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File No. 6/32/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001.

Dated: 3rd September, 2021

NOTIFICATION
FINAL FINDINGS
Case No. ADD-OI-27/2020

Subject: Anti-dumping investigation concerning imports of "Vitamin C" originating in or exported from China PR.

File No. 6/32/2020-DGTR- Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as "the Rules" or "the AD Rules") thereof.

A. BACKGROUND OF THE CASE

1. M/s. Bajaj Healthcare Limited (hereinafter also referred to as "the Applicant" or "the Domestic Industry" or "the petitioner") filed an application before the Designated Authority in accordance with the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred as the "Anti-Dumping Rules" or "Rules") for initiation of anti-dumping investigation and imposition of anti-dumping duty on imports of Vitamin C (hereinafter also referred to as "PUC" or "subject goods" or "product under consideration"), originating in or exported from People's Republic of China (hereinafter also referred to as the "subject country"). M/s Amoli Organics Pvt Ltd, M/s Reckon Diagnostics Pr.t. Ltd., and M/s SR Biochem are other domestic producers of the subject goods who have supported the application filed by the applicant.

2. The Authority, on the basis of a sufficient evidence submitted by the applicant, issued a public notice dated 4th September 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act, read with Rule 5 of the Rules, to

determine the existence, degree and effect of alleged dumping of the subject goods originating in or exported from subject country, and to recommend the amount of Anti-dumping duty (ADD), which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

a. The Authority notified the Embassy of the Subject Country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.

b. The Authority issued a public notice dated 4th September 2020, published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods from subject country.

c. The Embassy of subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules. The Authority sent a copy of the initiation notification to the Government of the subject country, through its Embassy in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicant and requested them to make their views known in writing within the prescribed time limit.

d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy in India in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.

e. The Authority also forwarded copy of the notice to known producers/ exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days of the initiation notification. The Authority sent Exporter's Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:

i. M/s Hangzhou Think Chemical Co., Ltd.
ii. M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd

iii. M/s Northeast Pharmaceutical Group Co., Ltd.
iv. M/s Barentz (Shanghai) Commercial & Trading Co Ltd
v. M/s Sinoright International Trade Co Ltd
vi. M/s DSM Nutritional Products Asia Pacific

f. The Embassy of the subject country in India was also requested to advise the exporters/producers from China PR to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.

g. In response to the initiation of the subject investigation, the following exporters/producers from the subject country filed exporter's questionnaire response:
   i. M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd
   ii. M/s Shandong Luwei Pharmaceutical Co Ltd.

h. The Authority sent Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
   i. M/s CIPLA Limited
   ii. M/s Global Exim
   iii. M/s ValueTree India Pvt Ltd
   iv. M/s Dsm Nutrional Products India Pvt Ltd.
   v. M/s Planet Science
   vi. M/s Confiance Life Sciences Pvt. Ltd
   vii. M/s Maxheal Pharmaceuticals Ltd
   viii. M/s Pulse Pharmaceuticals

i. In response to the initiation of the subject investigation, the following importer/ consumer filed questionnaire response:
   i. M/s Sevantilal & Sons
   ii. M/s Abbott Healthcare Private Limited

j. The Authority sent notice of initiation to the following other domestic producers, intimating them of the initiation of investigation with a request to provide relevant information to the Authority in the form and manner prescribed:
   i. M/s Amoli Organics ·Pvt. Ltd.
   ii. M/s Reckon Organics Pvt Ltd
   iii. M/s S. R. Bio Chem

k. None of the other domestic producers have participated in the present investigation.

l. In response to the initiation of the subject investigation following have filed the submission to the Authority

i. Bulk Drugs & Allied Dealer Association
ii. Sandeep Organics Private Limited

m. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of e-file through email for the interested parties.

n. 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 and its analysis after due examination of the transactions.

o. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

p. Due to the worldwide outbreak of COVID-19 and consequent restrictions imposed by different countries, including India, the physical inspection through on-spot verification of the information was not carried out by the Authority. Remote cross check/Desk Verification of the information provided by the applicant/producers/ exporters, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, to the extent deemed necessary, has been relied upon for the purpose of this final findings.

q. Disclosure statement (NCV) was served to all interested parties with confidential version to concerned interested parties on 19/8/2021 through email along with reasonable time given for filing the comments, if any. Comments were received from interested parties, and the same has been taken on record by the Authority.

r. Other submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in this final

finding.

s. The Period of Investigation for the purpose of the present anti-dumping investigation is from April 2019 – March 2020 (12 months). The examination of trends in the context of injury analysis covered the periods April 2016-March 2017, April 2017-March 2018, April 2018-March 2019 and the POI.

t. Due to the worldwide outbreak of COVID-19 and consequent restrictions imposed by different countries, including India, the Authority in accordance with Rule 6(6) of the AD Rules and Trade Notice No. 01/2020 dated 10th April 2020, conducted oral hearing through video conferencing on 2nd March 2021 to provide an opportunity to the interested parties to present relevant information orally before the then Designated Authority in office. All the parties who had attended the above-mentioned oral hearings were advised to file written submissions of the views expressed orally, followed by rejoinders, if any. The arguments made in such written submissions and rejoinders received from the interested parties have been considered, to the extent deemed necessary, for the purpose of this final findings.

u. 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.

v. The Authority has considered the arguments raised and information provided by all the interested parties including post disclosure comments, to the extent the same are supported with evidence and considered relevant to the present investigation.

w. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.

x. '***' in this final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

y. The exchange rate for the POI has been taken by the Authority as US$1 = Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

> *3. The product under consideration is "Vitamin C in all its form", also known as ascorbic acid, L-Xyloascorbic Acid, 3-oxo L-Gulofuranolactone (enol form), L-3-Ketothreohexuronic Acid Lactone etc., as described under entry number '867 of Merck Index'.*
>
> *4. Vitamin-C is primarily used by the pharmaceutical's companies for production of various medicines. The product has uses also in non- pharmaceutical industry. Vitamin C is an essential nutrient involved in the repair of tissue and the enzymatic production of certain neurotransmitters found in various foods. It is required for the functioning of several enzymes and is important for immune system function. lt also functions as an antioxidant'*
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> *5. The product under consideration is classified under chapter 29 ofthe Customs Tariff Act, 1975 (51 of 1975) under customs sub-heading no.29362700. The customs classification is only indicative and is not binding on the scope of the product under consideration.*

C.1 Views of the domestic industry

5. The following are the submissions made by domestic industry with regard to product under consideration and like article:

   a. The product under consideration for the present investigation is "Vitamin C", originating in or exported from China PR. Vitamin C is also known by various synonyms such as ascorbic acid, L-Xyloascorbic Acid, 3-oxo L-Gulofuranolactone (enol form), L-3-Ketothreohexuronic Acid Lactone etc., as described under entry number '867 of Merck Index'.
   b. The product under consideration should be considered as "Vitamin C/Ascorbic Acid". The derivatives of Vitamin C are not within the purview of the present investigation.
   c. Vitamin-C is primarily used by the pharmaceutical's companies for production of various medicines. However, the product has uses in non- pharmaceutical industry also. Vitamin C is an essential nutrient involved in the repair of tissue and the enzymatic production of certain neurotransmitters found in various foods. It is required for the functioning of several enzymes and is important for immune system function. It also functions as an antioxidant.

d. There is some evidence that regular use of Vitamin C may reduce the duration of the common cold. The body uses vitamin C in many different ways and needed by the body to form collagen. Vitamin C is required to make skin, tendons, ligaments and blood vessels and to repair and maintain cartilage, bones and teeth, to heal wounds and to form scar tissue. It is used to prevent and treat scurvy. It is normally produced and sold in terms of net weight expressed in terms of kgs or MT.
e. Vitamin C is classified under Chapter 29 of the Customs Tariff Act in the name of "Vitamin C and its derivatives". The dedicated code for Vitamin C is 29362700. However, the customs classification is only indicative and is not binding on the scope of the present investigations.
f. The goods produced by the applicant are like article to the imported goods as they are comparable in terms of chemical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable.
g. There is no known significant difference in the technology employed by the domestic industry and the producers in subject country.
h. The product under consideration is only the bulk drug and not the formulation. The price ceiling imposed under the Drugs (Price Control) Order, 2013 ("DPCO") is for formulation and not on API or Bulk drugs.
i. The producers are not required to upload the certificate of analysis of their products on their website. The product produced by the domestic industry complies to all applicable norms. Same standards are also applicable on imports. The domestic industry produces and sells like article to the imported product.
j. Any import of Vitamin C in India has to comply as per Indian Pharmacopoeia (IP) and same quality is manufactured by the domestic producers.
k. The process adopted by an applicant is same as the process employed by the Chinese producers.

C.2. Views of the other interested parties

6. The following are the submissions made by interested parties with regard to product under consideration and like article:
    a. Certificate of analysis of Product under Consideration is not on their official Website. Website of one of the Domestic Industry is blank. The interested parties cannot compare the imported and domestic product.
    b. Product is mainly in four forms. viz. tablet, powder, coated & uncoated. Difference in usage, pricing etc. needs to be investigated. Tablet is costlier. China mainly exports in powder form into India.
    c. Import is subject to No Objection (NOC) from ADC (Assistant Drug Controller of

India). They control the quality of the imports along with specific markings.

d. The production process adopted by the applicant is different from the Chinese producers and is not cost-effective, leading to self-inflicted injury.
e. PUC has many grades such as BP, USP, FOOD, FEED Grade etc. Price & usage differs as per grade.

C.3 Examination by the Authority

7. The product under consideration, as defined in the notice of initiation, is "Vitamin C in all its form", also known as ascorbic acid, L-Xyloascorbic Acid, 3-oxo L-Gulofuranolactone (enol form), L-3 Ketothreohexuronic Acid Lactone etc., as described under entry number '867 of Merck Index'. Vitamin-C is primarily used by the pharmaceutical's companies for production of various medicines. The scope of the product under consideration is only Vitamin-C in bulk drug form, and not the formulation.

8. Vitamin C is an essential nutrient involved in the repair of tissue and the enzymatic production of certain neurotransmitters found in various foods. It is required for the functioning of several enzymes and is important for immune system function. It also functions as an antioxidant.

9. With regard to the post disclosure comments filed by one of the party to explicitly mention whether derivatives of Vitamin-C are not part of PUC, the Authority clarifies that the derivatives of Vitamin C are not within the purview of the present investigation.

10. The product under consideration is classified under chapter 29 of the Customs Tariff Act, 1975 (51 of 1975) under customs sub-heading no. 29362700. The Customs classification is indicative only and not binding on the scope of the investigation.

11. As regards absence of certificate of analysis on the website of the domestic producers, the Authority notes that there is no statutory requirement to upload certificate of analysis on the websites. Further, the domestic producers are selling to a number of consumers in India and it should not be a bottleneck for them to obtain certificate of analysis of the domestic producer's product.

12. As regards existence of various grades and forms of the product, it is clarified that the scope of the product under consideration is only bulk drug and not the formulation. The forms of the product specified by the interested parties appears relevant for formulation of the product.

13. As regards difference in production process adopted by the applicant and Chinese producers, the Authority notes that the difference in the production process or difference in

starting raw material does not make two products different, unless the properties of the product itself are different. The interested parties have however not established difference in the properties of the product.

14. The sale of the product in the Indian market either through domestic manufacturers or the imports has to comply as per Indian Pharmacopoeia (IP) and therefore the product sold by the parties should have comparable quality. As far as formulation is concerned, the price of the same is controlled by Govt. of India.

15. The applicant claimed that the Vitamin C produced by it and that imported from the subject country are produced using the same basic raw materials having broadly similar manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The contention of the applicant has not been disputed by the other interested parties. The product was subject to antidumping duty in the past and there was no established difference between the domestic and imported product. The Authority determined to hold that the subject goods produced by the domestic industry are like article to the product imported from subject country in terms of Rule 2(d) of the Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Views of the domestic industry

16. Following are the submissions made by the domestic industry with regard to scope of the domestic industry and standing:

a. The Application has been filed by M/s. Bajaj Healthcare Limited.
b. There are three more producers of the product under consideration in the country namely,
    i. M/s Amoli Organics Pvt Ltd,
    ii. M/s Reckon Diagnostics Pvt. Ltd. and
    iii. M/s SR Biochem.
c. All the three other producers of the product under consideration have supported the application and the present investigation.
d. The applicant is neither related to an importer in India nor to an exporter from the subject country and has not imported the product under consideration from the subject country.
e. The applicant holds a major proportion of total domestic production of the subject goods in India and thus, constitutes domestic industry.

D.2. Views of the other interested parties

17. Following are the submissions made by the other interested parties with regard to scope of the domestic industry and standing:

a. The applicant must provide injury data for the domestic producers supporting the Application, which it claims taken together, constitutes the domestic industry.

D.3. Examination by the Authority

18. Rule 2(b) of the Rules defines domestic industry as under:

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

19. The application has been filed by M/s. Bajaj Healthcare Limited. The applicant is not related to any importer or exporter of subject goods in the subject country, nor have they imported subject goods from subject country. The applicant is the largest producer of the subject goods in the country.

20. The application filed by the applicant is supported by M/s Amoli Organics Pvt Ltd, M/s Reckon Diagnostics Pvt. Ltd., and M/s SR Biochem other domestic producers of the product under consideration.

21. The Authority sent communication to other domestic producers advising them to file relevant information in the form and manner prescribed with regard to injury determination. However, none of other domestic producers have filed complete injury information in the prescribed format.

22. The Authority notes that the Authority has prescribed a format for the supporters to enable these supporters lodge their claim with regard to possible injury suffered by them. Therefore, the Authority has not examined possible injury to these supporters in the present case since these supporters have not provided relevant information. However, in a situation where supporting domestic producer has not provided relevant information in prescribed format, but have nonetheless expressed support to the application, the Authority notes that such support is required to be accepted within the meaning of Rule 5.

23. The evidence on record shows that the applicant commands a major proportion (46%)/ (40%-50%) in the total domestic production in India. Further, the applicant, along with the supporter, account for 100% of the total production of the subject goods in India. Accordingly, the Authority holds that the applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1 Views of the domestic industry

24. The following submissions have been made by the domestic industry with regard to confidentiality:

a. The response circulated by M/s Sinobright Pharmaceutical Industries Limited vide mail dated 1st March 2021 is too belated and should not be accepted by the Authority. The last date to submit the response was 27th November 2020.
b. The interested parties have filed grossly deficient response in non-confidential version even after being given an extension to file sufficient and complete information. The same is purely with the intent to prevent the domestic industry from defending its legitimate interests. The questionnaire responses are required to be rejected
c. The foreign producers have claimed excessive confidentiality with regard to shareholding structure, production process, value chain, production facilities, related parties, procurement of raw materials, list of products produced and/or sold, name of the holding company, shareholding details, channel of marketing in the home market and for exports to India are claimed as confidential,
d. No indexed version provided for the information claimed as confidential.
e. The exporters even failed to specify the raw material used for manufacturing the subject goods.
f. The applicant has been denied sufficient details to permit a reasonable understanding of the substance of the response submitted by the Authority. The applicant cannot even determine the extent to which information has been provided and whether any reliance can be placed on the same. As a result, the applicant is severely handicapped and unable to comment on the response filed by the exporter.

E.2 Views of the other interested parties

25. The following submissions have been made by other interested parties with regard to confidentiality:

a. In spite of ADD duties for past 22 years still domestic industry is seeking protection by claiming excessive confidentiality in disclosing the facts.

E.3 <u>Examination by the Authority</u>

26. Various submissions made by the applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined and addressed as follows.

27. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

28. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

> *"Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule12,sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
>
> *(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*
>
> *(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information."*

29. As regards the contentions with regard to confidentiality of information, 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

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. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice.

F. MISCELLANEOUS SUBMISSIONS

F.1 Views of the other interested parties

30. The following submissions have been made by the other interested parties with respect to miscellaneous issues:

a. After enjoying uninterrupted 22 years long Anti-Dumping Duty at the rate USD 3.74/Kg the domestic manufacturers have again filed an application for fresh investigation.
b. The said protection subsisted with stated objective of providing protection from injury to concerned Industry as also that Industry shall endeavor to develop necessary skill technology and resources to make Country self-reliant for PUC. But domestic industry continues to remain 100% dependent on China as they continue to procure penultimate stage intermediate (2 KGA) from China.
c. The domestic industry has made no progress at all towards self-reliance on 2KGA even after unreserved support of ADD duties. ADD has been providing them windfall profit, and there is no urge for backward integration. The domestic producers do not care for ultimate aim of Government which should have remained single focal point.
d. Since 1998 the Authority has imposed of Anti-Dumping duty which has resulted in creation of monopoly in favour of applicant in the Indian Domestic market.
e. India is not a key market for exports from China as only small portion out of total exports is exported to India. Export orientation of Chinese producers is directed towards the US and EU and not towards India. China has near monopoly on World "Vitamin C" production and the same does not come within the ambit of anti-dumping laws. It is completely misplaced that exporters from China wish to dump "Vitamin C" in India.
f. The Authority should investigate why the Indian industry is still not able to compete with global players in spite of protection of duty for more than 22 years.
g. Product under consideration is one of the basic & preliminary medicine against COVID as prescribed by Indian Council for Medical Research (ICMR) and is widely used in COVID. There should be no anti-dumping duty on the product in this pandemic. ADD will restrict the availability of product at fair rate and the petitioner does not need any protection.

h. In case ADD is imposed, the domestic industry is likely to increase its price to the tune of ADD hence both imported as well as products produced in India will become costlier and the consumers will have to bear the higher price. In the past 5 years, due to the antidumping duty on "Vitamin C", the sales price remained at level of more than USD 6/kg in India, and even reached to USD10/KG sometimes.

i. Anti-dumping will increase the price of this medicine which will have an adverse effect on public at large, especially poor people (India has maximum poor people). It can lead to high mortality rate. It will spoil India's name in the World.

j. Conduct and commercial exploitation by domestic industry has adversely affected and has let down country's interest. Stated purpose and the aims have been completely overlooked in pursuit of commercial exploitation.

k. Implementation of antidumping duty only makes the selected Indian manufactures gain excessive profit, but harm the benefit of India pharmaceutical enterprises, food enterprises and beverage enterprises which uses "Vitamin C" to produce their own products, not to mention about the plight of the consumers.

l. It would not be advisable to impose Anti-Dumping Duty on Vitamin C because even after protection for 22 years the domestic industry has seen only their motive and it has been a burden on Indian consumer to pay more for product which is available at much cheaper rate. This itself proves that there is no dumping.

m. If Government feel that domestic industry has to be protected, then 13% of CIF value as extra input duty can be imposed or equivalent Anti-Dumping Duty should be imposed which roughly comes to USD 0.58/Kg. If duty of USD 3.74/Kg is reimposed then it will have no merit and would mean abuse of the provision.

n. Contrary to the submission made by the applicant the product under consideration has substitutes (viz. citric acid, potassium bromate, azodicarbonamide).

o. Since the product is an API, its availability & pricing is very important.

p. The domestic industry has even suo moto cancelled its agreed supply contracts and has engaged in price rigging and cartelization.

q. Both imports and domestic industry have been benefitting from the high demand conditions. PUC does not have any fixed demand as it depends on the market situation which is fluctuating.

r. There are two sets of contrary/incorrect data provided by the applicant therefore, the interested parties are not able to provide any meaningful comments and have not been able to fully participate in the investigation.

s. Domestic industry did not file for initiation of SSR review and instead filed for a fresh investigation deliberately as there was no likelihood of further injury.

t. The Appellate Body in US-Corrosion Resistant Steel Sunset Review had noted that a likelihood determination is prospective determination, and that investigating authorities must undertake a forward-looking analysis to seek to resolve the issue of what would be likely to occur if the duty was terminated.

u. The domestic industry has increased the prices from April 2020 to August 2020 by more than 60% which is without increase in cost of production thereby resorting to profits. That within a short period of 3 months only, the domestic industry was able to make 78% (in the quarter ended 30 September 2020) and 56% (in the quarter ended 30 June 2020) of the profits made during the 12 months ended on 31 March 2020.

v. Due to the background of this case, post POI data should be analysed to understand the state of affairs of the domestic industry.

w. After the sudden rise in demand, the Respondents have significantly increased its production so that there is no shortage during the pandemic, and this is despite the fact that DPCO has fixed the price cap of Rs. 23.02 per strip for the final product.

x. The product under consideration is an essential drug. To enjoy the monopolistic privileges, the Domestic Industry has undermined the importance and necessity of the subject goods in the country.

y. By imposing anti-dumping duties on an essential drug like Vitamin C, which also serves other benefits to the society, the claim of the industry would tantamount to a disservice to the country by inflating the prices of a product that is of vital importance, especially in the present times.

z. The supporting producers along with the petitioner formed the cartel and hiked the prices in tandem. Thus, the domestic industry engaged in price rigging at the cost of health of general public in the middle of global pandemic.

aa. It would not be in public interest to impose a duty on imports of PUC which is a key API for manufacture of Vitamin C drug which could save the lives of people of the country in Covid-19 pandemic.

bb. The Authority must also consider the regulatory framework of Vitamin C finished product and its impact on the patient/ end consumer.

cc. In the long run, the end consumers could be left with only the option of FSSAI category Vitamin C which are not subject to pricing restrictions and may not cater to patients' requirement of therapeutic dosage of 500mg.

dd. From April 2020 to August 2020, the domestic industry has increased the prices of PUC by more than 60% without any commensurate increase in their cost of production thereby resorting to profiteering at the cost of suffering public in the COVID-19 pandemic situation given the fact that Vitamin C finished product was in extremely high demand as a vital immunity booster.

ee. Vitamin-C tablet is generally taken to boost immunity especially during the ongoing Covid-19 pandemic. Thus, imposition of anti- dumping duty will have an adverse impact on ability to manufacture and maintain a consistent supply of the tablets and may ultimately impact public interest.

ff. Re-imposition of anti- dumping duty on imports of PUC will result in monopoly of the domestic industry and will empower them continue the price increases to the detriment of manufacturers of the finished formulations of Vitamin C, as well as of the public and

consumers at large, more so in such a critical period when the country is fighting the pandemic. It will make selected Indian "Vitamin C" manufactures gain excessive profit, but harm the benefit of India pharmaceutical enterprises, food enterprises and beverage enterprises, not to mention about the plight of the consumers.

gg. An examination of true demand supply situation of this product in India may be done before proceeding further in this matter so that the general public is not deprived of Vitamin C tablets in India.

hh. In case ADD is imposed, the domestic industry is likely to increase its price to the tune of ADD hence both imported as well as products produced in India will become costlier and the consumers will have to bear the cost of higher price.

F.1 <u>Views of the domestic industry</u>

31. The following submissions have been made by the applicant with respect to miscellaneous submissions:

a. The exporters of the subject countries got extension for filing responses twice, even then the exporter took 84 days to file questionnaire response.

b. The POI ended with the beginning of lockdown, therefore the petition did not have any reference to surge in demand during lockdown triggered by COVID-19.

c. Public interest factors should not bother exporters, as India's interest is none of their concerns.

d. The Authority does not have practice of analyzing the post POI Injury data in a fresh investigation.

e. M/s. Abbott India Ltd never fulfilled their contractual obligations and were habitually dis-honoring their contractual obligations at their convenience. Sale purchase is based on the contractual negotiations which is followed by the applicant for the complete agreed quantity to be sold for the year.

f. The imposition of ADD will not result in any significant adverse impact on the end product and the imposition will be in the larger public interest. ADD is a redressal of unfair price discrimination by the producers in other countries, which is injurious to the industry in India.

g. The price ceiling imposed under the DPCO is for formulation and not on API or Bulk drugs.

h. The domestic industry will not unduly increase their prices due to market forces and fair competition existing in the market. In fact, domestic industry has stood upfront at this time of Covid crises and supplied product for use by the citizen of the Country.

i. The responding exporters have raised concern about different data at different places for first time at the time of oral hearing. The applicant cleared these discrepancies vide mail dated 9th March 2021.

j. The present investigation is a fresh investigation; hence the Authority does not have the practice of analyzing the post POI injury data.
k. It is producers/exporters' own argument that the ADD was in place for such a long period. While the present investigation is a fresh investigation, the product was attracting ADD for quite some time. No adverse effect of the ADD could be established by any party.
l. Even when duty has been in place, there was neither a shortage nor unbearable price of the product, nor significant adverse impact on the consumers. Evidently, the interested parties are resorting to misstatements and unsubstantiated claims.
m. The domestic producers will not unduly increase their prices due to market forces and high competition and have stood upfront at this time of crises to have an uninterrupted supply of medicines to the people of India. Further, this will lead to continued availability of multiple domestic sources for the users, at reasonable prices.
n. Even after imposition of duties, free, fair and reasonable competition will prevail in the market, thereby ensuring that the imposition will be in the larger public interest.
o. The imposition of duty will protect the domestic industry against dumping from the subject country, provide a level playing field and address the decline of the domestic industry's performance.
p. Anti-dumping duty is not a protection to the industry, but rather a means of correction of prices to fair levels. It would not restrict imports from the subject country in any way and would not affect the availability of the product to the consumers.
q. The exporters/producers should confine themselves to whether there is dumping. Such public interest factors should not bother foreign producers. The domestic industry is responsible and responsive.
r. The imports from China have increased in the most recent period and not when Covid-19 was at its peak. On the contrary, when Covid-19 was at its peak, the import volumes were low and the price was high.
s. When the import price has declined, the import volumes have increased. It clearly shows that the Chinese producers were least concerned with the India's demand during Covid-19 period.
t. Once their own internal requirements have been met, and Covid-19 was on way out, the Chinese producers woke up to the Covid-19 situation in India, reduced prices and dumped huge volumes. This also shows that the Chinese producers' actions are different from statements.

F.3 <u>Examination by the Authority</u>

32. The Authority has examined the submissions made by various interested parties and considered the same, having regard to the legal provisions and evidence provided by the interested parties.

33. With regard to the contention that instead of filling review petition, a fresh application has been filed, the Authority notes that an applicant did file application for a sun set review (SSR), however, the same was not accepted by the Authority on technical ground as the same was way outside the time limit specified to file SSR application.

34. Since the present investigation is a fresh investigation, the Authority does not consider the post POI data. Further, there are review provisions under the Rules to address the developments in subsequent period.

35. With regard to domestic producers' dependency on China for 2KGA, the Authority notes that the production from 2-Ketogluconic Acid to Vitamin-C constitutes production and involves significant value addition. Further, volatility of the raw material prices or exchange rates is expected to impact the price of both the raw materials and finished product. It is not established how these changes could selectively impact profitability of the product alone.

36. Regarding inability of domestic producers to produce 2 KGA, the Authority considers that the same is beyond the scope of the present investigations.

37. Regarding monopoly of domestic industry, the Authority notes that there are four manufacturers of Vitamin C in India thus showing significant domestic competition. Further, there are review provisions under the Rules to address the developments in subsequent period.

38. The Authority has noted that India and China are the only manufacturers of vitamin C bulk drug. Other countries in the world, purchase Vitamin C bulk drug from India and China and sell the formulation.

39. With regard to the contention that ADD will restrict the availability of product at fair rate, the Authority notes that none of the interested parties have shown how anti-dumping duty in the past adversely impacted the price of the end product or public at large. Further, Vitamin C falls under DPCO and therefore prices of the end product are regulated.

40. With regard to the contrary set of injury data provided by the applicant, it is noted that the same was rectified by the domestic industry. It is also noted that the variations are not material. In any case, the Authority has adopted information which has been remote cross checked.

41. As regards arguments of public interest, it is noted that the purpose of anti-dumping duty is only to address unfair practice of dumping.

G. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN

42. Under Section 9A(l)(c) of the Act, normal value in relation to an article means:

> *(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
> *(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*
>
> *(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*
>
> *(b) Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

G.1 Views of the domestic industry

43. The following submissions have been made by the applicant with respect to determination of normal value, export price and dumping margin:

a. China should be considered as a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries.
b. The cost and price of the Chinese producers cannot be relied upon for determination of normal value, and accordingly, the normal value should be determined in accordance with the provisions of para 7 of Annexure I of the Rules.
c. The applicant has determined the normal value of subject goods based on international prices of the raw materials as available in the public domain and considering the conversion cost of the domestic industry duly adjusted with selling, general and administrative expenses and a reasonable amount of profit.
d. Export price is based on transaction wise import data provided by DGCI&S, Kolkata.

The export prices being CIF value while the normal values being at ex-factory level, the export prices have been adjusted for, ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and VAT.

e. There is no basis for the claim made unless the data provided by the responding exporters for export price is complete in all respect. Further, the Authority should first decide whether such belated response should be accepted.
f. The dumping margin of the imports from the subject country is not only above de minimis levels, but also significant.

G.2 <u>Views of the other interested parties</u>

44. The following submissions have been made by the other interested parties with respect to determination of normal value, export price and dumping margin:

a. The export price, landed value and dumping margin should be determined on the basis of the data submitted in the exporter's questionnaire response.
b. CSPC, one of the major producer/exporters, undertakes to revise selling price for the purpose of export to India to the level/rate which according to the Authority does not result in dumping of "Vitamin C" and addresses injury to the domestic industry. In other words, CSPC undertakes to fix the selling price of "Vitamin C.
c. The determination of normal value for China PR is completely erroneous and baseless as it based on information provided by the applicant, who is monopolizing the Indian domestic industry and is the major beneficiary of the duty.
d. The sales price from China is higher than the cost. From 2018 to 2020, each Chinese factory which is in normal operation earns money from this product, which can be proved through the financial reports. Also, the average export price from China to other countries are same as the average price of "Vitamin C" exported to India. Only India imposes the antidumping taxes, which is against the norms of WTO.
e. The material available on record does not establish that the "Vitamin C" is being exported is at a price lower than its normal value.
f. The premise for treating China PR as Non-Market Economy is erroneous.
g. 2KGA, the main raw material, used in production of the subject goods should not form the basis of normal value computation. 2KGA constitutes nearly 50% of the cost of production of the subject goods, the use of international prices of 2KGA would skew the normal value upwards. The Authority must adjust the above input procurement costs and attendant costs relating to importation of 2KGA while constructing the normal value for China.
h. There is no basis/evidence to make a prima facie view that PUC from China PR is being dumped in Indian Market. The basis of arriving at the "margin of dumping"

that is the difference between the normal price and the export price is completely irrational and cannot be acted upon.

i. Normal value constructed based on cost of production in India is impermissible.
j. The Chinese manufacturer gets 13% tax back from Chinese Government when they export Vitamin C. So, the contention that the export price is not at a normal price is only to the extent of 13%.
k. The Authority may determine individual dumping and injury margin for the producer/exporter in this submission who has filed the EQR in this matter.

G.3 Examination by the Authority

G.3.1 Determination of normal value and export price

Market economy status for Chinese Producers

45. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

> *"(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*
>
> *(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
>
> *(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*
>
> *(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the*

SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

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

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

46. It is noted that while, the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since none of the responding producers and the exporters from China PR have submitted relevant questionnaire response, the normal value computation is required to be determined as per provisions of para 7 of Annexure I of the Rules. Accordingly, the normal value and export price for the producers/ exporters from the subject country have been determined as below.

G.3.2 <u>Determination of Normal Value for all producers in China PR</u>

47. The following Chinese producers/exporters filed Market Economy Treatment (MET) questionnaire response and claimed market economy status:
    a. M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd.

48. In the absence of sufficient information on record, regarding the other methods as enshrined in Para 7 of Annexure I of the Rules, the Authority has determined the normal value by considering the method 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*".

49. There are imports of subject goods from Singapore as well, however, as per information on record there is no production facility for manufacturing the subject good in Singapore. The Authority has, therefore, constructed the normal value for China PR on the basis of international prices of the raw materials as available in the public domain and considering the conversion cost of the domestic industry duly adjusted with selling, general and administrative expenses and addition of reasonable profits. Accordingly, the constructed normal value so determined for Chinese producers/ exporters is mentioned in the dumping margin table below.

G.3.3 <u>Determination of Export Price</u>

a. M/s Shandong Luwei Pharmaceutical Co Ltd.

50. M/s Shandong Luwei Pharmaceutical Co Ltd. is a producer of the subject goods in China PR and has exported the product to India. It is noted that during the POI, M/s Shandong Luwei Pharmaceutical Co Ltd. has claimed to have exported ***MT of subject goods directly to unrelated customers in India. In the disclosure statement, the CIF export price had been determined on the basis of the questionnaire response filed and had been adjusted towards inland freight, ocean freight, insurance, port & other related expenses and bank charges, details of which were examined through remote cross check/desk verification to the extent feasible. Accordingly, the net export price for the PUC at ex-factory level for M/s Shandong Luwei Pharmaceutical Co Ltd. had been proposed to be determined accordingly.

51. Post issuance of Disclosure statement to the interested parties, other Chinese producer i.e, M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd by referring export details as per China Customs, alleged that M/s Shandong Luwei Pharmaceutical Co Ltd. has not reported the complete/factual data on its exports to India hence, resulting in doubtfully lower margins. Further, the domestic industry has also filed similar comments by submitting bill of entry wise details of exports made by M/s Sinoright International Trade Co., Ltd. alleging that Shandong Luwei Pharmaceutical has also sold the subject goods to India during the POI through an unrelated company/trader in China i.e., M/s Sinoright International Trade Co., Ltd. Further, the domestic industry provided a document stating that Shandong Luwei Pharmaceutical has appointed Sinoright International Trade as its agent and the document clearly states that *"Shandong Luwei Pharmaceutical Co., Ltd, hereby authorize M/s*

Sinoright international Trade Co Ltd as the Exclusive Agent in India for the commercial activities, marketing and Sales for Ascorbic Acid". Considering the vital facts involved, the Authority gave M/s Shandong Luwei Pharmaceutical Co Ltd. an opportunity to offer its comment on the above, to which the company responded that the agreement concerning Shandong Luwei Pharmaceutical appointing Sinoright International Trade as its agent was later revoked by the company. Further, the Authority called for bill of entry details including the commercial invoices, packing list, certificate of origin etc., and Form-9 &10 from the Office of Jawaharlal Nehru Custom House (Department of Revenue, Ministry of Finance) and the Office of CDSCO (Central Drugs Standard Control Organization (Directorate General of Health Services, Ministry of Health and Family Welfare). On examining the same, it is concluded that Shandong Luwei Pharmaceutical Co., Ltd has not reported all the exports made to India and has not come clean on all transactions made to India. Therefore, the Authority has rejected the response filed by the company and has not determined individual margins for the company.

b. M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd. & M/s Sinobright Pharmaceutical Industries Limited

52. M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd.is a producer of the subject goods in China PR, and has exported the product to India directly, and also through M/s Sinobright Pharmaceutical Industries Limited (unrelated exporter). Following the receipt of response, a deficiency letter was sent to the producer asking them to address the deficiencies. The producer has addressed these deficiencies. It is noted that during the POI, M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd. has exported *** MT of subject goods to India directly and another *** MT through the unrelated exporter. The CIF export price has been determined on the basis of the questionnaire response filed. The CIF export price has been adjusted towards ocean freight, inland transportation, port and other related expenses, bank charges, details of which were examined through remote cross check/desk verification to the extent feasible. Accordingly, net export price for the PUC at ex-factory level for M/s M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd. has been determined, and is shown in the dumping margin table.

Export Price for all other producers/exporters from China PR

53. The export price for other non-cooperating exporters from China PR has been determined as per facts available, taking into account the data of the co-operating exporters from China and DGCI&S import data.

i. <u>Dumping Margin</u>

54. On the basis of normal value and export price, as determined above, the dumping margin for producers/exporters from China PR has been determined and the same is provided in the table below:

Producer	Normal Value (US$/Kg)	Export Price (US$/Kg)	Dumping Margin (US$/Kg)	Dumping Margin %	Dumping Margin Range
M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd.	***	***	***	***	110-120
Others	***	***	***	***	120-130

H. INJURY AND CAUSAL LINK

H.1 Views of the domestic industry

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

a. Imports from subject country had increased over the injury period, with a slight decline in the imports during the POI.
b. The imports in relation to production had increased over the injury period, with a slight decline in the POI and imports in relation to consumption has increased till 2017-18 and declined thereafter till POI.
c. The demand for the subject goods had continuously increased throughout the injury period, with a slight decline in the imports during the POI.
d. Market share of imports from subject country has declined whereas market share of other countries has increased over the injury period.
e. The landed price of imports is significantly below the selling price of the domestic industry. The imports are undercutting the prices of the domestic industry.
f. The imports are significantly depressing the prices of the product in the market.
g. The production of the domestic industry increased till 2018-19 with addition of capacities in 2017-18, but the production declined in the POI.
h. The domestic sales increased till 2018-19, however, the same declined in the POI.
i. The capacity utilization increased till 2018-19 however, the same declined in the POI.
j. The market share of the domestic industry had decreased over the injury period; however, the market share of subject imports from subject country has increased in 2018-19 which slightly declined in the POI, and the imports from other countries have increased over the injury period.
k. The profitability of the domestic industry increased till 2018-19, followed by a sharp decline in the POI. Return on investment and cash profits have followed the same

trend as that of profitability. This profitability has now declined due to the steep decline in the import prices.

l. Inventories with the domestic industry were declining until 2017-18 but have increased thereafter.

m. Productivity per day of the domestic industry has increased throughout the injury period.

n. Employment and wages have shown an overall improvement in the proposed injury period.

o. Domestic industry has registered an overall growth both in terms of volume and price parameters, with a decline in the POI. Various parameters, i.e., sales volume, sales value, prices, production volume, capacity utilization, profits, cash profits, ROI showed positive growth until the 2018-19, and decline in the POI. The growth in profits, cash profits and ROI was substantially negative in the POI.

p. The performance of the domestic industry deteriorated in the present POI even when anti-dumping duty is in place.

q. Even if NIP is not higher than NSR, the same does not mean absence of injury to the DI.

H.2 <u>Views of the other interested parties</u>

56. The submissions made by other interested parties with regard to injury and causal link are summarized as follows:

a. The POI considered was already having ADD in existence and therefore there was no occasion of injury being caused. The entire exercise appears to be mechanical in nature and appears to have been initiated with the object to protect domestic industry *perse* and rather extend protection to the applicant to create monopoly in their favour. Thus, there is no basis for initiation of present investigation.

b. The entire initiation is based on the premise of likelihood of injury. The actual and real data, which if produced to the Authority, the same would give a completely contrary picture.

c. The evidence provided regarding huge surplus production capacities of Chinese producers is without specifying whether the supply capacity is for exports or for domestic consumption or aimed at India. In the absence of positive evidence, the claim of the applicant is not liable to be accepted.

d. No information regarding export price of the applicant has been provided. Exports by all Domestic Industries need to be investigated.

e. Imports from other countries need to be investigated.

f. Product is in very high demand. There is absolutely no need to justify this.

g. Annual reports, Audit Reports & ITR of all Domestic Industries need to be investigated.
h. Minutes of all Domestic Industries need to be investigated.
i. Profitability to BSE & NSE by all the Domestic Industries need to be investigated. The applicant is making gross profits, as exhibited by data as well, and further is not facing any price suppression. Any fall in ROI and net profits is attributable to the increase in extraordinary expenses rather than allegedly dumped import.
j. 2KGA constitutes 50 percent of the cost of production of Vitamin C. This is one of the reasons why the landed value of the imports from China is showing a decline.
k. There exists significant demand supply gap.
l. Chinese manufacturers are more competitive, a fact also admitted by the domestic manufacturers. If the Chinese exporters wanted to capture the Indian market, they could have substantially increased the prices of the raw material 2KGA which would have resulted in bigger injury to the Indian bulk drug manufacturers. In such circumstances, since there is no domestic manufacturer for 2KGA, the option of initiating an AD investigation would also not be available.
m. There is no evidence available with the Authority and the domestic industry that there is any dumping, that the dumping is causing injury and therefore there was no occasion to initiate investigation.
n. According to the production technics in India, the cost of producing "Vitamin C" is two times higher than the cost of producing 2 KGA. Due to the volatility in the prices of the raw material (2KGA), the domestic manufacturers have suffered losses.
o. Chinese exporters are more cost competitive than Indian domestic manufacturers.
p. The data provided neither establishes that it has suffered material injury nor that there is a case of recurrence of material injury upon revocation of the duty.
q. There is no absolute increase in the volume of imports from China PR.
r. Capacity and production have increased. No decline in capacity utilization. The domestic sales volume and value have also increased. Market share has also increased. The domestic industry is showing a positive growth.
s. There is no injury as there was no decline in market share, Profits, Return on Capital Employed (ROCE) and cash profit.
t. There is no causal link between the imports and the claim of material injury. The injury data has been provided only for the applicant and cannot be relied upon. The applicant should have provided injury data for the other domestic producers.
u. New players would not enter a market that is suffering injury or is not considered profitable. The extent of injury caused by the significant increase in expenses of the applicant must be segregated from the any injurious effect caused by imports.
v. There is no price undercutting. No price suppression or depression has been caused by imports as there has been a decrease in the selling price as well as the cost of production due to decrease in the price of 2KGA. Therefore, the imports have not

depressed prices to a significant degree or prevented price increase, which otherwise would have occurred.

w. Selling price of "Vitamin C" has been regulated by the National Pharmaceutical Pricing Authority (NPPA) and any upward trend in prices has been subject to a ceiling. The selling price of the applicant has been above its cost of production and the applicant should not be suffering any losses.

x. Other domestic producers have increased their selling prices in recent period.

y. Certain expenses such as depreciation, wages and interest were responsible for any losses rather than imports. The decline in the profits and return on investment is linked to the increase in the aforesaid expenses of the applicant.

z. The applicant appears to be incurring a gross profit but due to increase in investments, there has been a decline in its cash profits.

aa. International prices of the major raw material, i.e., Methanol, declined sharply by 30% during the POI. Therefore, the import prices and selling prices of DI for PUC have declined.

bb. There has been an enormous decline in the alleged imports, both in absolute and relative terms, during the POI as compared to the preceding year.

cc. There has been fluctuations in the imported volume and domestic sales which can be attributed to the decline in market share.

dd. Authority should confirm that the NIP is higher than NSR. Since the range of injury margin and price undercutting is identical, the two essential components for this investigation may be the same or NSR may be higher has the NIP. Authority should terminate the investigation if NIP is higher than NSR as per its consistent practice.

H.3 Examination by the Authority

57. 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

58. The Authority has taken note of various submissions made by the Domestic Industry and other interested parties on injury and causal link and has analyzed the same considering the facts available on record and applicable laws. The injury analysis undertaken ipso facto addresses submissions made by the domestic industry and other interested parties.

59. As regards to the performance of the domestic producers in their annual report, audit reports, ITR and profitability to BSE & NSE, it is noted that the applicant is a multi-product company having a number of products. Profits reported in the aforementioned documents are not reflective of the performance of the domestic industry for the product under consideration. In any case, the Authority has made present determination based on the verified information.

60. With regard to the submission made by the opposing interested parties that net selling price (NSR) is higher than the Non injurious price (NIP), therefore there is no injury to the domestic industry, the Authority notes that there is no legal provision that the Authority should compare the non-injurious price with net sales realization in order to determine the price effect.

61. The Authority notes that the product under consideration was attracting antidumping duty @ US$ 3.74/Kg imposed vide customs notification no. 38/2015-Customs (ADD) dated 6th August, 2015 which was in force till 5th August 2020. Thus, antidumping duty was in force almost during entirety of the injury period. The Authority considers that the fact of existing antidumping duty during the relevant period is required to be considered for the purpose of injury determination.

H.3.1 Volume effect of the dumped imports

a. Assessment of demand/apparent consumption

62. For the purpose of the present investigation, the Authority has taken into consideration the demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources.

Particulars	UoM	2016-17	2017-18	2018-19	POI
Domestic Industry Sales	MT	***	***	***	***
Trend	Indexed	100	112	113	100
Sales of Other Producers	MT	***	***	***	***
Trend	Indexed	100	107	102	105
Total imports from the subject	MT	783	1288	1171	868

country					
Trend	Indexed	100	165	150	111
Imports from other countries	MT	65	84	253	217
Trend	Indexed	100	130	390	335
Total Demand/Consumption	MT	***	***	***	***
Trend	Indexed	100	123	124	109

63. It is seen that whereas the demand of the product under consideration increased till 2018-19, it declined in the period of investigation. However, as compared to the base year, the demand for the subject goods increased in the period of investigation.

b. Import volumes from subject country

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

Particulars	**UoM**	**2016-17**	**2017-18**	**2018-19**	**POI**
Total imports from the subject country	MT	783	1288	1171	868
Trend	Indexed	100	165	150	111
Imports from other countries	MT	65	84	253	217
Trend	Indexed	100	130	390	335
Subject imports from China in relation to					
Demand	%	***	***	***	***
Trend	Indexed	100	132	120	100
Indian Production	%	***	***	***	***
Trend	Indexed	100	150	133	100

65. It is noted that:

a. The volume of dumped imports increased till 2017-18 and declined thereafter till the period of investigation. As compared to the base year, the imports, however, increased in the period of investigation.

b. The imports in relation to domestic production and consumption have shown the similar trends. Whereas the imports increased till 2017-18 in relation to production and consumption in India, it declined thereafter till the period of investigation.

Price effect of the dumped imports

66. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like 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.

a. Price undercutting

67. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject country. While computing the net selling price of the domestic industry, all taxes, rebates, discounts and commissions have been deducted and sales realization at ex-works level has been considered for comparison with the landed value of the dumped imports. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows:

Particulars	Units	China PR			
		2016-17	2017-18	2018-19	POI
Landed price of imports	Rs/Kg	318	586	433	256
Net Selling Price	Rs/Kg	***	***	***	***
Price Undercutting	Rs/Kg	***	***	***	***
	%	***	***	***	***
	Range	70-80%	40-50%	65-75%	100-110%

68. It is seen that the landed prices of the subject goods were materially below the selling price of the domestic industry. Further selling price increased in 2017-18, with increase in the landed price of imports. However, the selling price declined thereafter with the decline in the landed price of imports. Price undercutting is positive and significant throughout the injury period.

b. Price suppression and depression

69. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, are compared as below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	154	125	94
Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	151	132	94
Landed Price-China	Rs/Kg	318	586	433	256
Trend	Indexed	100	184	136	81

70. It is seen that the landed price of imports from subject country was below the cost of sales as well as selling price of the domestic industry throughout the injury period. It is also noted that whereas the domestic industry was able to increase its price more than the cost increase in 2017-18 and reduced the price less than the cost decline in 2018-19, during the period of investigation, the domestic industry was forced to reduce the price more than the cost decline.

71. It is also noted that the landed price of imports is significantly below the cost of sales. Further, the difference between the landed price of imports and cost of sales increased over the injury period and was at its highest in the POI. Thus, the domestic industry has suffered price suppression during the injury period.

72. It is thus noted that the imports are depressing the prices of the domestic industry.

H.3.2 <u>Economic parameters of the domestic industry</u>

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

a. Production, capacity, sales and capacity utilization

74. Capacity, production, sales and capacity utilization of the domestic industry over the injury

period is as follows:

Particulars	UOM	2016-17	2017-18	2018-19	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	109	109	109
Total Production	MT	***	***	***	***
Trend	Indexed	100	109	113	113
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	100	103	103
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	112	113	100
Export Sales	MT	***	***	***	***
Trend	Indexed	100	100	36	27
Total Sales	MT	***	***	***	***
Trend	Indexed	100	112	112	99

75. It is seen that:

a. Domestic industry increased its capacities in the year 2017-18.
b. The production and capacity utilization of the domestic industry increased.
c. The domestic sales increased till 2018-19 and thereafter declined in the POI.

b. Market Share in Demand

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

Particulars	UoM	2016-17	2017-18	2018-19	POI
Domestic Industry Sales	%	***	***	***	***
Trend	Indexed	100	91	91	91
Sales of Other Producers	%	***	***	***	***
Trend	Indexed	100	87	82	95
Imports from the subject country	%	***	***	***	***
Trend	Indexed	100	132	120	100
Other countries	%	***	***	***	***
Trend	Indexed	100	100	300	300
Total	%	100	100	100	100

77. It is seen that while the market share of subject imports has increased in 2017-18 and declined in the period of investigation. However, the product was subjected to antidumping duty throughout the injury period, still the market share of the of the subject imports is quite significant. The market share of domestic sales declined in period of investigation as compared to the base year.

c. Inventories

78. Inventory position with the domestic industry over the injury period is given in the table below:

Parameters	Unit	2016-17	2017-18	2018-19	POI
Opening Stock	MT	***	***	***	***
Trend	Indexed	100	35	4	22
Closing Stock	MT	***	***	***	***
Trend	Indexed	100	13	63	975
Average Inventory	MT	***	***	***	***
Trend	Indexed	100	27	20	273

79. It is seen that the inventories with the domestic industry declined till 2018-19 and increased in POI.

d. Profitability, return on investment and cash profits

80. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:

Parameters	Unit	2016-17	2017-18	2018-19	POI
Selling price	Rs/Kg	***	***	***	***
Trend	Indexed	100	151	132	94
Cost	Rs/Kg	***	***	***	***
Trend	Indexed	100	154	125	94
Profit/ loss	Rs/Kg	***	***	***	***
Trend	Indexed	100	123	189	90
Profit/ loss	Rs Lacs	***	***	***	***
Trend	Indexed	100	137	213	91

Profit/ loss before Interest and Tax	Rs Lacs	***	***	***	***
Trend	Indexed	100	126	178	77
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	122	179	92
ROCE	%	***	***	***	***
Trend	Indexed	100	71	127	42

81. It is seen that

a. The profitability of the domestic industry increased till 2018-19 and declined during period of investigation. The profitability shows decline during period of investigation as compared to base year.
b. Return on investment and cash profits have followed the same trend as that of profitability.
c. The domestic industry has submitted that the manufacturing facilities of the domestic industry are largely depreciated and therefore the ROI is not reflective and representative.

e. Employment, productivity and wages

82. Performance of the domestic industry with regard to employment, productivity and wages over the injury period was as follows.

Employment, Productivity and Wages					
Particulars	**UoM**	**2016-17**	**2017-18**	**2018-19**	**POI**
Employee	Nos.	***	***	***	***
Trend	Indexed	100	106	121	126
Productivity per employee	MT/Nos	***	***	***	***
Trend	Indexed	100	107	93	86
Wages	₹ Lacs	***	***	***	***
Trend	Indexed	100	108	146	124

83. It is seen that

a. The number of employees has shown improvement over the injury period.
b. Productivity have declined over the injury period.
c. Wages paid have increased till 2018-19 and then declined in the POI.

d. **Growth**

84. Growth of the domestic industry with regard to production, domestic sales, cost of sales, selling price, profits and cash profits have shown decline over the injury period. However, return on investment showed negative growth, especially during the period of investigation.

Parameters	Unit	2016-17	2017-18	2018-19	POI
Production (MT)	%		9%	3%	0%
Domestic Sales Volume (MT)	%		12%	1%	-11%
Cost of Sales (Rs/Kg)	%		54%	-19%	-25%
Selling Price (Rs/Kg)	%		51%	-12%	-29%
Profit/ Loss (Rs/Kg)	%		22%	55%	-52%
Cash Profit	%		22%	47%	-49%
ROI	%		-29%	79%	-67%

e. **Ability to raise capital investments**

85. The Authority notes that domestic industry is having reasonably good capacity utilization. However, performance of the domestic industry has declined in the POI.

f. **Magnitude of dumping**

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

g. **Factors affecting domestic prices**

87. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from subject country is the benchmark for the selling price of the domestic industry. In fact, the domestic industry is matching the price of imports, and has not increased its prices in proportion to the increase in costs. This shows that the landed prices of subject goods from subject countries are affecting the prices of the domestic industry.

h. **Analysis on injury**

88. The Authority has taken note of various submissions made by the Domestic Industry and other Interested parties on injury and causal link, and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made in the preceding

paras ipso facto addresses submissions made by the domestic industry and other interested parties.

89. The examination of the imports of the subject product and performance of domestic industry shows the volume of imports has increased in absolute terms as well as in relation to production and demand in India over the injury period during injury period, even though it has shown a decline in the POI as compared to preceding year. The imports are undercutting the prices of the domestic industry, and margin of price undercutting is significant. It is also noted that imports of subject goods from subject country have resulted in price depression in the market, and domestic industry has also suffered price suppression on account of dumped imports of subject goods from subject country.
90. While the capacity of the domestic industry has increased over the period, the sales of the domestic industry has declined in the POI when compared with the preceding year. The market share of subject imports has increased, while the share of domestic industry has declined from the base year. The domestic industry has suffered a decline in its profits, and cash profit in the period of investigation. The return on capital employed of the domestic industry has declined significantly in the POI.

Injury Margin/Price Underselling

91. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilization of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed as per consistent practice of the Authority.

92. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.

93. Based on the landed price and non-injurious price determined as above, the injury margin for

producers/exporters has been determined by the Authority and the same is provided in the table below:

Producer	Non-Injurious Price (US$/MT)	Landed Value (US$/MT)	Injury Margin US$/MT	Injury Margin (%)	Injury Margin % (Range)
M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd.	***	***	***	***	90-100
Others	***	***	***	***	120-130

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

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

95. The Authority notes that the Rules recognize that dumping need not be the sole cause of injury to the domestic industry. There may be other factors which might have at the same time caused injury to the domestic industry. However, in a situation where other factors have caused injury to the domestic industry, the Authority is required to ascertain whether injury caused due to other factors is so significant that the same outweighs the injury suffered by the domestic industry due to dumped imports.

a. Imports from other sources

96. Imports from other countries are either at de-minimus levels or the import prices are higher. It is, therefore, seen that the imports from other countries have not caused injury to the domestic industry.

b. Contraction in demand

97. The demand of the product under consideration has increased over the injury period with a decline in the POI. Even when the demand declined in the POI, the same was higher than

base year. Further, as the demand for the product declined, there was a steep decline in the import price, far beyond the decline in the costs. Resultantly, the domestic industry was forced to reduce the prices.

c. Changes in the pattern of consumption

98. There is no evidence of any change in the pattern of consumption with regard to the product under consideration. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the Domestic Industry.

d. Trade restrictive practices of and competition between the foreign and domestic producers

99. There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.

e. Developments in technology

100. None of the interested parties have furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry.

f. Export performance

101. The injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

g. Performance of other products being produced and sold by the domestic industry

102. The Authority has only considered data relating only to the performance of the subject goods. Therefore, performance of other products produced and sold are not a possible cause of the injury to the domestic industry.

J. EXAMINATION OF INJURY AND CAUSAL LINK

103. It is thus noted that other known factors listed under the Rules do not show that the domestic industry could have suffered injury due to these other factors. The Authority has also examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that material injury to the domestic industry has been caused by dumped imports:

a. Imports of the subject goods from subject country have increased in absolute terms as well as in relation to production and consumption.
b. The market share of subject imports has remained constant and significant during injury period, while the share of domestic industry has declined over the same period.
c. The dumped imports are undercutting the prices of the domestic industry. Further, the price undercutting has led to suppressing and depressing effects on the prices of the product in the market.
d. The suppressing and effecting effects caused by the dumped imports has adversely impacted the profits, cash profits and return on capital employed of the domestic industry.

K. POST DISCLOSURE COMMENTS AND EXAMINATION BY AUTHORITY

K.1 Views of the domestic industry

104. The following are the post-disclosure submissions made by the domestic industry:

a. While the dumping margin for all parties are so comparable, the injury margin is so incomparable.
b. Considering the low volume of individual import transactions, and the fact that shipments are by air, it is obvious that the complete transactions are not disclosed by the exporters to the Authority. These transactions are not normal business transactions. The Authority is requested to seek relevant documents from JNPT port. Since the product is a drug, any producer is required to obtain a licence from the Drug Controller and is required to file document showing name of the producer even for the goods purchased from trader.
c. M/s Shandong Luwei Pharmaceutical has been exporting at such a low price all alone seems that it has reported only three air transactions during POI and at such high price. There is a huge difference in the freight charges via sea route and via air freight.
d. We request the Authority re-consider injury margin after removing air freight and considering only sea freight payable.
e. M/s Shandong Luwei Pharmaceutical has not reported sales made through M/s Sinoright International Trade Co. There is no response accompanied with producer's response. Only producer has filed response. This further shows suppression of facts.
f. M/s Shandong Luwei Pharmaceutical has significantly suppressed the facts and filed false information before the Authority.
g. There is no viable substitute for the product under consideration. The shelf life of the product sold by domestic industry is 4 years whereas the foreign producers provide 3 years of shelf life. Packing of product under consideration manufactured by domestic industry is similar to that of exporters.

h. The imposition of anti-dumping measure would be in the interests of the domestic manufacturers, arresting decline in the performance of the industry and will redress the injury suffered. The industry provides employment to more than 5,000 individuals directly, and to more than 50,000 individuals indirectly, the livelihood of such individuals would be impacted. Imposition of duty would encourage production of intermediate in India as well.

i. The imposition of duty will not result in any significant adverse impact on the eventual end product, and it will be in the larger public interest. There is no evidence of adverse impact on users, despite the duties having been in force since 2010. The price of Vitamin C formulation used in medicines will not increase since its price is controlled and regulated by the Government of India. Vitamin C falls under DPCO.

j. Chinese producers were least concerned with the India's demand during peak COVID-19 period.

k. The Indian industries already have sufficient capacities to cater 100% demand in India.

l. The duty should be imposed as fixed amount, expressed in terms of US$.

K.2 <u>Views of the other interested parties</u>

105. The following post-disclosure submissions have been made by the other interested parties:

a. No Duties should be recommended as Net Sales Realization is more than Non-Injurious Price of the applicant industry as mentioned in Para 57 of the disclosure statement.

b. The Authority need to reduce the post FOB expenses like ocean freight, insurance, port charges, and any applicable duties like BCD, cess etc. from the cost/price of the applicant industry, as producers in China would not be incurring these expenses as they do not import raw material.

c. The "Lesser Duty Rule" is mandatorily required to be followed by the Authority in all cases.

d. Injury Assessment of the Authority is not only incorrect but also contrary to the requirement of the Rules as the Authority does not have sufficient data to reach to the conclusion that domestic producers of the subject goods have suffered injury.

e. Since the other producers have not filed the data as per the Trade Notice No. 13/2018, their data could not be even used as supporters, as was done in the case of 6PPD [F. No. 6/34/2019- DGTR dated 9.1.2020]. None of the Indian producers has applied for the sunset review investigation, proves that there was neither any injury nor their likelihood of injury to the domestic producers.

f. Owing to COVID-19, the demand for these products has increased by six to eight times. For instance, the demand of these products for Abbott has increased by more than 400%. The Domestic Industries cannot cater to the demand of the subject goods in India. Since

China and Singapore are the main exporters of Vitamin C into India, any anti-dumping duty on imports of Vitamin- C would adversely affect the users of the subject goods.

g. Bajaj Healthcare Limited has also approached the other suppliers effectively forming a cartel so that they can maintain the increased prices of Ascorbic Acid and Sodium Ascorbate.

h. The sudden increase in demand, coupled with shortage of supply has led to an acute shortage of Vitamin C which is being sold at prices 5 to 8 times higher than the usual price.

i. It would be extremely unfair to the public at large if any extra protection is extended which they have been enjoying for more than 22 years.

j. The instant investigations are clearly based on incorrect premises, wrong information and are in breach of the settled legal provisions. Thus, we request the Authority to kindly terminate the investigation forthwith.

k. The Authority, as per its consistent practice, may not accept any fresh evidence at this stage of the investigations. However, in the unlikely event of the Authority showing any unprecedented indulgence, all such documents/information may kindly be provided to us for our comments. Grant a fresh hearing after providing the information which cannot be kept as confidential or for which a meaningful summary is necessarily required to be provided in terms of Rule 8 of the Anti-dumping Rules.

l. It should be expressly stated in the definition of PUC and below the duty table in the Final Findings that derivatives of Vitamin-C are not within the product scope.

m. Since the duties on this product have been in force for last 22 years from China PR, the Authority must undertake a post POI analysis in this case to ascertain whether the situation demands any further imposition of anti-dumping measures on this product.

n. Higher procurement cost of PUC severely constrains the continuing of operations of producing and selling the final drug formulations which are price capped by NPPA under the DPCO as the PUC is one of the basic raw materials for such final drug formulation.

o. There has been a trend of user industry players to manufacture Food Supplement form of Vitamin C which are not subject to price restrictions like drug form. This has severely impacted and continues to impact the availability of Vitamin C at fair price to the public at large.

p. Having provided all the required information in user questionnaire response, it is incorrect for the Authority to state that none of the interested parties provided information to show the impact of anti-dumping duties.

q. Considering the nature of PUC involved and prevailing regulatory mechanism for price fixation, imposition of anti-dumping duty will have severe impact on the user industry and the availability of Vitamin C to public at large at fair prices.

r. The subject imports have reduced drastically by 303 MT in the POI as compared to the immediate previous year 2018-19. There is a miniscule increase of 85 MT in the import volume when compared with the base year. However, such a negligible increase cannot be considered as 'significant' increase for the purpose of Annexure-II of AD rules.

s. The data pertaining to CIF prices as furnished by the domestic industry has undergone a change multiple times and the Authority is requested to thoroughly verify the CIF prices of the imports.

t. M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd has represented that there is an apparent inconsistency in the dumping margin and injury margin determined for CSPC and Shandong Luwei Pharmaceutical Co., Ltd. While the export price (FOB) of CSPC has been US$3.10/Kg during the POI, the export price (FOB) of the other cooperating exporter is seen as US$2.64/Kg in the same period. In view of the same, the Authority may cross check the injury margin determined for CSPC to avoid any calculation errors.

u. Both landed price of imports and selling price of the DI have been fluctuating during the entire injury period and such significant price changes have been on account of wild movements in demand for the product at times.

v. There is a sharp fall in import during the POI. The DI, however, registered highest profits in the previous 2 years when the import was highest, and the profits declined in the POI when the imports sharply declined during the POI. Thus, landed price alone was not the cause of fall in profits as alleged.

K.3 Examination by the Authority

106. The Authority notes that most of the submissions by the domestic industry and other interested parties are repetitive in nature. These submissions have already been examined at appropriate places in this finding. Further, the Authority has examined additional relevant submissions of the interested parties as under

107. Post issuance of Disclosure statement to the interested parties, other Chinese producer i.e, M/s CSPC by referring export details as per China Customs, alleged that M/s Shandong Luwei Pharmaceutical Co Ltd. has not reported the complete/factual data on its exports to India hence, resulting in doubtfully lower margins. Further, the domestic industry has also filed similar comments by submitting bill of entry wise details of exports made by M/s Sinoright International Trade Co., Ltd. alleging that Shandong Luwei Pharmaceutical has

also sold the subject goods to India during the POI through an unrelated company/trader in China i.e., M/s Sinoright International Trade Co., Ltd. Further, the domestic industry provided a document stating that Shandong Luwei Pharmaceutical has appointed Sinoright International Trade as its agent and the document clearly states that *"Shandong Luwei Pharmaceutical Co., Ltd, hereby authorize M/s Sinoright international Trade Co Ltd as the Exclusive Agent in India for the commercial activities, marketing and Sales for Ascorbic Acid"*. Considering the vital facts involved, the Authority gave M/s Shandong Luwei Pharmaceutical Co Ltd. an opportunity to offer its comment on the above, to which the company responded that the agreement concerning Shandong Luwei Pharmaceutical appointing Sinoright International Trade as its agent was later revoked by the company. Further, the Authority called for bill of entry details including the commercial invoices, packing list, certificate of origin etc., and Form-9 &10 from the Office of JNCH and the Office of CDSCO. Since, PUC being bulk drug, Form-9 (Form of undertaking to accompany an application for an import License) is required to be submitted to get the Form-10 (Import License) issued. On the basis of the Form-9 submitted by the authorized agent of Shandong Luwei Pharmaceutical Co., Ltd, the Form-10 was issued by the CDSCO that permitted the imports of the PUC. On examining the same, it is concluded that Shandong Luwei Pharmaceutical Co., Ltd has not reported all the exports made to India and has not come clean on all transactions made to India. Therefore, the Authority has rejected the response filed by the company and has not determined individual margins for the company.

108. The Authority holds that no interested party has established that there are technically and commercially viable substitute for the product under consideration.

109. The interested parties have disputed existence of injury to domestic industry. The interested parties have pointed out at improvement in performance of the domestic industry in respect of few injury parameters. It is noted that the mere fact that the performance of the Domestic Industry has improved in respect of some parameters does not mean that the domestic industry has not suffered material injury. It is well established legal position that it is not necessary that performance of domestic industry should show deterioration in respect of each injury parameter, and improvement in some parameters does not imply absence of injury. So long as the performance of domestic industry shows deterioration in respect of some parameters and such deterioration outweighs positive developments in other parameters, it should be concluded that the domestic industry has suffered injury. In this regard, it is noted that the product was attracting antidumping duty over the injury period, the profits, ROI and cash profits of the domestic industry shows significant deterioration. It is also noted that landed price of imports is materially below the cost of production, selling price and non-injurious price of the domestic industry. Further, the landed price of the imports after adding antidumping duty was quite comparable to the selling price of the domestic industry. While imports declined in the POI as compared to the preceding year, the

same were higher as compared to the base year, and increased significantly after cessation of the antidumping duty. Various parameters collectively and cumulatively show that the domestic industry has suffered injury.

110. As regards the contention that the other producers of the subject goods have not participated and are not suffering any injury or doing better, the Authority notes that these interested parties have provided no information showing that these other domestic producers are not suffering injury or their performance improved. The Authority cannot rely upon a mere conjecture with regard to performance of the other domestic producers. Further, the applicant constitutes domestic industry within the meaning of the Rules and cannot be deprived of an investigation merely because other domestic producers have not provided their injury data.

111. With regard to the submission made by the opposing interested parties that net selling price (NSR) is higher than the Non injurious price (NIP), therefore there is no injury to the domestic industry, the Authority reiterates that NIP in the present investigation has been determined in terms of Annexure III of the Anti-dumping Rules for the purpose of determination of injury margin. Further, the Authority notes that there is no legal provision that the Authority should compare the non-injurious price with net sales realization in order to determine the price effect. It is also noted that the landed price of imports has been consistently and materially below cost of sales, selling price and non-injurious price of the domestic industry.

112. With regard to issue of demand supply gap during the time of pandemic, the Authority notes that (a) the domestic producers have expanded their existing capacities, (b) as per information on record the domestic producers not only have the capacity much more than the existing demand in the country, but also will be able to cater to any foreseeable increase in demand, (c) the domestic industry has submitted that it has catered to increased demand during the Covid, (d) the other interested parties have not established with data the increase in demand due to Covid claimed by them. The domestic industry has submitted that the increase in demand was much lower.

113. As regards the argument of the interested parties that imposition of anti-dumping duty will have adverse effect on the food supplements, the Authority notes that the objective of imposition of anti-dumping measures is to create a level playing field for the domestic industry vis-à-vis the unfair trade practice of dumping. Further, the domestic industry provided calculations showing that cost on account of the product in food supplements is quite low. Further, the product was attracting antidumping duty not only over the current injury period, but also over past few years, and there is no evidence provided by any

interested party with regard to possible adverse effect of the antidumping duty in force. The interested parties have not shown that the cost of these products had declined materially after the previous antidumping duty on the product ceased.

114. The Authority notes, in general, that the imposition of anti-dumping duty may have a cost push effect on the prices of end products. Nevertheless, fair competition in the Indian market will not be reduced by the anti-dumping duties, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury caused to the domestic industry. On the contrary, imposition of the antidumping duties would remove the unfair advantages gained by the dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the users/consumers of the subject goods. Therefore, the arguments that imposition of anti-dumping duty would have adverse effect on the end-users/consumer are without any basis.

115. With regard to the contention of interested parties of data pertaining to CIF prices as furnished by the domestic industry has undergone changes, the Authority has verified the information submitted and adopted the same.

L. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

L.1. Submissions by other interested parties

116. The submissions made by other interested parties with regard to Indian industry's interest are summarized as follows:

a. The product under consideration is an essential drug. To enjoy the monopolistic privileges, the Domestic Industry has undermined the importance and necessity of the subject goods in the country.
b. By imposing anti-dumping duties on an essential drug like Vitamin C, which also serves other benefits to the society, the claim of the industry would tantamount to a disservice to the country by inflating the prices of a product that is of vital importance, especially in the present times.
c. The supporting producers along with the petitioner formed the cartel and hiked the prices in tandem. Thus, the domestic industry is engaged in price rigging at the cost of health of general public in the middle of global pandemic.
d. It would not be in public interest to impose a duty on imports of PUC which is a key API for manufacture of Vitamin C drug which could save the lives of people of the country in Covid-19 pandemic.
e. The Authority must also consider the regulatory framework of Vitamin C finished product and its impact on the patient/ end consumer.
f. In the long run, the end consumers could be left with only the option of FSSAI category

Vitamin C which are not subject to pricing restrictions and may not cater to patients' requirement of therapeutic dosage of 500mg.

g. From April 2020 to August 2020, the domestic industry has increased the prices of PUC by more than 60% without any commensurate increase in their cost of production thereby resorting to profiteering at the cost of suffering public in the COVID-19 pandemic situation given the fact that Vitamin C finished product was in extremely high demand as a vital immunity booster.

h. The Vitamin-C tablet is generally taken to boost immunity especially during the ongoing Covid-19 pandemic. Thus, imposition of anti- dumping duty will have an adverse impact on ability to manufacture and maintain a consistent supply of tablets and may ultimately impact public interest.

i. Re-imposition of anti- dumping duty on imports of PUC will result in monopoly of the domestic industry and will empower them continue the price increases to the detriment of manufacturers of the finished formulations of Vitamin C, as well as of the public and consumers at large, more so in such a critical period when the country is fighting the pandemic. It will make selected Indian "Vitamin C" manufactures gain excessive profit, but harm the benefit of India pharmaceutical enterprises, food enterprises and beverage enterprises, not to mention about the plight of the consumers.

j. An examination of true demand supply situation of this product in India may be done before proceeding further in this matter so that the general public is not deprived of Vitamin C tablets in India.

k. Anti-dumping will increase the price of this medicine can lead to high mortality rate. It will spoil India's name in front of the World.

l. In case ADD is imposed, the domestic industry is likely to increase its price to the tune of ADD hence both imported as well as products produced in India will become costlier and the consumers will have to bear the cost of higher price.

L.2 Submissions made by Domestic Industry

117. The submissions made by domestic industry with regard to Indian industry's interest are summarized as follows:

a. It is producers/exporters own argument that the ADD was in place for such a long period. While the present investigation is a fresh investigation, the product was attracting ADD for quite some time. No adverse effect of the ADD could be established by any party.

b. Even when duty has been in place, there was neither a shortage nor unbearable price of the product, nor significant adverse impact on the consumers. Evidently, the interested parties are resorting to misstatements and unsubstantiated claims.

c. The domestic producers will not unduly increase their prices due to market forces and high competition and have stood upfront at this time of crises to have an uninterrupted

supply of medicines to the peoples of India. Further, this will lead to continued availability of multiple domestic sources for the users, at reasonable prices.

d. Even after imposition of duties, free, fair and reasonable competition will prevail in the market, thereby ensuring that the imposition will be in the larger public interest.

e. The imposition of duty will protect the domestic industry against dumping from the subject country, provide a level playing field and address the decline of the domestic industry's performance.

f. Anti-dumping duty is not a protection to the industry, but rather a means of correction of prices to fair levels. It would not restrict imports from the subject country in any way and would not affect the availability of the product to the consumers.

g. The exporters/producers should confine themselves to whether there is dumping. Such public interest factors should not bother foreign producers. The domestic industry is responsible and responsive.

h. The imports from China have increased in the most recent period and not when Covid-19 was at its peak. On the contrary, when Covid-19 was at its peak, the import volumes were low and the price was high.

i. When the import price has declined, the import volumes have increased. It clearly shows that the Chinese producers were least concerned with the India's demand during Covid-19 period.

j. Once their own internal requirements have been met, and Covid-19 was on way out, the Chinese producers woke up to the Covid-19 situation in India, reduced prices and dumped huge volumes. This also shows that the Chinese producers actions are different from statements.

L.3 Examination by the Authority

118. The Authority considered whether imposition of ADD shall have adverse public interest. For the same, the Authority examined submissions made by various parties and whether the imposition of the anti-dumping duty on imports of the product would be against the larger public interest. This determination is based on consideration of information on record and interests of various parties, including domestic industry, importers and consumers of the product.

119. The Authority invited views from all interested parties at the stage of initiation. The Authority has prescribed a questionnaire for the consumers to provide relevant information, including possible effect of ADD on their operations. Only one consumer M/s Abbott Healthcare Private Limited provided relevant information. Further, the domestic industry submitted that while it is a producer of the PUC, it is also a consumer of the same and selling Vitamin-C formulation in the market, in the form of Vitamin-C tablets. The domestic industry has provided its own profitability for the Vitamin-C formulation, in the form of

relevant extracts from the cost audit report of both PUC and formulation.

120. None of the interested parties have brought any evidence on record demonstrating that there was significant adverse effect of this ADD on the consumers, after imposition of ADD on Vitamin -C.

121. Further, there is no evidence that imposition of ADD over the long period had led to either shortage of the product, or significant increase in the prices of the product or downstream product.

122. The Authority notes that the price of Vitamin-C formulation is regulated by the Govt. and therefore the product cannot be sold at any price by any formulator. Since the price is regulated, the Authority considers that imposition of ADD cannot lead to significant increase in the price of eventual end product (Vitamin-C tablets) for the public at large.

123. The Authority notes that the PUC is being produced in the Country by four companies. As per the information on record, the combined Indian capacity is 3,600 MT in POI. As against this, the demand for the product was 3,477 MT in the POI and about 5,200 MT at the peak of Covid-19 pandemic. The domestic producers have also increased their capacities (5280 MT) looking at the increase in demand during the pandemic. Thus, there are enough capacities for the PUC in the Country.

124. The Authority examined whether the imposition of the duty on imports of the product under investigation would be against the larger public interest. This determination is based on consideration of information on record and interests of various parties, including domestic industry, importers and consumers of the product.

125. The Authority issued gazette notification inviting views from all interested parties, including importers, consumers and other interested parties. Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including possible effect of ADD on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD, impact of imposing the present duty. The Authority notes that only one consumer filed questionnaire response. While the consumer reported that it was suffering financial losses in the vitamin C formulations, the domestic industry submitted detailed calculations showing its own information relating to production and sale of downstream product. While Abott claimed that it was suffering financial losses in the downstream product, the domestic industry submitted that it was significantly profitable.

The domestic industry has also provided details of orders placed on it by a number of consumers and State Govt. authorities for procurement of significant volumes of Vitamin-C formulation. These orders were at a price materially below the price at which the domestic industry is selling Vitamin-C formulation in the market.

126. The consumers attended the oral hearing and made submissions, which have been taken into account. The authority notes that these interested parties have not shown with quantified information that imposition of ADD shall have significant adverse effect either on these consumers or at public at large.

127. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. 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 duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

128. The Authority has examined the questionnaire filed by the user of PUC. The Authority finds that the cost of PUC forms a minor portion of the total production costs of the final drug formulation. Hence, imposition of anti-dumping duty on PUC may not lead to a significant increase in the overall cost of production of the final drug. In any case, if the user industry is aggrieved with the final prices caps fixed by the drug regulator, they may approach the appropriate drug regulatory authority for necessary action.

M. CONCLUSION

129. After examining the submissions made by the interested parties and issues raised therein, and considering the facts available on record, the Authority concludes that:

a. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from the subject country have been determined, and the margins are significant.
b. The domestic industry has suffered material injury. The examination of the imports of the subject product and the performance of the domestic industry shows that the volume of dumped imports from subject country increased till 2017-18 and declined till the POI. It,

however, remains significant in absolute and in relative terms to production and consumption. Imports are entering the market at price below the level of selling price, non-injurious price and even cost of sales. The production and capacity utilization increased; however, the domestic sales have declined. It is noted that the inventory level has increased in the POI. The performance of the Domestic Industry has significantly deteriorated in respect of profits, cash profits and return on capital employed in the period of investigation.

c. The material injury suffered by the domestic industry has been caused by the dumped imports.

d. None of the users have provided relevant information. The interested parties have not established impact of ADD on the user industry with verifiable information. Non-imposition of anti-dumping duty will adversely impact the indigenous production of the product concerned and the fact that the impact of antidumping duty is miniscule to the consumers of the product under consideration, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

e. In view of the argument of interested parties regard to long duration of duties, the Authority examined the volume and price of imports over the long period. It is seen that the imports from China have continued in significant volumes over the entire duration of duty, which establishes that the existence of ADD has not resulted in absence of imports from China in the market, or absence of competition to the domestic industry from Chinese imports. The past investigations conducted by the Authority further shows that the Authority has in successive investigations found that that domestic industry has suffered continued injury. The landed price of imports has been consistently and materially below cost of sales, selling price and non-injurious price of the domestic industry. Despite long duration of anti-dumping duties, barring one consumer, no other consumer has participated in the present investigations. The non-cooperation from the users shows that there is negligible impact on them. While the Authority normally does not examine the post POI situation, however, in view of argument of interested parties over long duration of duty and the fact that the current injury period was a period of duty, the Authority examined the volume and price of imports after cessation of anti-dumping duties. It is seen that whereas import prices have almost remained in the similar region, the volume of import has significantly increased indicating that if the duties are not imposed the imports would continue to rise and likely to materially injure the domestic industry.

N. RECOMMENDATIONS

130. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the Domestic Industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that

imposition of Anti-Dumping is required to offset dumping and injury. Therefore, Authority recommends imposition of anti-dumping duty on imports of subject goods from the subject country.

131. In terms of provision contained in Rule 4(d) & Rule 17(1) (b) of the Rules, the Authority recommends impositions of anti-dumping duty equal to lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to amount mentioned in column 7 of the duty table below is recommend to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of goods described at Column 3 of the duty table, originating in or exported from China PR.

Serial number	Tariff Heading	Description of Goods	Country of Origin/ or export	Country of Export	Producer	Duty Amount	Currency	Unit
1	2	3	4	5	6	7	8	9
1	29362700	Vitamin-C*	China PR	Any country including China PR	M/s CSPC Weisheng Pharmaceutical (Shijiazhuang) Co., Ltd	3.20	US$	Kg
2	29362700	-do-	China PR	China PR	Any producer other than serial number 1	3.55	US$	Kg
3	29362700	-do-	Any country other than China PR	China PR	Any	3.55	US$	Kg

**Note: The anti-dumping duty is applicable to Vitamin-C in all its form, also known as ascorbic acid, L-Xyloascorbic Acid, 3-oxo L-Gulofuranolactone (enol form), L-3 Ketothreohexuronic Acid Lactone etc.,as described under entry number "867 of Merck Index. The anti-dumping duty is not applicable to derivatives of Vitamin C.*

O. FURTHER PROCEDURE

132. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Exercise and Service tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(Anant Swarup)
Designated Authority