goods in view of the fact that the period of 15 years for disregarding the domestic prices or costs of Chinese producers not being on market economy conditions as provided in para 15(a)(ii) of the Protocol of Accession of the People's Republic of China to WTO, has expired in the last month on 11th December 2016 in terms of para 15(d).

G.2 Views of the Domestic industry

42. Submissions made by the domestic industry with regard to MET, normal value, export price and dumping margin during the course of the investigation and considered relevant by the Authority are as follows:

- a. One of the provisions of Accession protocol has expired on 11th December, 2016. The Designated Authority should proceed with present investigation considering Chinese producers as producers operating in non-market economy conditions due to reasons given below.
- b. The investigation period considered by the Authority in the present case is October 2014 to December 2015 (15 months). The injury investigation period has been

- considered as 2012-13, 2013-14, 2014-15 and POI.
- c. The purpose of fixation of POI is to consider a period when the existence of dumping causing injury is claimed and established. The date of determination is not relevant to the moot question of dumping causing injury to the domestic industry. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone should be considered relevant, appropriate and necessary for the purpose.
 - d. The Chinese producers are required to be treated as non-market economy companies for the reason that the costs and prices in China do not reasonably reflect the market forces. Para 8 to Annexure-I specifies the parameters which should be considered for grant of market economy status. This also implies that unless these conditions are fulfilled/satisfied, the Chinese costs and prices cannot be adopted.
 - e. The consideration of market economy status is based on parameters prevailing during investigation period. Since the reason for rejection of Chinese costs and prices is distortion in the costs and prices in China due to the factors listed in Para 8 to Annexure-I, petitioner submits that it is the investigation period that is relevant to decide whether Chinese producers are market economy companies or not.
 - f. Since Chinese companies have been denied market economy status for the reasons mentioned in Para 8 of Annexure-I till December, 2016, petitioner submits that the Chinese producers are required to be treated as non-market economy companies till such time the investigation period includes the period specified in Accession Treaty protocol.
 - g. In the context of rule 2(b), it is well established legal position that the imports by a domestic producer or its relationship with an exporter or importer are examined with reference to the investigation period. If POI alone is relevant for standing purposes, POI alone should be relevant for normal value determination.
 - h. Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
 - i. Normal value in China cannot be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. Therefore, normal value should be determined on the basis of constructed cost only.

G.3 Examination by the Authority

(a) Determination of Normal Value for producers and exporters in China PR

43. As per Paragraph 8 of Annexure I of the Anti-dumping Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:

- a. the decisions of concerned firms in China PR regarding prices, costs and inputs,

including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

- b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d. the exchange rate conversions are carried out at the market rate.

44. The Authority sent copies of exporter's questionnaire and questionnaire on market economy treatment (MET) to exporters in China PR. However, no producer/exporter has claimed MET. In view of the above, the Authority considers it appropriate to proceed with para-7 of Annexure I to the Rules for determination of normal value in case of China PR which provides as under:

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

45. As regards the claim of opposing interested parties that normal value in China may be determined on the basis of normal value prevailing in Australia or by considering the import price of like article from the market economy third country to India, it is noted that no information has been provided in this regard by any party. Therefore, the Authority has proceeded in accordance with the Rules.

46. According to these Rules, the normal value in China can be determined on any of the following basis:

- a) On the basis of the price in a market economy third country, or
- b) The constructed value in a market economy third country, or
- c) The price from such a third country to other countries, including India.
- d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly

adjusted to include reasonable profit margin.

47. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject goods imported from China into India has been constructed considering optimum consumption of major raw materials as per information provided by the domestic industry, conversion cost, interest, SGA expenses, etc. at the levels allowed for the domestic industry along with a reasonable profit on the cost of production. Accordingly, the normal value so determined is as shown in the Dumping Margin Table below.

(b) Export Prices

48. The Authority notes that the following Chinese producers/ exporters have filed exporter questionnaire response in the present investigation:

- a. M/s North China Pharmaceutical Co. Ltd.
- b. M/s North China Pharmaceutical Group Semisyntech Co. Ltd.
- c. M/s Zhuhai United Laboratories Trading Co. Ltd.
- d. The United Laboratories (Inner Mongolia) Co. Ltd.
- e. Zhuhai United Laboratories Co. Ltd.
- f. M/s Inner Mongolia Changsheng Pharmaceutical Co. Ltd.
- g. M/s Shanghai Sunrise Chemical Co. Ltd.
- h. M/s Team Crown Trading Limited

North China Pharmaceutical Co. Ltd. (NCPC))&North China Pharmaceutical Group Semisyntech Co. Ltd. (Semisyntech)

49. Pursuant to initiation of the present investigation, exporter questionnaire response has been filed by North China Pharmaceutical Co. (NCPC) along with its subsidiary company, North China Pharmaceutical Group Semisyntech Co. Ltd. (Semisyntech). NCPC does not produce Amoxicillin. It exports Amoxicillin produced by Semisyntech. The Authority notes that during the POI, NCPC had exported to India *** MT of the subject goods for the total invoice value of US\$ ***. As per the information available in the EQ response, the export sales of NCPC to India were on CIF basis and are on **** days LC terms. After considering the adjustments claimed by NCPC on account of inland transportation, Ocean Freight, handling charges, marine insurance, interest, credit cost, bank charges and non-refundable VAT of **%, the Authority has determined the ex- factory export price for NCPC as reflected in table below.

United Laboratories Inner Mongolia (Producer/exporter) Zhuhai United Laboratories Co Ltd, China (Producer/exporter) Zhuhai United Laboratories Trading Co (Exporter) and Team Crown Trading Company (Exporter)

50. Questionnaire response has been filed by Zhuhai United Laboratories Co Ltd, China and United Laboratories Inner Mongolia (Producer/exporter). Both these companies have directly exported the product under consideration to India. Further, both these companies have exported the product under consideration through their trading companies namely Zhuhai United Laboratories Trading Co and Team Crown Trading Company, who have

also filed exporter questionnaire response. However, it is seen that **Zhuhai United Laboratories (Zhongshan) Co., Ltd** (Zhongshan Branch) is also a producer of the product under consideration in China and the company is related to the two producers and two exporters who have filed questionnaire responses and have participated in the present investigation. It was however noted in the disclosure statement that the fact that **Zhuhai United Laboratories (Zhongshan) Co., Ltd** (Zhongshan Branch) is a producer of the product under consideration has not been disclosed to the Authority and such material fact had come to the notice of the Designated Authority during verification. Since such material facts had been suppressed by the producer-exporters, the Authority was constrained to reject the claim of individual dumping margin to the responding producers-exporters. The Authority had noted in the disclosure statement in this regard that the fact that **Zhuhai United Laboratories (Zhongshan) Co., Ltd** may or may not have exported the product under consideration to India was entirely immaterial.

51. Post disclosure, the exporter has clarified that **Zhuhai United Laboratories (Zhongshan) Co., Ltd** (Zhongshan Branch) is not a company, but a part/branch/division of Zhuhai United Laboratories Co Ltd, China (Producer/exporter). The exporter has also claimed that Zhongshan branch does not produce bulk drugs. It only makes finished product. Further, Zhongshan branch has not exported to India. On examination of the evidence submitted by the exporter in support of the above claims post-disclosure, the Authority now considers to grant individual dumping margin to the responding producers-exporters of Zhuhai group.
52. Further, The Economic & Commercial Counsellor's Office, Embassy of the People's Republic of China has also offered post –disclosure comments mentioning that according to their investigation, Zhongshan Branch is not an affiliated company of Zhuhai UL; it is only a branch organization of Zhuhai UL. It is also mentioned that Zhongshan Branch is one of the plants of Zhuhai UL, which produces finished products and does not produce the PUC.
53. From the information available in the EQ response, the Authority notes that during the POI, Zhuhai United Laboratories Co Ltd, China and United Laboratories Inner Mongolia, exported to India total****MT of product concerned for the total invoice value of ****US\$ directly as well as through their trading companies namely Zhuhai United Laboratories Trading Co and Team Crown Trading Company. Further, Zhuhai United Laboratories Trading Co has also exported to India through Team Crown Trading Company. As per the information available in the EQ response, the export sales of Zhuhai group to India were on CIF basis and are on **** days LC terms. After considering the adjustments claimed by Zhuhai group on account of inland transportation, Ocean Freight, Port handling charges, marine insurance, interest, bank charges and non- refundable VAT of ****%, the Authority has determined the ex- factory export price for Zhuhai group, as given in table below.

M/s Inner Mongolia Changsheng Pharmaceutical Co. Ltd.

54. From the information available in the exporter's questionnaire response, the Authority notes that Inner Mongolia Changsheng Pharmaceutical Co. Ltd. (Changsheng) is a producer and exporter of Amoxicillin. All exports to India are made by Chengsheng.

55. From the information available in the EQ response, the Authority notes that during the POI, Changsheng, exported to India total****MT of product concerned for the total invoice value of ****US\$. As per the information available in the EQ response, the export sales of Changsheng to India were on CIF basis and are on **** days LC terms. After considering the adjustments claimed by Changsheng on account of inland transportation, Ocean Freight, Port handling charges, marine insurance, interest, bank charges and non-refundable VAT of ****%, the Authority has determined the ex- factory export price for Changsheng, as given in table below.

M/s Shanghai Sunrise Chemical Co. Ltd. (Sunrise)

56. M/s Shanghai Sunrise Chemical Co. Ltd. (Sunrise) is an export trading company in Shanghai. Sunrise exports the subject goods to many countries including India either directly or through agent in that country. However, Sunrise has not stated in their response the names of producers from whom they procured the product under consideration for exports to India, details of quantum and value of such exports, relationship of Sunrise with the producers of subject goods, etc. Therefore, the Authority holds that the response submitted by Sunrise is incomplete. In view of the above, the response submitted by Sunrise has been rejected.

(c) Dumping Margin

Responding exporters

57. Considering the Normal Value and the Export Prices determined above, the Dumping margins have been calculated as given in the table below.

All other exporters from China

58. As per the import data total 1,255 MT of the subject goods were imported from China during the POI, out of which the responding exporters account for total ***approx MT. Therefore significant volume of the subject goods have been exported by other exporters from China during this period. In the absence of cooperation from these exporters, dumping margin for all non-cooperative exporters from China has been determined based on facts available taking into account the information provided by the cooperating exporters from China as given in the table below.

Dumping margin table

| SN | Producer | Exporter | Normal Value | Export Price | Dumping Margin US\$ / Kg | Dumping Margin % |
|----|----------------------------------|--|--------------|--------------|--------------------------|------------------|
| 1 | North China Pharmaceutical Group | North China Pharmaceutical Co. Ltd. (NCPC) | **** | **** | **** | 15%-25% |

| | | | | | | |
|---|---|---|------|------|------|---------|
| | Semisynth Co. Ltd. (Semisynth) | | | | | |
| 2 | Inner Mongolia Changsheng Pharmaceutical Co. Ltd. (Changsheng) | Inner Mongolia Changsheng Pharmaceutical Co. Ltd. (Changsheng) | **** | **** | **** | 10%-20% |
| 3 | Zhuhai United Laboratories Co Ltd United Laboratories (Inner Mangolia)Co. Ltd. | Zhuhai United Laboratories Co Ltd United Laboratories (Inner Mangolia)Co. Ltd. Zhuhai United Laboratories Co Limited Zhuhai United Laboratories Trading Co Team Crown Trading Company | **** | **** | **** | 10%-20% |
| 4 | All Others | | **** | **** | **** | 40-50% |

G. Determination of Injury and Causal Link

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

60. The Authority notes that the application for imposition of antidumping duty has been filed by M/s Aurobindo Pharma Ltd., who is a domestic producer of the product under consideration in India, and commands a major proportion of total production of the subject goods in India. In terms of Rule 2(b) of the Rules, the petitioner has been treated as the domestic industry for the purpose of this investigation. Therefore, for the purpose of this determination, the cost and injury information of the petitioner, constituting the domestic industry as defined in Rule 2(b), has been examined.

G.1 Views of other Interested Parties regarding the injury claims of domestic industry

61. The exporters, importers and other interested parties to this investigation, in their respective submissions, regarding the injury and causal link, have inter alia argued:

- a) That the domestic industry has arbitrarily reduced the landed value on account of commission to a trader. The only conclusion which can be drawn for reducing the landed value in such a manner is to artificially show price undercutting which otherwise does not exist in the current case.
- b) That the sales of other domestic producers in 2014-15 are identical with the figures of POI and have not been altered. It is clear from the above that the domestic industry has provided misleading information with a view to show injury to the domestic industry whereas the same does not exist.
- c) That the injury information from other domestic producers may also be obtained for a representative and meaningful analysis in the current investigation.
- d) That there is no injury and causal link is absent in the current investigation as imports from China in absolute terms have declined by about 17% in the period of investigation as compared to immediately previous year and market share of imports in the total demand has also come down by about 3% over the same period.
- e) That the sales and market share of the applicant producer are not affected by imports but due to other reasons such as decline in demand and inter se competition among the domestic producers.
- f) That the decline in the domestic prices by 10% is much more than the decline in import prices in the POI as compared to the immediately previous year.
- g) Analysis of capacity, production, capacity utilization and inventory is not relevant as the applicant producer has significant exports and captive consumption of about 50% of its total production of subject goods and also it manufactures other products from the same capacity. Further, the details for average inventory have been provided in the application but not the closing inventory as it is the closing inventory only which will indicate the injury but not the average inventory or opening inventory. Therefore, any conclusion on injury on the basis of these factors would be misleading.
- h) The indexed trend in the opening stock shows a steep increase in the POI which can only be construed to be inconsistent with production and total sales of the domestic industry.
- i) When the imports were the highest in the year 2014-15, the profits of the company increased to 231%, cash profit to 221% and profit before interest to 126% in the same year as compared to base year 2012-13. On further analysis, it may be seen that when the imports in the POI declined by 17%, APL incurred losses. It indicates that there is no relationship between the imports and the profits/losses to the applicant producer.
- j) The number of employees engaged by the applicant domestic producer has remained constant; however, there has been a steep increase in the wages.
- k) Landed values of the subject goods over the injury investigation period have increased by 14% whereas the domestic industry could increase its prices only by 9%. On further analysis, it may be seen that in the POI, the landed value declined by 4% as compared to previous year 2014-15 whereas the domestic prices declined by 11% over the same period.
- l) That when the capacity remains the same, the depreciation as well as GFA/NFA

instead of coming down, increased. Similarly, when the capacity increased, the depreciation and GFA/NFA came down. It indicates that the performance of the domestic industry is dependent upon the performance of other products but not affected due to dumped imports.

- m) Decline in productivity and the increase in wages have affected the performance of APL.
- n) Imports from China PR could not be causing significant price undercutting because when the export price is at its highest, the price undercutting range (as per the application) is also at its highest.
- o) The overall profitability and revenue of the Applicant in the year 2014-15 has increased substantially which is evident from the Annual Report for the said year of the Applicant.
- p) The imports from subject country cannot be said to be causing price suppression as landed price after accounting for commissions has increased.
- q) There has been a general increase in the trend of cost of sales per unit of the domestic industry as well its domestic sales value.
- r) Despite sufficient demand in the country, the Applicant has not sufficiently enhanced production, resulting in demand supply gap.

G.2 Views of the domestic industry

62. The domestic industry, in its submissions, has *inter alia* argued as under:

- a) Imports have increased significantly over the injury period.
- b) Imports in the POI are significantly high.
- c) Price undercutting is significant throughout the injury period.
- d) Since the commission paid by the domestic industry is not considered for determination of NIP as well as net sales realization, it is appropriate to deduct commission paid to the Indian importer from the landed value. Comparison of NIP with import price must constitute fair comparison.
- e) Imports are depressing the prices of the domestic industry in the market. Further, whereas the domestic industry should have increased its prices, the domestic industry has been forced to reduce the prices.
- f) Performance of the domestic industry has deteriorated in terms of sales volume, production, capacity utilization, inventories and market share.
- g) Performance of the domestic industry has deteriorated in terms of profits, cash flows and return on investments.
- h) Growth in terms of production, sales, capacity utilization and market share is negative. Profits, return on investment and cash profits have also shown adverse performance in the POI.
- i) The dumping margin is not only more than de-minimis but also substantial. Injury margin is also positive and quite significant.
- j) In addition to the material injury, there is a threat of intensified dumping and consequent injury to the domestic industry by dumped imports.

63. The domestic industry has requested to impose anti dumping duty in the form of fixed duties.

G.3 Examination of the issues by the Authority

64. The Authority notes the arguments of the domestic industry and other interested parties and various issues raised therein and has addressed them in the relevant paragraphs hereunder.

- a) With regard to the contention of the opposing interested parties that the domestic industry has arbitrarily reduced the landed value on account of commission to a trader to artificially show price undercutting, the Authority noted the same and has not reduced the landed value on account of commission to trader.
- b) With regard to the contention that the sales of other domestic producers in 2014-15 are identical with the figures of POI and have not been altered; it is noted that in the absence of any verifiable information on actual sales volume of the other Indian producers, the Authority has relied upon the best information available.
- c) With regard to the contention that the injury information from other domestic producers may also be obtained for a representative and meaningful analysis in the current investigation; it is noted that none of the other producers provided any information in this regard. Therefore, the Authority has relied upon the best information available.
- d) With regard to the contention that the applicant producer has significant exports and captive consumption of about 50% of its total production of subject goods and also it manufactures other products from the same capacity; the Authority notes that once scope of the domestic industry has been frozen, the authority shall thereafter determine injury to such domestic industry. The injury analysis has been done in respect of the domestic sales of the PUC only based on the injury claimed by the petitioner on its domestic sales.
- e) With regard to the contention that the parameters of capacity and depreciation are inconsistent, indicating that the performance of the domestic industry is dependent upon the performance of other products but not affected due to dumped imports; the Authority notes that the petitioner produces a number of products in the same plant with the product under consideration. The petitioner apportions expenses on the basis of machine hours utilized for each product. The machine hours utilized is dependent on the volume of production of each product. As the depreciation and GFA/NFA are apportioned on the basis of machine hours utilized, considering the best utilization for the product under consideration; increase and decline in these parameters is dependent on machine hours utilized and not the capacity for production.
- f) With regard to the contention that the overall profitability and revenue of the Applicant has increased substantially in the year 2014-15 as evident from the Annual Report of the Applicant; the Authority notes that the petitioner is a multi-product, multi-location company. Therefore, the Annual Report reflects the performance of the Company as a whole and is not reflective of the performance of the product under consideration.
- g) With regard to the contention that there is demand supply gap, the Authority notes that there is sufficient capacity with Indian producers to meet the Indian demand.

G.4 Examination of Injury and Causal Link:

65. Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the prices of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

G.5 Examination of actual and potential impact of dumped imports

66. Annexure II to the Anti Dumping Rules, in its relevant parts, provides that *the examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.*

67. In accordance with the above Rules all economic parameters affecting the Domestic Industry as indicated above have been examined as under: -

(a) Volume Effects of Dumped Imports:

(i) Import volumes and share of subject country:

68. After examination of the volume and prices of the imports from various sources the Authority has relied upon the transaction-wise import data from DGCI&S and individual transactions have been examined based on the product descriptions to identify the product under consideration. The transaction-wise data procured from DGCI&S has been placed in public folder. The volume of imports during the injury investigation period, as per this analysis, is as follows:

| | | | | | | |
|--------------------------------|------|---------|---------|---------|-------|-------|
| Import Volume | Unit | 2012-13 | 2013-14 | 2014-15 | POI-A | POI* |
| China | MT | 506 | 681 | 1,258 | 1,004 | 1,255 |
| Other Countries | MT | 55 | 107 | 34 | 39 | 48 |
| Total Imports | MT | 561 | 788 | 1,292 | 1,043 | 1,304 |
| Indian Production | MT | 6,113 | 6,503 | 7,130 | 6,732 | 8,416 |
| Demand | MT | 3,518 | 4,354 | 5,404 | 5,012 | 6,265 |
| Subject imports in relation to | | | | | | |
| Total Imports | % | 90.15 | 86.43 | 97.34 | 96.29 | 96.29 |
| Demand | % | 14.39 | 15.63 | 23.28 | 20.04 | 20.04 |

| | | | | | | |
|------------|---|------|-------|-------|-------|-------|
| Production | % | 8.28 | 10.47 | 17.65 | 14.92 | 14.92 |
|------------|---|------|-------|-------|-------|-------|

69. The Authority notes that imports from China have increased in absolute terms as well as in relation to total imports, production and consumption. Some interested parties have argued that imports from China in absolute terms have declined by about 17% in the period of investigation as compared to immediately preceding year and market share of imports in the total demand has also come down by about 3% over the same period. The Authority notes that the imports from subject country account for about 96% of the total imports during the POI. Though there is a marginal decline in imports in the POI as compared to immediately preceding year 2014-15; imports in the POI are significantly higher than the base year 2012-13. The domestic industry has refuted in their arguments that injury analysis is done over a period of time and not just compared to the immediately preceding year/period. The domestic industry has further contended that this tapering of imports is a result of aggressive pricing decisions taken by the domestic industry faced with increasing imports of the product under consideration till 2014-15.

70. Examination of data shows that the volume of imports has increased by nearly 200% in absolute terms over the injury period and the market share of subject imports in demand has increased by 6% when compared to base year, 2012-13.

(ii) Demand and Market Share:

71. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed is given in the table below. The Authority notes that the demand of the product under consideration has increased over the period.

| Demand | UOM | 2012-13 | 2013-14 | 2014-15 | POI-A | POI* |
|---------------------------------|-----|------------|------------|------------|------------|------------|
| Imports from China | MT | 506 | 681 | 1,258 | 1,004 | 1,255 |
| Imports from Other Countries | MT | 55 | 107 | 34 | 39 | 48 |
| Sales of domestic industry | MT | 1,250 | 1,568 | 1,300 | 1,203 | 1,504 |
| Sales of Other Indian producers | MT | 1,707 | 1,999 | 2,812 | 2,766 | 3,458 |
| Total Demand | MT | 3,518 | 4,354 | 5,404 | 5,012 | 6,265 |
| <i>Trend</i> | | <i>100</i> | <i>124</i> | <i>154</i> | <i>142</i> | <i>142</i> |
| Market Share in Demand | | | | | | |
| China | % | 14.39 | 15.63 | 23.28 | 20.04 | 20.04 |
| Other Countries | % | 1.57 | 2.45 | 0.64 | 0.77 | 0.77 |
| Domestic industry | % | 35.53 | 36.01 | 24.05 | 24.00 | 24.00 |
| Other Indian producers | % | 48.51 | 45.91 | 52.03 | 55.19 | 55.19 |
| Indian Producers as a whole | % | 84.04 | 81.91 | 76.08 | 79.19 | 79.19 |

72. The above data indicates that demand in the POI, on annualized basis, has declined as compared to previous year, 2014-15; however, it has increased significantly as compared to base year, 2012-13. During the injury investigation period, the demand of the

subject goods in the domestic market increased by 42% compared to the base year.

73. Market share held by the domestic industry has declined over the injury period from 35.5% to 24%, whereas market share of the subject country has increased from 14% to 20% over the injury period. The increase in market share of the subject country is significant. This clearly establishes material injury being caused to the domestic industry.

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

74. With regard to the impact of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. Accordingly, the impact on the prices of the domestic industry on account of dumped imports of the subject goods from the subject country have been examined with reference to price undercutting, price underselling, price suppression and price depression.

(i) Price undercutting effect of the dumped imports

75. Price undercutting has been determined by comparing the landed values of dumped imports from the subject country over the entire period of investigation with the net sales realization of the subject goods sold by the domestic industry to see whether the imports are significantly undercutting the prices of the domestic industry.

76. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The price undercutting of the subject goods from the subject country works out as follows:

| Particulars | Unit | 2012-13 | 2013-14 | 2014-15 | POI * |
|---------------------|--------|---------|---------|---------|-------|
| Landed Price | Rs./KG | 1,531 | 1,769 | 1,823 | 1,745 |
| Selling Price of DI | Rs./KG | **** | **** | ***** | ***** |
| Price Undercutting | Rs./KG | **** | **** | **** | **** |
| Price Undercutting | % | **** | **** | **** | **** |
| Price Undercutting | Range | 0-10% | 0-10% | 0-10% | 0-10% |

77. The opposing interested parties have contended that decline in the domestic prices by 10% is much more than the decline in import prices in the POI as compared to the immediately previous year. The Authority notes in this regard the argument of the domestic industry that the domestic industry has to respond to the import prices or it will lose its sales. The landed price in actual terms is below the selling price of the domestic industry and undercutting the domestic prices.

(ii) Price underselling effect of the dumped imports

78. For examining the underselling effects of the dumped imports, the landed value of imports has been compared with the Non-Injurious Price determined. The Authority notes

that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The analysis show that during the POI, the landed value of subject imports was below the non-injurious price of the domestic industry as can be seen from the table below.

| Particulars | Rs./Kg. |
|-----------------------|---------|
| Non-Injurious price | ***** |
| Landed Value | 1,745 |
| Injury Margin | **** |
| Injury Margin % | **** |
| Injury Margin (Range) | 10-15% |

(iii) Price Suppression, Depression effects of dumped imports

79. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred.

| Particulars | Unit | 2012-13 | 2013-14 | 2014-15 | POI* |
|---------------|--------|------------|------------|------------|------------|
| Cost of Sales | Rs./Kg | **** | **** | ***** | **** |
| <i>Trend</i> | | <i>100</i> | <i>108</i> | <i>116</i> | <i>113</i> |
| Selling Price | Rs./Kg | **** | **** | ***** | **** |
| <i>Trend</i> | | <i>100</i> | <i>114</i> | <i>120</i> | <i>109</i> |
| Landed Price | Rs./Kg | 1,531 | 1,769 | 1,823 | 1,745 |
| <i>Trend</i> | | <i>100</i> | <i>116</i> | <i>119</i> | <i>114</i> |

80. The above data indicates that both the cost of sales and the selling price have increased significantly up to 2014-15 and then declined in the POI. However, the Authority notes that the decline in selling price is more than the decline in cost. The decline in selling price is in response to the decline in the landed price of imports. Thus, the imports from the subject country had caused price depression.

(c) Examination of other injury factors

(i) Actual and potential impact on capacity, production, capacity utilization and sales

81. The table below shows the capacity, production, capacity utilization and sales of the domestic industry for the product under consideration during the injury investigation period.

| Particulars | Unit | 2012-13 | 2013-14 | 2014-15 | POI-A | POI* |
|--------------|------|------------|------------|------------|------------|------------|
| Capacity | MT | 2,840 | 2,870 | 2,870 | 2,870 | 3,588 |
| <i>Trend</i> | | <i>100</i> | <i>101</i> | <i>101</i> | <i>101</i> | <i>101</i> |

| | | | | | | |
|----------------------|----|------------|------------|------------|------------|------------|
| Production | MT | 2,533 | 2,774 | 2,384 | 2,217 | 2,771 |
| <i>Trend</i> | | <i>100</i> | <i>110</i> | <i>94</i> | <i>88</i> | <i>88</i> |
| Capacity Utilization | % | 89 | 97 | 83 | 77 | 77 |
| Domestic Sales | MT | 1,226 | 1,525 | 1,264 | 1,137 | 1,421 |
| <i>Trend</i> | | <i>100</i> | <i>124</i> | <i>103</i> | <i>93</i> | <i>93</i> |
| Demand | MT | 3,518 | 4,354 | 5,404 | 5,012 | 6,265 |
| <i>Trend</i> | | <i>100</i> | <i>124</i> | <i>154</i> | <i>142</i> | <i>142</i> |

82. The Authority notes that the domestic industry had enhanced its capacities marginally in 2013-14. While the capacity has gone up by only 1% compared to the base year; the production has gone down by about 12% and the domestic sales have declined by about 7%. The capacity utilization increased in 2013-14 and then declined in 2014-15 and the POI. The opposing interested parties have argued that the decline in production and sales of the domestic industry is solely on account of decline in demand and inter se competition and not because of the alleged dumped imports.

83. The petitioner has refuted in their submissions that on overall basis there is an increase in demand over the injury period; whereas production and sales of the domestic industry have declined. At the same time the dumped imports have increased in the Indian market in significant volumes and at significantly dumped prices. Consequently, production and domestic sales of the domestic industry were affected.

(ii) Actual and potential impact on profit/loss, cash flow, returns on capital employed

84. Performance of the domestic industry with respect to the profitability parameters are as follows:

| Particulars | Unit | 2012-13 | 2013-14 | 2014-15 | POI-A | POI* |
|------------------------------|----------|------------|------------|------------|------------|------------|
| Cost of Sales | Rs./Kg | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>108</i> | <i>116</i> | <i>113</i> | <i>113</i> |
| Selling Price | Rs./Kg | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>114</i> | <i>120</i> | <i>109</i> | <i>109</i> |
| Profit / Loss | Rs./Kg | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>320</i> | <i>231</i> | <i>-10</i> | <i>-10</i> |
| Profit / Loss | Rs. Lacs | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>398</i> | <i>238</i> | <i>-9</i> | <i>-9</i> |
| Cash Profit | Rs. Lacs | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>358</i> | <i>221</i> | <i>10</i> | <i>10</i> |
| Profit before Interest & Tax | Rs. Lacs | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>235</i> | <i>126</i> | <i>15</i> | <i>15</i> |
| Return on Capital Employed | % | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>162</i> | <i>92</i> | <i>13</i> | <i>13</i> |

85. The above data indicates that profit, cash profit and return on investment increased up to 2013-14 and then declined with increase in imports in 2014-15. The decline was so

significant that the domestic industry has suffered financial losses in the POI.

86. With regard to the contention of other interested parties that there has been a general increase in the trend of cost of sales per unit of the domestic industry as well its domestic sales value; it is noted that cost and selling price have increased up to 2014-15 and then declined in the POI. It is also noted that selling price has declined more than the decline in cost, resulting in losses to the domestic industry in the POI.
87. The opposing interested parties have further contended that when the imports were the highest in the year 2014-15, the profits of the company increased and when the imports in the POI declined by 17%, APL incurred losses, indicating that there is no relationship between the imports and the profits/losses to the applicant producer. The Authority notes that there was fall in the volume of dumped imports in POI as compared to previous year; however, the prices of dumped imports have fallen steeply in the same period. It is noted that the domestic industry also reduced the price of its product lower than its cost of production/sales in order not to lose its volume of sales. This had adversely affected the profitability of the domestic industry in POI.
88. The domestic industry has also submitted that profit is required not only for sustainability of the production and sales of the product under consideration, but also for the future development of the industry producing subject goods. In a situation of losses, it would be difficult to sustain long term viability for the domestic industry not only in the product under consideration but also otherwise.

(iii) Actual and potential impact on Employment, Wages and Productivity

89. The data on employment and wages given below indicates increase in employment up to 2014-15 and then a decline in the POI. Wages have increased over the injury period. As regards the contention of the other interested parties on employment and wages, it is noted that the domestic industry has not claimed any injury on account of these factors for the macro economic reasons concerning the industry. Therefore, the information on employment and wages may not provide a very clear picture of the condition of the industry with respect to the product under consideration. The Authority notes that the productivity in terms of output per day as well as per employee has increased up to 2013-14 and then declined in tune with the level of production.

| Particulars | Unit | 2012-13 | 2013-14 | 2014-15 | POI-A | POI* |
|---------------------------|----------|------------|------------|------------|------------|------------|
| Employment | No | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>106</i> | <i>113</i> | <i>107</i> | <i>107</i> |
| Wages | Rs. Lacs | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>114</i> | <i>125</i> | <i>141</i> | <i>141</i> |
| Productivity per day | MT | **** | **** | **** | **** | **** |
| <i>Trend</i> | | <i>100</i> | <i>110</i> | <i>94</i> | <i>88</i> | <i>88</i> |
| Productivity per Employee | MT | **** | **** | **** | **** | **** |

| | | | | | | |
|--------------|--|-----|-----|----|----|----|
| <i>Trend</i> | | 100 | 103 | 83 | 82 | 82 |
|--------------|--|-----|-----|----|----|----|

(iv) Actual and potential impact on Inventories

90. Information regarding inventory can be seen from the table below.

| Particulars | Unit | 2012-13 | 2013-14 | 2014-15 | POI |
|-------------------|------|---------|---------|---------|------|
| Opening Inventory | MT | **** | **** | **** | **** |
| Closing Inventory | MT | **** | **** | **** | **** |
| Average Inventory | MT | 16 | 24 | 15 | 75 |
| <i>Trend</i> | | 100 | 154 | 318 | 473 |

91. As regards the contention of the interested parties that it is the closing inventory only which will indicate the injury but not the average inventory or opening inventory; the Authority notes that inventory holding of the domestic industry has had an impact over the injury period.

(v) Actual and potential impact on ability to raise fresh Investment

92. The Authority notes that the production capacity for the product under consideration is not dedicated. The domestic industry produces a number of products in the same plant and therefore, the ability of the domestic industry to make fresh investment for the plant may not be impacted by the performance of the product under consideration alone. However, sharp decline in profitability of the product under consideration in the POI is likely to significantly affect the interest of the domestic industry to continue the production of the PUC.

(vi) Actual and potential impact on growth

93. Overall analysis of the performance of the domestic industry shows that the domestic industry has faced negative growth in terms of sales, production, capacity utilization, market share, employment, inventory, profits and return on investment. Considering the decline in these parameters during the POI, the potential impact of the dumped imports on these parameters could be significantly negative.

(vii) Magnitude of Dumping and Dumping Margin

94. The dumping margin of the dumped imports determined for the subject country is significantly above *de minimis* level.

(viii) Factors affecting prices

95. Examination of trends in the volume of dumped imports and prices of the dumped imports from the subject country, and the domestic prices indicate that the decline in demand in the domestic market and the presence of significant volume of dumped imports from the subject country have affected the prices of the domestic industry.

(d) Conclusion on Injury

96. The non-injurious price of the subject goods for the domestic industry has been determined as per the principles laid down in Annex-iii to the Anti- Dumping Rules for fair comparison with the respective landed value of the imports for determination of injury margin. The injury margins determined are as under:

| SN | Producer | Exporter | NIP US\$/Kg | Landed Value US\$/K g | Injury Margin US\$/Kg | Injury Margin % |
|----|--|--|----------------|--------------------------------|-----------------------------|-----------------------|
| 1 | North China Pharmaceutical Group Semisyntech Co. Ltd. (Semisyntech) | North China Pharmaceutical Co. Ltd. (NCPC) | *** | *** | *** | 10%-20% |
| 2 | Inner Mongolia Changsheng Pharmaceutical Co. Ltd. (Changsheng) | Inner Mongolia Changsheng Pharmaceutical Co. Ltd. (Changsheng) | *** | *** | *** | 10%-20% |
| 3 | Zhuhai United Laboratories Co Ltd United Laboratories (Inner Mangolia)Co. Ltd. | Zhuhai United Laboratories Co Ltd United Laboratories (Inner Mangolia)Co. Ltd. Zhuhai United Laboratories Trading Co Team Crown Trading Company | *** | *** | *** | 10% -20% |
| 4 | All Others | | *** | *** | *** | 35% -45% |

97. The above data indicates that the injury margins of dumped imports from the subject country are positive and significant.

H. Causal link and other factors

98. The Rules mandates the Authority to examine the causal link between the dumped imports and the injury caused to the domestic industry on account of the dumped imports. The Authority has examined whether other known factors could have caused injury to the domestic industry. The following issues brought to the notice of the Authority have been examined along with the mandatory non-attribution factors, to see whether factors other

than dumped imports, if any, could have contributed to the injury to the domestic industry. Accordingly, the following parameters have been examined:

(i) Volume and prices of imports from other sources

99. Import data examined shows that the imports of product under consideration from other countries are either *de-minimis* or at substantially higher prices. Therefore, the imports from other sources are not affecting the domestic industry.

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

100. The Authority notes that there is a significant increase in demand of the product in the domestic market since the base year. However, there is a slight decline in demand in the POI as compared to the preceding year, 2014-15. The interested parties have argued that the performance of the domestic industry has been affected because of the decline in demand and not because of the alleged dumped imports. The domestic industry has however, contended that though there is a decline in demand in the POI as compared to previous year 2014-15, there is an overall increase in demand over the injury period.

101. The Authority notes that the demand for the subject goods in the domestic market has declined by 5% in the POI as compared to 2014-15, whereas the sales of the domestic industry have declined by 7% in this period. Further, the dumped imports from the subject country account for about 20% of the demand in India in a declining market and have thereby worsened the condition of the domestic industry through their volume as well as price effects.

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

102. The Authority notes that there are a number of producers of the subject goods in India. No argument has been made by any interested party regarding unfair competition or trade restrictive practices adopted by any domestic players. The volume and value of goods imported during the period of investigation show that the goods are entering the Indian market without any restriction. The foreign producers and domestic industry are competing in the Indian market. Thus investigation has not shown that conditions of competition or trade restrictive practices are responsible for the alleged injury to the domestic industry.

(iv) Development in technology: -

103. No information has been supplied by any of the interested parties to indicate that there is any significant change in technology affecting the production and sale of the subject goods in India by the domestic industry. The investigation carried out does not show any significant change in technology or change in preference in pharmaceutical industry which could have affected the sector.

(v) Export performance of the domestic industry: -

104. The volume of exports of the domestic industry has declined in 2014-15 and remained at the same level in the POI. Nevertheless, the export sales have been found to be significantly profitable. However, the injury analysis in the previous section is based on the performance of the domestic industry in respect of its domestic sales. Prices and profitability in the domestic and export markets have been segregated by the Authority for the purpose of assessing injury to the domestic industry.

(vi) Productivity of the Domestic Industry

105. The interested parties have argued that the performance of the domestic industry has been affected because of the decline in productivity and not because of the alleged dumped imports. The domestic industry has however, contended that the decline in productivity was more significant in 2014-15 itself, when the import volume was highest.

106. The Authority notes that productivity of the domestic industry has declined due to the decline in production, caused by dumping and decline in demand, in the injury investigation period and not because of any other factor. Therefore, decline in productivity cannot be treated as a factor causing injury to the domestic industry.

I. Factors establishing causal link

107. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has deteriorated due to dumped imports from subject country. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- a) Imports are undercutting the prices of the domestic industry. The volume of imports has increased significantly.
- b) The price undercutting has led to significant increase in market share of imports and decline in market share of the Indian industry.
- c) The presence of dumped imports in the country is suppressing the prices of the domestic industry despite increase in cost.
- d) The subject imports are underselling the product sold by the domestic industry.
- e) Deterioration in profits, return on capital employed and cash profits is a direct consequence of dumped imports.
- f) As a result of significant price undercutting, production, sales and capacity utilisation of the domestic industry has not increased in proportion to increase in demand.
- g) The growth of the domestic industry became negative in terms of a number of price and volume related economic parameters.
- h) The Authority is of the view that material injury to the domestic industry has been caused by dumped imports

J. Conclusion on Injury and Causal Links

108. The above analysis indicates that the performance of the domestic industry has deteriorated during the injury investigation period on account of decline in production, sales, capacity utilization and market share; decline in profits and return on investments. Subject goods imported from the subject country have undercut the prices of the domestic

industry and also have significant underselling effect on the domestic industry's selling prices. The injury suffered by the domestic industry is significant and material.

109. As noted earlier, significant volume of imports from the subject country at dumped prices have caused price depression leading to losses to the domestic industry in the POI, thereby affecting the performance of the domestic industry.

K. Post Disclosure Comments of the domestic industry and other Interested parties

110. Following comments have been made by various interested parties i.e. Domestic industry, Inner Mangolia Changsheng Pharmaceutical Co. Ltd., Zhuhai United Laboratories & associates, and, Economic & Commercial Counselors' Office, Embassy of the PRC in response to the disclosure statement:

L.1 Submissions by exporters and other interested parties

111. The following submissions were made by producers/ exporters/ other interested parties:

- a. That submissions made by the party earlier are either not considered or have been considered but not examined or addressed by the Authority in the disclosure statement.
- b. That submission of the party on disclosure of import data in excel file by the domestic industry, although included in disclosure statement, has not been examined.
- c. There is no price undercutting on the basis of this landed value and no injury caused by this exporter.
- d. Decline of 17% in imports in the POI cannot be regarded as marginal, it is significant.
- e. The Indian Authority decided not to calculate separate dumping margin for Zhuhai UL based on false statement that "Zhongshan Branch" exists as a producer of the product under consideration.
- f. Zhongshan branch is not an affiliated company of Zhuhai UL; it is only a branch organization of Zhuhai UL. There is no company called "Zhuhai United Laboratories (Zhongshan) Co. Ltd. (Zhongshan Branch)".
- g. The "Zhongshan Branch" is not an independent company; it is a plant of Zhuhai UL. Zhongshan branch's activities are incorporated into Zhuhai UL's parent company financial statement, not into Zhuhai UL's consolidated financial statement as its subsidiary company.
- h. Zhongshan Branch does not produce product under consideration, it only produces domestic formulations.
- i. Zhuhai UL disclosed and introduced completely the information of Zhongshan branch in questionnaire response and verification as one of the plants of Zhuhai UL, which produces finished product and not PUC. It is clarified that Zhuhai United Laboratories (India) Ltd., is an inactive company and is not dealing with the product under consideration and accordingly, has not filed questionnaire response. In Annual Report for the year 2015, it has been specifically mentioned that Zhuhai United Laboratories (India) Ltd., is a 100% subsidiary of United Laboratories Holding Ltd., and is inactive during 2014 as well as 2015.

- j. The verification officers are satisfied with the explanations on questions regarding the business scope of Zhuhai UL's affiliated companies as is evident from the verification report. No further questions were raised by the Indian authority.
- k. The exporter should have been provided opportunity for further explanation if the Authority had any doubts.

L.2 Submissions by Domestic Industry

112. The domestic industry, in its post disclosure submissions has submitted as follows:
- a. The Authority is requested to give detailed clarity on the excluded goods for the purpose of proper implementation.
 - b. The customs classification is indicative only. Only the contents of duty table are relevant. The Authority should specify in the duty table that the Product under consideration attracts duty regardless of the customs classification under which the goods are being imported.
 - c. There is no MET claim established by any exporter from China.
 - d. The dumping margin and injury margin are significantly positive.
 - e. The imports from China have increased in absolute terms as well as in relation to total imports, production and consumption.
 - f. There is a marginal decline in imports in the POI as compared to immediately preceding year 2014-15; however, imports in the POI are significantly higher than the base year 2012-13 as a result of aggressive pricing decisions taken by the domestic industry.
 - g. Resultantly, the selling price of the domestic industry has declined sharply in the POI in response to the decline in the landed price of imports. The imports from the subject country had caused price depression in the POI.
 - h. Price undercutting is positive and significant throughout the injury period, however, it is lower in the POI as the domestic industry resorted to aggressive pricing to match the import prices. The landed price in actual terms is below the selling price of the domestic industry and undercutting the domestic prices.
 - i. Performance of the domestic industry has deteriorated in the injury period in terms of production, sales volume, capacity utilization, market share, inventory, capacity utilization, profits and return on investment. In a situation of losses, it would be difficult to sustain long term viability of the domestic industry.
 - j. Growth of the domestic industry is adverse in terms of a number of parameters. Potential growth of the domestic industry would be severely negative in the event anti dumping duties on this product are not imposed immediately.
 - k. The anti dumping duty is required to be imposed for a period of five years.
 - l. The form of measure is required to be kept as fixed quantum expressed in US\$ terms.

L.3 Examination by the Authority

113. The Authority notes that post-disclosure comments/submissions made by the interested parties are mostly reiterations of earlier submissions, which have already been examined suitably and adequately and properly addressed in the disclosure statement or relevant paragraphs of the present finding and therefore for the sake of brevity not repeated

hereunder. The authority further considers appropriate to address some of the issues raised by the interested parties herein below:

- a. The submissions made by the interested parties during the course of this investigation have been considered by the Authority, wherever found relevant, in this finding.
- b. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties.
- c. As regards the argument of no price undercutting and injury, the Authority notes that the injury analysis carried out hereinabove is self explanatory to establish that the dumping has caused material injury to the domestic industry.
- d. As regards the argument of calculating separate dumping margin for Zhuhai UL, the Authority notes that there were no supporting documents provided during the verification visit regarding “Zhuhai United Laboratories (Zhongshan) Co. Ltd. being a part/branch/division of Zhuhai United Laboratories Co Ltd, China. Also, no evidence was provided to clarify the Business Activities of Zhuhai United Laboratories Co. Ltd (“Zhongshan Branch”). Hence, the Authority had rejected the questionnaire. However, in the post disclosure comments, documentary evidences provided by the firm producer/exporter has been examined. On examination of the evidence submitted by the exporter in support of their post-disclosure claims for individual dumping margin and the claim made by the Economic & Commercial Counselors’ Office, Embassy of China PR, the Authority now considers to grant the same to the responding producers-exporters of Zhuhai group.
- e. As regards the submission of the domestic industry concerning form of duty, the Authority notes that as per the Anti-Dumping Rules, the mandate of the Designated Authority is to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry. Accordingly, the form of the anti-dumping measures is decided by the Authority taking in to consideration the facts and circumstances of a particular case. The Authority in the present investigation has recommended fixed form of duty in US\$ keeping in view the facts and circumstances of the case.

L. Indian industry’s interest & other issues

114. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the subject goods to the consumers.
115. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by

the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

M. Conclusions:

116. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority, as recorded in this finding, the Authority concludes that the subject goods are entering the Indian market from the subject country at dumped prices and performance of the domestic industry has deteriorated in the injury period due to the impact of the dumped imports from the subject country. The injury suffered by the domestic industry is significant and material.

N. Recommendations:

117. The Authority notes that this investigation was initiated and notified to all interested parties and adequate opportunity was given to exporters, importers and other interested parties to provide positive information and verifiable evidence on various aspects of dumping, injury and causal links. Having conducted the investigation as per the procedure prescribed and having established that the goods from the subject country are entering the Indian market at dumped prices and causing injury to the domestic industry through the volume and price effects, the Authority considers it necessary and appropriate to recommend imposition of anti dumping duty on imports of subject goods, from the subject country, in the form and manner described hereunder.

118. Having regard to the lesser duty rules followed by the Authority, the Authority recommends imposition of anti dumping duty equal to the lesser of margin of dumping and margin of injury so determined in this finding for the period under investigation, so as to remove the injurious effects of the dumped imports on the domestic industry. Accordingly, anti dumping duty equal to the amount as indicated in Col 9 of the duty table given below, is recommended to be imposed on all imports of subject goods originating in or exported from the subject country for a period of five years from the date of notification to be issued in this regard by the Central Government.

Duty Table

| SN | Sub Heading or Tariff Item | Description of Goods | Country of origin | Country of Export | Producer | Exporter | Duty Amount | Unit of Measure | Currency |
|----|----------------------------|----------------------|-------------------|-------------------|----------|----------|-------------|-----------------|----------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

| | | | | | | | | | |
|---|------------|-------------|---------------------------------|------------------------------|---|--|------|----|------|
| 1 | 29411030** | Amoxicillin | China PR | China PR | North China Pharmaceutical Group Semisyntech Co. Ltd. (Semisyntech) | North China Pharmaceutical Co. Ltd. (NCPC) | 4.03 | KG | US\$ |
| 2 | -do- | -do- | China PR | China PR | Inner Mongolia Changsheng Pharmaceutical Co. Ltd. (Changsheng) | Inner Mongolia Changsheng Pharmaceutical Co. Ltd. (Changsheng) | 3.00 | KG | US\$ |
| 3 | -do- | -do- | China PR | China PR | Zhuhai United Laboratories Co Ltd United Laboratories Inner Mangolia | -Zhuhai United Laboratories Co Ltd -United Laboratories Trading Co -Team Crown Trading Company United Laboratories Inner Mangolia | 2.83 | KG | US\$ |
| 4 | -do- | -do- | China PR | China PR | Any combination other than SN 1 to 3 | | 8.71 | KG | US\$ |
| 5 | -do- | -do- | China PR | Any country other than China | Any | Any | 8.71 | KG | US\$ |
| 6 | -do- | -do- | Any country other than China PR | China PR | Any | Any | 8.71 | KG | US\$ |

*Note: ** Above classification is indicative only and in no way binding on the scope of the product under consideration for the purpose of imposition of anti dumping duty.*

****The following types of products are excluded from the scope of the product under*

- (i) Amoxicillin Sodium Sterile and Flucloxacillin Sodium Sterile,*
- (ii) Amoxicillin Trihydrate Compacted Ampicillin Trihydrate Compacted*

(iii) Amoxicillin Trihydrate and Clavulanate Potassium

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

Dr. Inder Jit Singh

Additional Secretary & Designated Authority