

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

**F. No. 6/15/2021-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: 19th January, 2023

Case No. ADD (O.I.) 15/2021

**NOTIFICATION
FINAL FINDINGS**

Subject: Anti-dumping investigation concerning imports of "Ursodeoxycholic Acid (UDCA)" originating in or exported from China PR and Korea RP.

A. BACKGROUND OF THE CASE

1. M/s Arch Pharmalabs Limited (hereinafter referred to as the "applicant" or the "petitioner") filed an application before the Designated Authority (hereinafter referred to as the "Authority") in accordance with Customs Tariff Act, 1975 (hereinafter referred to as the "Act") as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the "Anti-Dumping Rules" or "Rules") for initiation of an anti-dumping investigation and subsequent imposition of anti-dumping duty on the imports of "Ursodeoxycholic Acid" also known as UDCA (hereinafter referred to as the "product under consideration" or the "PUC" or the "subject goods") from China PR and Korea RP (hereinafter referred to as the "subject countries").
2. The Authority on the basis of sufficient *prima facie* evidence submitted by the domestic industry, issued a public notice vide Notification No. 6/15/2021-DGTR dated 24th January 2022 in the Gazette of India Extraordinary initiating the investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

3. The Authority having regard to the Act and the Rules issued Preliminary Findings vide Notification No. 6/15/2021-DGTR dated 30th June 2022 recommending imposition of provisional.
4. The anti-dumping duties on the imports of the subject goods, originating in or exported from the subject countries. Accordingly, the Central Government vide Notification No. 25/2022-Customs dated 18th August 2022 imposed provisional anti-dumping duty on the imports of the subject goods from subject countries for a period of 6 months.

B. PROCEDURE

5. The procedure described herein below has been followed with regard to the investigation:
 - a. The Authority notified the Embassies of the subject countries/territories in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5(5) of the Rules.
 - b. The Authority issued a public notice dated 24th January 2022 published in the Gazette of India Extraordinary, initiating an anti-dumping investigation concerning the imports of the subject goods from the subject countries.
 - c. The Authority sent a copy of the initiation notification to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers/users and the domestic industry as well as per the available information. The interested parties were advised to provide relevant information in the form and manner prescribed and to make their submissions known in writing within the prescribed time-limit.
 - d. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.
 - e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their countries 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 along with the names and addresses of the known producers/exporters from the subject countries.
 - f. The Authority sent exporter's questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules: -
 - i. Farmasino Pharmaceuticals (Jiangsu) Co., Ltd., China PR.
 - ii. Zhongshan Belling Biotechnology Co. Ltd., China PR.
 - iii. Sinobright Import and Export Co., Ltd, China PR.
 - iv. SDART International Inc., China PR.
 - v. Meishan Xingong Bio Co, Ltd., China PR.

- vi. Daewoong Bio Inc., Korea RP
- g. In response to the above notification, the following producers/exporters have submitted the exporter questionnaire responses:
 - i. Zhongshan Belling Biotechnology, China PR.
 - ii. Sichuan Xieli, China PR.
 - iii. Sinobright Import and Export Co., Ltd., China PR.
 - iv. Farmasino Co., Ltd, China PR
 - v. Hangzhou Dawn Ray Pharmaceutical Co., Ltd, China PR
 - vi. Suzhou Tianlu Bio-pharmaceutical Co., Ltd, China PR
 - vii. Daewoong Bio Incorporated, Korea RP
- h. The Authority sent questionnaires to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules: -
 - i. DPB Antibiotics Limited
 - ii. Medreich Limited
 - iii. Sun Pharma Laboratories Limited.
 - iv. Win-Medicare Private Limited.
 - v. Ind-Swift Limited.
 - vi. Knowell Pharma Solutions LLP
 - vii. Cadila Healthcare Limited.
 - viii. Strides Pharma Science Limited.
 - ix. Eastern Chemicals (Mumbai) Private Limited.
 - x. Par Formulations Private Limited.
 - xi. Watson Pharma Private Limited.
 - xii. Glenmark Pharmaceuticals Limited.
 - xiii. Amneal Pharmaceuticals Private Limited.
 - xiv. Abbott India Limited.
- i. Sun Pharmaceutical Industries Limited has filed importer questionnaire response.
- j. Additionally, China Chamber of Commerce for Import and Export of Medicines and Health Product filed preliminary submissions.
- k. The importers and exporters and other parties that did not cooperate were treated as non-cooperative parties.
- l. Extension was granted to the interested parties to file the questionnaire response upon request made. The first extension was granted upto 9th March 2022 and thereafter upto 23rd March 2022.
- m. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of an e-file through e-mail to the interested parties.
- n. Since the transaction-wise details of import data was not provided by the Directorate General of Commercial Intelligence and Statistics (DGCI&S), the

Authority called upon DG Systems to provide transaction-wise details of imports of the subject goods for the injury period. The Authority has relied upon DG Systems data for computation of the volume of imports and its analysis after due examination of the transactions.

- o. Non-Injurious Price (hereinafter referred to as 'NIP') has been determined based on the cost of production and reasonable profits of 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 so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- p. The information/data submitted by the domestic industry has been verified to the extent deemed necessary and relied upon for the purpose of these final findings. Information was sought from the domestic industry and the other interested parties to the extent deemed necessary. The Authority has also conducted physical verification of the domestic industry and the responding exporter from Korea RP.
- q. The period of investigation for the purpose of present investigation is 1st October 2020 - 30th September 2021 (12 months). The injury examination period has been considered as the period from 2018-19, 2019-20, 2020-21 and the period of investigation.
- r. The Authority provided all interested parties 30 days' time to provide comments on the preliminary findings. The comments on preliminary findings were circulated amongst all the other interested parties.
- s. The Authority held an oral hearing via video conferencing on 10th August, 2022 to provide an opportunity to all the interested parties to present information orally in accordance with Rule 6(6). All the parties who presented their views in the oral hearing were requested to file written submissions in order to enable the opposing interested parties to file rejoinders thereafter.
- t. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- u. Wherever an interested party has refused access to or has otherwise not provided the 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 present final findings on the basis of the facts available.
- v. A disclosure statement containing the essential facts in this investigation which have formed the basis of the final findings was issued to the interested parties on

29th December 2022 and the interested parties were allowed time up to 7th January, 2023 to comment on the same. The comments on disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final finding notification.

- w. '***' in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- x. The exchange rate adopted by the Authority for the present investigation is 1 US \$= Rs 74.53.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

6. The product under consideration was defined at the time of initiation of the investigation was: -

"The product under consideration in the present investigation is Ursodeoxycholic Acid which is also known as Ursodiol or UDCA.

UDCA is used as medical therapy in gallstone disease (cholelithiasis) and for biliary sludge. It may be given after bariatric surgery to prevent cholelithiasis. UDCA is also used as a therapy in primary biliary cholangitis where it can produce an improvement in biomarkers. It is also used to treat primary sclerosing cholangitis. Intrahepatic cholestasis of pregnancy, bile reflux gastritis, etc.

The product is classified under the Chapter 29 of the Customs Tariff Act, 1975 (51 of 1975) under various subheadings of the tariff custom classification such as 2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2939, 2941 and 2942. However, the product is majorly imported under 29181690 and 29181990. The customs classification is only indicative and is not binding on the scope of the product under consideration."

C.1. Submissions made by the other interested parties

7. The other interested parties have requested to examine the quality of the PUC offered by the applicant and other suppliers.

C.2 Submissions made by the domestic industry

8. The submissions made by the domestic industry in regard to the product under consideration are as follows: -
- a. Ursodeoxycholic Acid also known as ursodiol, is a naturally occurring bile acid. Its molecular formula is C₂₄H₄₀O₄.

- b. The product under consideration is imported under Chapter 29 of the Customs Tariff Act, 1975 under various subheading such as 2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2939, 2941 and 2942 of the Tariff Classification. However, the product is majorly imported under 29181690 and 29181990.
- c. UDCA is produced by transformation of Cholic Acid (CA) or Chenodeoxycholic acid (CDCA), which is derived from processing Bovine Origin Bile (Ox Bile) or Porcine Origin Bile (Pig Bile) or Avian Bile (Bird Bile).
- d. Domestic industry's manufacturing sites are approved by the United States Food and Drug Administration USFDA and EDQM authorities.
- e. The product manufactured by the domestic industry is commercially and technically substitutable for the alleged dumped goods and is a like article to the imported product.

C.3 Examination by the Authority

- 9. The submissions made by the interested parties and the domestic industry with regard to the product under consideration have been examined and are addressed hereunder.
- 10. The PUC in the present investigation is Ursodeoxycholic Acid, also known as Ursodiol or UDCA. UDCA is produced using Cholic Acid which upon oxidation gets converted into Chenodeoxycholic acid. The Chenodeoxycholic acid so formed undergoes enzymatic oxidation to form Lithocholic acid. Lithocholic acid further undergoes the process of biocatalytic reduction to form Ursodeoxycholic acid (Crude) and is further treated to form Ursodeoxycholic acid.
- 11. UDCA is an active pharmaceutical ingredient. It is used for medical therapy in gallstone disease (cholelithiasis) and for biliary sludge. It may be given after bariatric surgery to prevent cholelithiasis. It is also used as a therapy in primary biliary cholangitis where it can produce an improvement in biomarkers. UDCA is not a raw material or intermediary for the medicines required for the abovementioned treatments but is an ingredient for the medicines used for the treatments.
- 12. It has been alleged that there is a difference between the quality of the like article produced by the domestic industry and the subject goods. However, no substantive evidence has been provided for this assertion. Therefore, in the absence of any verifiable evidence, the Authority could not confirm this claim. It is also noted that the applicant's manufacturing site has been approved by the United States Food and Drug Administration (USFDA) and European Directorate for the Quality of Medicines and Health Care (EDQM).

13. The PUC is classified under the Chapter 29 of the Customs Tariff Act, 1975 (51 of 1975) under various subheadings of the tariff custom classification such as 2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2939, 2941 and 2942. However, the product is majorly imported under 29181690 and 29181990. The customs classification is only indicative and is not binding on the scope of the PUC.
14. It is seen from the information on record that the subject goods produced by the domestic industry is like article to the product under consideration imported from the subject countries. The subject goods produced by the domestic industry and the PUC imported from the subject countries are comparable in terms of physical and chemical properties, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The end product has comparable specifications and is used interchangeably. It is further noted that the imported and the domestically sold products are technically and commercially substitutable, and the consumers are using the two interchangeably. It is also noted that no other submissions have been made by interested parties after the issuance of preliminary finding. Therefore, the Authority confirms the same scope of the PUC as was determined in the preliminary findings. Thus, the Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject countries within the scope and meaning of Rule 2(d) of the Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1 Submissions made by the other interested parties

15. The submissions made by the other interested parties in regard to the domestic industry and standing are as follows: -
 - a. The domestic industry has only produced for a period of 4 months in the POI and its capacity is below 10% of the total production in India and therefore, it does not represent major proportion of the total production in India.
 - b. The domestic industry has not taken into account the production by Shilpa Medicare Ltd. (hereinafter referred to as Shilpa), Raichem Medicare Pvt. Ltd (hereinafter referred to as Raichem) and IOL Chemicals and Pharmaceuticals Limited (hereinafter referred to as IOL), in ascertaining its standing.
 - c. As per the annual report of Shilpa., the company is also engaged in the production of Ursodeoxycholic acid in India.
 - d. Raichem is also engaged in the production of Ursodeoxycholic Acid (UDCA) in India.
 - e. The claim by the applicant regarding standing is fallacious as there are four other producers for the subject goods in India. There is no basis to exclude the production

and sales of the three producers for determination of standing and assessment of demand.

- f. The Authority has without any documentary basis recorded that Raichem produces advance intermediate of UDCA API. Raichem cannot produce the advance API as it does possess the regulatory approvals required for the same.
- g. Contrary to the Authority's observations in the preliminary findings, the domestic industry in its written submissions has not argued that Raichem does not produce like article
- h. Shilpa is an independent producer of the subject goods in India apart from Raichem. As per the environment clearance documents, Shilpa has the permission to produce 108 MTPA of the subject goods¹. The same can be confirmed from Shilpa's annual report as well².
- i. Information provided by IOCL cannot be accepted by the Authority as no public version of the information has been circulated.
- j. Other producers of the subject goods in India are also not related to any exporter or importer from the subject countries, and they have not imported the subject goods from the subject countries and therefore, they cannot be excluded.
- k. The Authority while ascertaining the standing and the total production of the PUC must seek data from the jurisdictional central excise commissioner.
- l. Even if Raichem is an export-oriented unit, its production cannot be excluded while determining the total production of the PUC and the domestic industry. The Authority had considered export-oriented unit as a part of the domestic industry.
- m. The burden to prove standing is on the applicant and in the absence of information regarding the total production in India, the applicant cannot be assumed to have a major share in the total production in India.
- n. The Authority should terminate the investigation on the ground that the applicant has concealed information with regards to other producers of the PUC.

D.2. Submissions made by the domestic industry

16. The submissions made by the domestic industry in regard to the domestic industry and standing are as follows: -
- a. Arch Pharmed Labs Limited is the only existing producer of UDCA API in India.
 - b. IOL Chemicals Limited had a plan to produce UDCA on a campaign basis, but the current status of the production is unknown.
 - c. The domestic industry has not imported the subject goods from the subject countries.
 - d. The domestic industry is not related to either exporter of the subject goods from the subject countries or importers in India.

¹ Exhibit B of WS Submissions made by CCCMHPIE, Suzhou and Zhongshan.

² Exhibit C of WS Submissions made by CCCMHPIE, Suzhou and Zhongshan.

- e. Raichem Medicare is an export-oriented unit and has, therefore, not participated in the present investigation.
- f. IOCL has shared their data with the Authority and the Authority has found that the production of Arch Pharma constitutes major proportion of the Indian production.
- g. Shilpa Medicare Limited has a joint venture with ICE S.P.A, Italy, namely Raichem Medicare Private Limited, which is engaged in the production of advanced intermediate of the subject goods. All references in annual report of Shilpa Medicare Limited are with regard to Raichem Medicare Private Limited.

D.3. Examination by the Authority

17. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

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

18. With regards to the submissions made by the other interested parties, on other companies also undertaking production of UDCA, the Authority had sent communication to Raichem Medicare Private Limited and IOL Chemicals Limited for ascertaining their status of production. However, no response has been received from Raichem Medicare Private Limited. As per the information on record with the Authority, Shilpa Medicare Limited has entered into a joint venture with ICE S.P.A, Italy and formed a new entity, Raichem Medicare Private Limited. IOL Chemicals and Pharmaceuticals Limited has provided details of its production and sales and the same have been considered for the purpose of ascertaining the total Indian production and the Indian demand.
19. The other interested parties have also contended that Shilpa Medicare Limited is engaged in the production of the subject goods. As stated above Shilpa Medicare Limited has a joint venture in the name of Raichem Medicare Private Limited. All references in the annual report of Shilpa Medicare Limited are with regard to Raichem Medicare Private Limited. The Authority had also sent communication to Shilpa Medicare Limited but no information was received. Therefore, the Authority notes that Shilpa Medicare Limited cannot be considered as part of the domestic industry of the subject goods.
20. The Authority also notes the submissions of the interested parties with respect to the production capacity of Raichem Medicare Private Limited. In this regard, the applicant

has contended that the producer (Raichem) produces an advanced intermediate of the subject goods. It has also provided evidence that Raichem is an export-oriented unit (hereinafter referred to as EOU). In this regard, it is noted that the Foreign Trade Policy also provides that an EOU is required to export its entire production and can only sell in the domestic tariff area subject to the conditions laid down in the applicable laws. It is also noted that Rule 2(b) of the Rules or any other law does not explicitly lay down the exclusion of EOUs from the scope of the domestic industry and such units may be considered as part of the domestic industry to the extent of their domestic sales within the limit of their entitlement permitted under the Foreign Trade Policy of India and SEZ Rules, 2006. The Authority had sent communication to the producer but it did not respond and therefore any information regarding the Indian production and domestic sales of the producer is not available. Therefore, the producer cannot be considered in the scope of domestic industry.

21. With respect to the submissions made by the other interested parties regarding period of non – production during the POI, it is noted that the applicant’s production was affected by the dumped imports. The applicant was holding significant inventories of the product and was forced to suspend the production whenever faced with piling up of the inventories. It could not undertake further production as the shelf – life of the PUC is low and the PUC cannot be stored for a long period of time.
22. The applicant has not imported the subject goods in the period of investigation and is not related to any exporter in the subject countries or importer in India. The applicant accounts for major proportion i.e., more than 80% of the total production of the eligible production in India. Accordingly, the Authority holds that the applicant constitutes domestic industry under Rule 2(b) of the Rules, and the application meets the requirements of ‘standing’ as laid down in Rule 5(3) of the Rules.

E. MISCELLANEOUS SUBMISSIONS

E.1 Submissions made by the other interested parties

23. The miscellaneous submissions made by the interested parties are as follows: -
 - a. The domestic industry has relied upon secondary import data as against DGCI&S import data and claimed the same as confidential. Further, the domestic industry has not provided the source of the import data. The Authority is requested to share non-confidential import data with the respondents.
 - b. The non-confidential version of the application fails to meet the standards laid down in Rule 7 of the Rules and Trade Notice No. 1/2013 dated December 09, 2013 issued by the Director General.
 - c. Format VI (Costing Information) has been claimed completely confidential.

- d. Initiation notification does not reflect that the adjusted data has been considered for *prima facie* evaluation of injury.
- e. The adjusted data filed by the domestic industry does not provide an “objective examination” of injury.
- f. Special Economic Zone (SEZ) units are outside the Indian Customs Territories and imports made into SEZ should not be considered.
- g. The Authority in various past investigations such as the anti-dumping investigation concerning imports of non-woven fabric and safeguard investigation of electrical insulators did not consider the import data concerning SEZ.
- h. The Authority has also noted in its past investigations that SEZ units do not compete with other domestic units and such imports within SEZ do not cause any injury to the domestic industry.
- i. The Authority is requested to impose anti-dumping duty based on reference price as it had done in the preliminary findings.
- j. As per the provisions of the Companies Act, the domestic industry is required to appoint 2 directors as independent directors but only 1 independent director has been appointed. Similarly, the domestic industry has not appointed internal auditor and women director as well.
- k. The domestic industry has defaulted in its repayment of the dues to the financial institutions and statutory dues.
- l. The domestic industry has carried out an intermittent production of the like article and therefore, in the event, the domestic industry ceases production, the anti – dumping duty imposed for a period of five years would become redundant. Therefore, the Authority should recommend anti-dumping duties only for a period of 2 years.
- m. The Authority has in several past anti-dumping investigations such as O-Acid from China PR³, Uncoated Copier Paper⁴, Ofloxacin⁵ and Fluoroelastomers⁶ (FKM) recommended duty for only 2 years.
- n. The reference price set for exports from China PR to India is higher than the imported price of Italian UDCA, which is not a subject country.

E.2 Submissions made by the domestic industry

24. The miscellaneous submissions made by the domestic industry are as follows: -

³ Final Findings in Antidumping investigation concerning imports of O-Acid originating in or exported from China PR F.No. 14/31/2016 -DGAD dated 19th December 2017.

⁴ Final Findings in Sunset Review Anti-dumping Investigation Concerning Imports of "Uncoated Copier Paper" Originating in or Exported from Indonesia and Singapore Case No. 08/2021.

⁵ Final Findings in Anti – dumping investigation concerning imports of Ofloxacin and its intermediates” originating in or exported from China PR F.No. 6/12/2021-DGTR.

⁶ Final Findings in Sunset Review investigation concerning anti-dumping duty on imports of 'Fluoroelastomer,(FKM) originating in or exported from China PR Case No. (SSR) 02/2020.

- a. The consumption of porcine bile can lead to the transfer of H1N1 virus from pigs to humans. Ministry of Health and Family Welfare has declared the imports of UDCA extracted and prepared from porcine sources as a prohibited drug.
- b. The producers from the subject countries have claimed excessive confidentiality in their non-confidential response. Further, no non-confidential summary has been provided.
- c. As regards the contention of the other interested parties that the domestic industry has not appointed directors and defaulted in payments, DGTR is not the right forum to approach for the matters related to default in payments.
- d. The importers have not filed any importer questionnaire response. Any submissions made by them should not be considered by the Authority.
- e. Since the commencement of restructuring, the applicant's obligation has been to clear its dues towards its creditors first, before any statutory due can be discharged. As can be examined from the information provided, a significant share of the statutory dues has been deposited.
- f. The applicant has been in regular discussion with the relevant departments regarding its position and has entered into a mutual agreement under which all legal dues will be discharged in instalments.
- g. Due to poor financial performance in the past, no independent director was ready to associate themselves with the applicant.
- h. As per restructuring agreement entered with JMFARC, two independent observers from JMARC always attended all the board meetings. Further, since the restructuring process is now complete, the applicant is confident of appointing the required directors.
- i. As regards the internal financial controls system, reference is also drawn to the annual report for the applicant for the period 2020-21 wherein the statutory auditor has noted that the domestic industry has adequate internal financial control system over the financial reporting.
- j. The recommendation of anti-dumping duty for a period of 2 years is not a rule, rather such decision has to be reached on a case-to-case basis.
- k. In the investigation concerning Fluoroelastomers from China PR⁷, the reason recorded by the Authority for recommending imposition of anti-dumping duty for a period of 2 years was that the injury analysis was done for only 2 years.
- l. The investigation concerning imports of O-Acid from China PR⁸ was a material retardation investigation and the injury analysis was undertaken only for 12 months. The reason for recommending imposition of anti-dumping duty for a period of 2 years was the small period of injury analysis.

⁷ *supra* note 6.

⁸ *supra* note 3.

- m. The reason for recommending anti-dumping duty for only 3 years in the Ofloxacin⁹ investigation was based on the anti-dumping investigation concerning imports of O-Acid¹⁰.
- n. The Authority has in a plethora of investigations recommended duty for 5 years even when the domestic industry was in operation for a shorter period.
- o. The reason behind a higher benchmark for producers from China PR than the producers from European Union is because of the degree of dumping.

E.3 Examination by the Authority

25. The present investigation was initiated by the Authority based on the data and information provided by the domestic industry, after reaching a *prima facie* satisfaction that there is sufficient evidence of the dumping, injury and the causal link. Further, subsequent to the initiation, information has been sought from the domestic industry as well as other interested parties to the extent deemed necessary and the same has been provided by the parties to the investigation insofar as not explicitly mentioned herein.

26. On confidentiality of information, Rule 7 of the Rules provides as follows:

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

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information 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 authorize its disclosure in a generalized or summary form, it may disregard such information."

⁹ *supra* note 5.

¹⁰ *supra* note 3.

27. The Authority made available the non-confidential versions of the information provided by the various interested parties to all the interested parties.
28. The Authority examined the information provided by the domestic industry and other interested parties on a confidential basis for sufficiency of such claims in accordance with Rule 7 of the Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered as confidential.
29. With respect to the contentions raised by the other interested parties, regarding the failure of the applicant to comply with certain statutory requirements, the Authority notes that the scope of the present proceedings is limited to the determination of dumping, injury and the causal link between the subject imports and the injury suffered by the domestic industry, which precludes the issues raised by the interested parties. The same may be raised before the appropriate forum.
30. As regards the period of duration and the form of the recommended duty, the Authority will take a decision at the final stage of the investigation based on the facts of the present investigation.
31. With respect to claims regarding analysis of injury on the basis of normated data, it is noted that the injury analysis has been carried out on the basis of the actual data.
32. As regards the submission on higher reference price for Chinese imports as compared to the imports from non-subject countries, the Authority notes that the reference price has been calculated as per the consistent practice of the Authority considering the landed value of the imports and the lower of dumping or injury margin.

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

F.1 Submissions made by the other interested parties

33. The submissions made by the interested parties with regard to normal value, export price and dumping margin are as follows:
 - a. China's Protocol of Accession was only valid for 15 years. After 11th December 2016 irrespective of the classification of China PR under the domestic law of a particular WTO Member, normal value must be determined based on prices and costs of exporters from China.

- b. The WTO Appellate Body in *EC – Fasteners*¹¹ has confirmed that no WTO member country will be able to derogate from the standard rules on the determination of the normal value as stipulated in Art. 2 of the WTO Agreement on Anti-dumping.
- c. The normal value of China PR should be computed on the basis of cost of production/domestic sales prices in Korea RP. The Authority should rely on other alternatives for computation of normal value only when information regarding price or constructed value in a market economy third country is not available.
- d. The normal value cannot be determined as proposed by the domestic industry, on the basis of import price from European Union (Italy) as the level of development in Italy and China PR are not comparable. GNI per capita of China is almost half of the European Union.
- e. The export price from European Union to India is an unrepresentative export price as it has a separate market where applicant and imports are not present. The normal value should be constructed based on the cost of production in India after due adjustments.
- f. There is no dedicated HS code available to ascertain the export price from the European Union to India.
- g. The price from a third country to other countries, including India needs to be considered as average export price from such third country, including India. The export price to India alone cannot be considered as the basis in isolation.
- h. The cost of production is higher in European Union and therefore, the export price is also higher and unrepresentative.
- i. The subject goods imported from European Union are not directly competing with the subject goods imported from China.
- j. Emphasis needs to be given to the use of the term ‘price’ in the Rules and such price cannot be an export price to just one country.
- k. The export price to a single country from such a third country cannot be representative of price in that country and the claims of the applicant are not legally or factually justified.
- l. The issue of inconsistent interpretation has not been settled by the Hon’ble CESTAT and is open for fresh examination.
- m. Hon’ble CESTAT in the matter of *Kuitun Jinjiang Chemical Industry Co. Ltd v. UOI*¹² dealt with the determination of normal value based on the second method but the issue being raised here was not dealt in the matter specifically.
- n. There is a material price difference between the import price from China PR and that of the European Union because of the different target markets and compliance requirements.

¹¹ ¶289 Appellate Body Report, *European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China*, WTO Doc. WT/DS397/AB/R (adopted 28 July 2011).

¹² 2020 SCC OnLine CESTAT 143.

- o. The Authority should disclose the source of import data, relevant tariff heading, CIF import price, the adjustments and the final computed normal value in case of Italy as such information is not confidential.
- p. Zhongshan Belling Biotechnology Co. Ltd. has not claimed adjustments to the normal value as the normal value has not been determined based on the actual domestic selling price or the cost of production.
- q. The adjustments claimed by Zhongshan Belling Biotechnology Co. Ltd. to its export price have been incurred by it in its exports to India. Both ocean freight and air freight adjustments have been claimed as the product has been supplied by way of sea as well as air route.
- r. Sichuan Xieli Pharmaceutical Co., Ltd. has not filed the non-market economy questionnaire due to paucity of time for filing of information.
- s. Sichuan Xieli Pharmaceutical Co., Ltd. has made its entire exports through sea, therefore, ocean freight and marine insurance have been reported.
- t. Daewoong has reported the air freight in the ocean freight field as there was no air freight field mentioned in the questionnaire response.
- u. Daewoong has reported the benefits received under duty drawback on transaction-wise basis. The same has been calculated using the input chart which includes the export declaration number and input amount and duty values.

F.2 Submissions made by the domestic industry

- 34. The submissions made by the domestic industry with regard to the normal value, export price and dumping margin are as follows:
 - a. China PR should be treated as a non-market economy in accordance with Article 15(a)(i) of China's Accession Protocol and accordingly, normal value should be determined in terms of Para 7 of Annexure I of the Rules.
 - b. On 11th December 2016, only the provisions of Article 15(a)(ii) of China's Accession Protocol expired but that of Article 15(a)(i) continue to remain in force, which require the producers to show that they are operating under the market economy conditions. The Authority has considered China PR as a non-market economy in all the recent investigations unless the producers/exporters demonstrate that they are operating under the market economy conditions.
 - c. The producers/exporters from China must establish that the elements of costs referred to in the context of determination of normal value are appropriately and completely reflected in the records kept by the exporter /producer under the investigation.
 - d. The price lists or commercial invoices for sales in the local market of the country are commercially sensitive information and are therefore, not available in the public domain.

- e. Normal value may be determined on the basis of the estimates of the raw material and other conversion costs of the domestic industry and reasonable profits.
- f. The Authority has also in its past investigation of Melamine from China PR also determined normal value based on the export price from Qatar to India and the same was accepted by the CESTAT.
- g. The Authority must consider that CESTAT in *Kuitun Jinjiang Chemical Industry Co. Ltd. v. Designated Authority*¹³ held that when normal value is determined based on export price, the level of development is not relevant.
- h. The contention of other interested parties that normal value under Para 7 is required to be considered on the basis of export price to all countries is flawed and does not have any legal or economic basis. The Authority is required to only consider export price from a third country to a particular country.
- i. The producer from Korea RP should demonstrate that the duty drawback received was consumed in production of the subject goods only. There is no evidence provided by them.
- j. The producers from the subject countries did not provide adequate reply in the questionnaires with respect to information pertaining to the adjustments claimed in normal value.
- k. The Authority has allowed ocean freight and marine insurance in determination of the net export price. The PUC being a high-priced product is majorly shipped from air. Therefore, claims of ocean freight should be examined.
- l. There is not only difference between the Chinese price and European price, but there is also difference between domestic price and export price of these producers. The reason behind such difference is dumping of the subject goods.

F.3 Examination by the Authority

35. Under section 9A (1) (c), 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*

¹³ *supra* note 12.

- b. *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

36. The Authority notes that the following producers and exporters of the subject goods have filed exporter's questionnaire response: -

- i. Zhongshan Belling Biotechnology, China PR. ("Belling")
- ii. Sichuan Xieli, China PR. ("Xieli")
- iii. Sinobright Import and Export Co., Limited., China PR.
- iv. Farmasino Co., Limited, China PR ("Farmasino").
- v. Hangzhou Dawn Ray Pharmaceutical Co., Limited, China PR ("Dawn Ray")
- vi. Suzhou Tianlu Bio-pharmaceutical Co., Limited, China PR ("Tianlu")
- vii. Daewoong Bio Incorporated, Korea RP ("Daewoong").

F.3.1 Normal Value and Export price for China PR

Normal value for China PR

Market Economy Status for Chinese Producers

37. 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 use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

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

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

38. 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 the WTO Agreement on Anti-dumping read with the obligation under 15 (a) (i) of the Accession Protocol require the criterion stipulated in para 8 of Annexure I to the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire upon claiming the market economy status.
39. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I to the Rules which reads as under.

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

40. Para 7 of Annexure I to the Rules lays down the hierarchy for determination of normal value and provides that the normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like article, duly adjusted, if necessary, to include a reasonable profit margin. The Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under para 7 of Annexure I to the Rules.
41. The applicant has claimed normal value on the basis of the export price of the subject goods from European Union to India. The Authority, at the stage of initiation of the investigation, had considered constructed normal value for China PR.
42. The Authority notes the existing jurisprudence on determination of normal value in case of non-market economy, and decision of the Hon'ble Supreme Court in *Shenyang Mastsushita S. Battery Co. Ltd. vs. M/s Exide Industries Ltd.*¹⁴ Guwahati High Court in *M/s Century Plyboards (I) Ltd & Anr. vs. Union of India & Anr.*¹⁵ and CESTAT, Principal Bench, New Delhi in *Apollo Tyres Ltd. vs. Union of India, Kuitun Jinjiang Chemical Industry Co. Ltd. vs Union of India*¹⁶. These judgements provide directions regarding the implementation of Para 7 of Annexure 1 to the Rules with respect to the choice of an appropriate option, and associated obligations thereof.

¹⁴ 2003 SCC OnLine CESTAT 414.

¹⁵ 2022 SCC OnLine Gau 643.

¹⁶ *supra* note 12.

43. As the first requirement, the Authority is required to consider normal value on the basis of the price or constructed value in a market economy third country. However, neither the applicant nor any interested party has provided any information on costs or prices in any market economy third country. Further, no information in this regard is available in public domain. Therefore, normal value could not be determined on the basis of the price or constructed value in a market economy third country. The next option is to consider normal value on the basis of price from such a third country to other countries, including India. However, the PUC does not have dedicated customs HS code. Therefore, the normal value could not be determined on the basis of export price from market economy third country to other countries. The Authority has information available with regard to imports into India. The Authority examined the transaction-wise import data and found that there are significant imports from European Union to India. It is seen that around 47% of imports of the subject goods are from European Union, and there is no anti-dumping measure in force against the European Union. Further, the imports from European Union have not been considered as dumped imports in the present investigation. The Authority also notes in this regard, the decision of the Hon'ble CESTAT in the case of *Kuitun Jinjiang Chemical Industry Co. Ltd. vs. Union of India*¹⁷, wherein it was held that when normal value is determined based on exports from a market economy third country to India, the relevant criteria for determining appropriate market economy third country is the volume of exports from such country and that the country should not be dumping during the period of investigation.
44. It has been contended that if normal value is being determined based on the export price, then export price to all the countries is required to be considered. The Authority notes that Hon'ble CESTAT has already settled the issue in the matter of *Kuitun Jinjiang Chemical Industry Co. Ltd v. Union of India*¹⁸ wherein the Authority had determined the normal value on the basis of exports from Qatar to India. The Tribunal had observed that:

47. There is also no error in the determination of the normal value by the Designated Authority by resorting to the second method mentioned in paragraph 7 of Annexure-I to the 1995 Rules as none of the parties had suggested applying the first criteria set out in paragraph 7. The Designated Authority noted that exports from Qatar are next to China in terms of quantum as China accounted for 30303 metric tons and Qatar accounted for 16479 metric tons. Details have been stated in the disclosure statement of the Designated Authority which has been reproduced above in paragraph 39. No anti-dumping duty was imposed on goods from Qatar nor any antidumping investigation was in process and, therefore, the normal value of subject goods was correctly constructed by the Designated Authority after making the necessary adjustments.

¹⁷ *Id.*

¹⁸ *Id.*

45. Thus, while computation of normal value, the export price of the subject goods from all countries is not required in terms of the Hon'ble Tribunal's decision. However, notwithstanding the above, the Authority notes the submission of interested parties (both the domestic industry and opposing interested parties) wherein it has been contended that the subject goods imported from the European Union and that from the subject countries do not compete in the same market segment. Consequently, the normal value has been determined in terms of "price actually paid or payable in India" as stipulated in Para VII of the Annexure -I to the Anti-dumping Rules, 1995. The normal value has been computed on the basis of the cost of production of the domestic industry, with reasonable addition for selling, general and administrative expenses, and profits.
46. It has been submitted by the domestic industry that the PUC is majorly exported by air and therefore, claims of ocean freight and marine insurance require examination. The Authority notes that it has conducted on-site verification of the responding producer from Korea RP. On the basis of evidence submitted by all the producers it was seen that the subject goods have been exported via both modes of transportation. Accordingly, the Authority has considered actual freight paid by the exporters in determining ex-factory export price.

Determination of export price

a. Zhongshan Belling Biotechnology Co., Ltd, China PR (producer and exporter)

47. Zhongshan Belling Biotechnology Co., Ltd (Zhongshan), a producer and exporter of the subject goods in China PR, has filed the questionnaire response. During the POI, the producer has exported *** KG of the subject goods for *** USD\$ directly to unrelated customers in India. The producer has provided relevant information in the form and manner required, and has claimed adjustments on account of ocean freight, marine insurance, inland transportation, bank charges, port and other expenses, and credit cost. The Authority has undertaken desk verification and examined the claims made by Zhongshan and accordingly, the claims have been allowed. Accordingly, the net export price at ex-factory level for Zhongshan Belling Biotechnology Co., Ltd has been determined after allowing the due adjustments and the same is mentioned in the dumping margin table below.

b. Sichuan Xieli Pharmaceutical Co., Ltd. (Producer) and Sinobright Export and Import Co., Limited (Exporter)

48. Sichuan Xieli Pharmaceutical Co., Ltd. (Sichuan), a producer of the subject goods in China PR, has filed the questionnaire response. The producer does not directly export to

India. During the POI, the producer has exported the subject goods through Sinobright Export and Import Co., Limited (Sinobright). The exporter has exported *** KG of goods for *** USD\$ directly to unrelated customers in India. Sichuan and Sinobright have provided all relevant information in the form and manner required and have claimed adjustments on account of ocean freight, marine insurance, inland transportation and bank charges. The Authority has undertaken desk verification and examined the claims made by Sichuan and Sinobright, and accordingly, the claims have been allowed. Accordingly, the net export price at ex-factory level for Sichuan Xieli Pharmaceutical Co., Ltd has been determined after allowing the due adjustments, and the same is mentioned in the dumping margin table below.

c. **Suzhou Tianlu Bio-pharmaceutical Co., Ltd, China PR (producer), and Hangzhou Dawn Ray Pharmaceutical Co., Ltd and Farmasino Pharmaceuticals (Jiangsu) (exporters)**

49. Suzhou Tianlu Bio-pharmaceutical Co., Ltd. (Suzhou), who is a producer of the subject goods in China PR has filed the questionnaire response. The producer does not directly export the subject goods to India. During the POI, the producer has exported through Hangzhou Dawn Ray Pharmaceutical Co., Ltd (Dawn Ray) and Farmasino Pharmaceuticals (Jiangsu) (Farmasino). Suzhou has exported *** KG of goods for *** USD\$ directly to unrelated customers in India through Dawn Ray and Farmasino. Suzhou, Dawn Ray and Farmasino have provided all the relevant information in the form and manner required and have claimed adjustments on account of ocean freight, marine insurance, inland transportation, bank charges and credit cost. The Authority has undertaken desk verification and examined the claims made by Suzhou, Dawn Ray and Farmasino and accordingly, the claims made have been allowed. Accordingly, the net export price at ex-factory level for Sichuan Xieli Pharmaceutical Co., Ltd is determined after allowing the due adjustments including the loss incurred by **Farmasino Pharmaceuticals (Jiangsu)**, and the same is mentioned in the dumping margin table below.

d. **Other producers**

50. The export price for all other producers and exporters who have not participated in the present investigation has been determined on the basis of facts available and the same is mentioned in the dumping margin table below.

F.3.2 Normal value and export price for Korea RP.

Normal value

a. Daewoong Bio Incorporated, Korea RP

51. Daewoong Bio Incorporated (Daewoong) who is a producer of the subject goods in Korea RP has filed the questionnaire response. The producer has directly sold *** KG of the subject goods at the sale price of USD ***/KG out of which major share i.e., *** KG has been sold at a price to its related entity namely Daewoong Pharmaceutical Co., Ltd., Korea RP and rest of the quantity i.e., *** KG has been sold at a price of USD ***/KG to the unrelated parties directly in Korea RP.
52. The ex-factory sales price of the goods sold to their related party M/s Daewoong Pharmaceutical Co., Ltd. were noted by the Authority to be at a price significantly lower than the average selling price to other entities. Therefore, the sales of the goods through the related entity have not been considered by the Authority in determining the Normal Value.
53. Based on physical verification, it is noted that Daewoong's sales to unrelated party are in sufficient quantity in the domestic market. In order to determine the normal value, the Authority conducted the 'ordinary course of trade' test to determine the profit-making domestic sales transactions with reference to the cost of production of the subject goods. In case the profit-making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Daewoong's 80 % domestic sales were profitable and therefore, all unrelated sales have been taken into account for determination of normal value.
54. Daewoong has claimed adjustments on account of inland transportation, insurance, credit cost and bank charges - list of all claims to come. The Authority has undertaken physical verification of the responding producer and examined the claims made by the responding producer and the claims made by the responding producers have been allowed.
55. Accordingly, normal value at ex-factory level for Daewoong, has been determined after allowing due adjustments and the same is mentioned in the dumping margin table below.

b. Other producers

56. The normal value for all other non-cooperating producers and exporters of Korea RP has been determined based on facts available and the same is mentioned in the dumping margin table below.

Export price

a. **Daewoong Bio Incorporated, Korea RP**

57. The producer has directly exported to India. During the POI, the producer has exported *** KG of goods for *** USDS directly to unrelated customers in India. Daewoong has provided all the relevant information in the form and manner required and has claimed adjustments on account of ocean freight, commission, packaging cost, duty drawback, marine insurance, inland transportation, and bank charges- list of all claims to come. The Authority has undertaken physical verification of the responding producer and examined the claims made by the responding producer and the claims made by the responding producers have been allowed.
58. Accordingly, the net export price at ex-factory level for Daewoong has been determined after allowing the due adjustments, and the same is mentioned in the dumping margin table below.

b. **Other producers**

59. The export price for all other producers and exporters who have not participated in the present investigation has been determined based on facts available and the same is mentioned in the dumping margin table below.

F.5 Dumping margin

60. Considering the normal value and the export price for the subject goods, the dumping margins for the subject goods from the subject countries have been determined as follows:

Dumping Margin

SN	Particulars	Normal value USD/KG	Export price USD/KG	Dumping margin		
				USD/ KG	%	Range
1	China PR					
a	Zhongshan Belling Biotechnology Co., Ltd	***	***	***	***	130-140
b	Sichuan Xieli Pharmaceutical Co., Ltd.	***	***	***	***	120-130
c	Suzhou Tianlu Bio- pharmaceutical Co., Ltd	***	***	***	***	150-160
d	Others	***	***	***	***	210-220
2	Korea RP					

a	Daewoong Bio Incorporated	***	***	***	***	50-60
b	Others	***	***	***	***	70-80

G. EXAMINATION OF INJURY AND CAUSAL LINK

G.1 Submissions made by the other interested parties

61. Following submissions have been made by the other interested parties with regard to injury and causal link:

- a. The Authority must make an appropriate assessment of the injury caused to the domestic industry and follow the interpretative approach laid down by the Appellate Body in US – Hot Rolled Steel¹⁹ on non-attribution requirement.
- b. Imports into SEZ areas and under advance authorization/duty drawback cannot be automatically excluded from such domestic market. Such a segregation is not backed by law nor is it the consistent past practice of the Authority²⁰.
- c. The imports within SEZ should be excluded from injury analysis. The Authority has consistently held that such units are outside the scope of the domestic industry as they are a specific unit meant to promote export.
- d. The Authority is requested to examine the reason behind the applicant's raw material prices which is above the landed price of the subject goods.
- e. The Authority has compared the price trend of raw materials of the domestic industry and imported products during the injury period. The price of the subject goods should be compared with the price of the domestic industry.
- f. The decline in import price is due to the decline in prices of raw material and it is not due to dumping. The prices of the raw material in the injury period decreased by 50%. The producers from Korea RP have accordingly reduced their prices and supplied the product at reasonable prices.
- g. It cannot be expected that there will be no change in the selling price of goods over a period of four years. A decline in export price cannot lead to an assumption of dumping of the subject good. Zhongsan is earning profit on export sales to India and the same can be verified by the authority.
- h. The imports from China PR are necessary to meet the gap between demand and supply.
- i. The exports from China PR have remained in line with demand in India. Compared to 2019-20, the import volume from China PR has declined during the period of

¹⁹ Appellate Body Report, United States — Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan, WTO Doc. WT/DS184/AB/R (adopted 23 August 2001).

²⁰ ¶ 32 and 37 of the Final Findings in Anti – dumping Investigation Concerning Imports of Fluro Backsheet originating in or exported from China PR F.No. 06/03/2022 dated 29.03.2022.

investigation. Any increase is negligible as compared to increase in domestic industry's production and sale.

- j. The imports from Korea RP only account for one-fifth of the dumped imports volume. In contrast, the imports from China account for four-fifths of the entire volume. Therefore, the imports cannot be cumulatively examined.
- k. The volume of imports from Korea RP has declined sharply during the POI, whereas the same has increased significantly from China PR.
- l. Subject goods from Korea RP are being exported into India at a price almost 30% higher than the prices of the subject goods from China PR.
- m. Negative price undercutting implies that domestic industry is offering goods below the lowest import price and it is causing price injury to the foreign exporters.
- n. Negative price undercutting implies that applicant may offer the goods produced by it at a higher price in the Indian market.
- o. The applicant has not stated the reasons for offering goods at the lowest price when the import price from the subject and non-subject countries have always remained substantially above.
- p. Decline in selling price is less than the decline in the cost of sales which shows that there is no price depression or price suppression on account of the subject imports.
- q. If the low-priced imports from China PR were suppressing the price of the domestic industry, such imports would have suppressed the prices of the imports from the non-subject countries as well. The market share of the non-subject countries has almost remained the same during the entire injury period.
- r. India is a price sensitive market. The demand is driven by the prices offered by the suppliers. Therefore, if there is an increase in the inventory of the applicant despite offering a low price then it is because the consumers are not buying the subject goods from the applicant.
- s. If the domestic industry claims that it has been forced to reduce prices consistently due to the low-priced subject imports, then it should have been able to replace imports into India. However, it is unable to sell the like article even at low prices and its inventory has piled up despite the product having a low-shelf life.
- t. The cost of sales of the domestic industry has increased without any corresponding increase in the cost of raw materials. While the raw material cost has increased only by 3 %, the cost of sales has gone up by 25%.
- u. The applicant has lowered its prices to match with the low-priced imports. It is expected that as the price of the like article decreases, the market share of the applicant is expected to increase. However, the applicant is not able to sell the product even at low prices.
- v. The applicant is contradicting its own submissions. On one hand it has been argued that the applicant reduced its prices by offering discounts to match the import prices and on the other hand, it is claiming that it was forced to shut down its production

because it was not able to sell its production due to the unfair competition it faced from the low-priced imports from the subject countries.

- w. The domestic industry produced only for 2 months in the year 2017-18 and sold only in 1 month.
- x. The domestic industry has not provided suitable reasons for this suspension in production. The production was suspended because of poor offtake and higher inventory volumes.
- y. Out of the total injury period of four years and three months (a total of 51 months), the domestic industry has produced the like article only for 26 months.
- z. The domestic industry has carried out production in only 7 of the 15 months POI.
- aa. The product is being used for medicinal purposes and has a limited shelf life. The piling-up inventory of the product has adversely impacted the selling efficacy.
- bb. The production, capacity utilization, and sales of the domestic industry have increased during the base year as well as in the injury period.
- cc. The domestic industry started production in February 2018 and is a new nascent industry. The injury to the domestic industry, if any, is on account of start-up difficulties that are common during the initial gestation period.
- dd. The domestic industry's market share has increased remarkably which shows that there is no adverse impact.
- ee. The piling up of the inventory has impacted the quality of the PUC sold by the applicant.
- ff. The data on change in productivity, employment, and wages has not been provided on the premise that there is no injury claimed. The application is deficient.
- gg. The domestic industry has claimed an increase in inventory despite offering the like article at the lowest price. This demonstrates that the consumers are not buying the subject goods from the domestic industry despite being offered at lowest price.
- hh. The comparison carried out in Paragraph 64 of the provisional findings between the price of the imported product and the raw material of the domestic industry is flawed. A fair comparison should entail an analysis of the producers' export price and its raw material price.
- ii. The cost of the raw material used by the domestic industry is unreasonably high and the Authority should examine the reason behind the same.
- jj. A return of 22% on capital employed should not be applied mechanically. The CESTAT in various decisions has held that a return on 22% is not correct. As per the EU practice, the profit margin should be arrived at by calculating return when there was no dumping.
- kk. The NIP as well as the duty should be recommended in terms of INR in consonance with the judgement of Gauhati High Court in *Century Plyboards (I) Limited and Ors. vs. Union of India and Ors.*²¹

²¹ *supra* note 15.

- ll. COVID-19 pandemic is the major cause for injury to the domestic industry and the Authority should ascertain its impact on the domestic industry.
- mm. The alleged injury suffered by the domestic industry is due to factors other than the subject goods from the subject countries.
- nn. The domestic industry has filed optimised data but injury should be examined as it exists²² and not on optimised basis. The applicant has not disclosed methodology with regards to the normated data.
- oo. The primary reason for the decline in sales volume and increased inventory is none other than the inferior quality of the product offered by the domestic industry.
- pp. In its analysis for market share, the Authority has effectively divided the domestic market into 2 segments - a) UDCA for final sales of formulations for domestic consumption and b) UDCA for final sales of formulations in export market.
- qq. If the Authority concludes that subject imports from EU into India are not competing with the domestic industry and imports from China PR, then the Authority cannot consider export price from EU into India for the purpose of determination of normal value for China PR.
- rr. The domestic industry's expenses contain exceptional items worth Rs. 2,74,403 lacs. The Authority should examine the same.
- ss. The volume of subject goods from Italy have increased exponentially even though their prices are significantly higher. Therefore, there are some other factors that customers consider than the price.
- tt. The domestic industry would be incurring additional fixed cost and maintenance cost for the remaining three non-operational manufacturing sites and its cost should be excluded from calculation of non-injurious price. Further, the PUC is manufactured in only one site.
- uu. The domestic industry manufactures several products and has been incurring losses as a whole.
- vv. The domestic industry has a history of losses as it had suffered losses even when there were no dumped imports. The current losses cannot be attributed to imports.
- ww. The rise in inventory in the POI is because of the piled-up inventory of 2019-20. Moreover, as observed by the Authority in a recent investigation²³ if the domestic market was unviable for the applicant, it could have exported the PUC produced by it to other markets.
- xx. The applicant is suffering injury from past on account of mismanagement and the same exist in the present injury period also.

²² Final Findings in Anti-dumping investigation concerning imports of "Sodium Hydrosulphite" originating in or exported from China PR and Korea RP F.No. 6/35/2020-DGTR. Final Findings in Anti-dumping investigation concerning imports of "Polyester Yarn polyester Spun Yarn)" originating in or exported from China PR, Indonesia Nepal and Vietnam F.No. 6/10/2020-DGTR.

²³ ¶ 109, 228 Final Findings in Anti – dumping investigation concerning imports of TDI from EU, Saudi Arabia, Chinese Taipei and the United Arab Emirates Case No. ADD (O.I.) 34/2019.

- yy. It is necessary to examine the competitiveness of the applicant's overall business considering its past business failure history through delisting and rehabilitation procedures under BIFR.
- zz. The domestic industry had amassed huge amounts of debt and was declared a sick industrial company vide BIFR order. Due to various instances such as CDR, BIFR and winding up petition, there was total stoppage of the business between 2013-2016.
- aaa. The domestic industry entered into a restructuring agreement with M/s JM Financial Asset Reconstruction Company Ltd. which has been approved till the period 31.03.2024.
- bbb. The applicant has been facing losses from the beginning, and has undergone the process of restructuring with the support from M/s. J M Financial Asset Reconstruction Co. Ltd. and has not overcome the situation yet.
- ccc. The reasons for injury being caused to the domestic industry are the company's inability to repay the loans, weak net worth positions, restructuring plans, etc.
- ddd. The domestic industry has defaulted on interest payments of INR 780.54 lacs on loans at the end of 2020-21 and total default of dues to financial institution is INR 8,989.13 lacs at the end of the year 2020-21.
- eee. The total debt incurred by the domestic industry exceeds its total equity disproportionately by almost ten times. This shows that the domestic industry is not operating in a financially prudent manner.
- fff. The bad debt written off by the domestic industry is higher than its total revenue from operations. Such generation of bad debts and writing off of bad debts is not indicative of a sustainable business operation.
- ggg. Only 5 out of the 8 plants of the domestic industry are operational. The closure of the remaining three sites has also caused injury to the domestic industry.
- hhh. The domestic industry has claimed that the export price of the subject goods has steeply declined in the post-POI period. It is submitted that post-POI data is not examined in original investigation.
- iii. The domestic industry has not provided updated information with regard to demand and imports.

G.2 Submissions made by the domestic industry

62. The following submissions have been made by the domestic industry:
- a. The production and sales information of other Indian producers would be an important indicator in the assessing the Indian industry's analysis as well as the injury to the applicant and its business competitiveness.
 - b. The imports from the subject countries declined in the year 2018-19 due to the commencement of production by the domestic industry in 2017-18 as well as the

increase in imports from European Union. Subject imports have increased thereafter in the year 2019-20 and have further increased in the POI.

- c. The imports of the PUC from the subject countries have increased over the injury period.
- d. There has been a sharp increase in the volume of imports in the POI with a steep decline in the landed price of imports.
- e. The market share of the domestic industry is significantly below the share that it is capable of catering.
- f. The sales volumes, output/production, or utilisation of capacity have all increased over the injury period. The increase was natural as the domestic industry commenced production in the year 2017-18 only.
- g. The domestic industry has not been able to utilize even 30% of its capacity annually over the injury period because of the dumped imports.
- h. The marginal increase in production and sales have increased only due to the fact that the domestic industry is selling at prices matching the lowest price in the market.
- i. Even at the optimum cost of production, the domestic industry has earned profits in the base year which increased in 2018-19. However, with the rise in imports from the subject countries, the domestic industry was forced to reduce its prices and has consequently, suffered in the POI.
- j. Cash profits and return on capital employed have increased in the year 2018-19 but have declined and turned negative in the year 2019-20, These parameters have further declined in the POI.
- k. Contribution earned by the domestic industry was positive upto 2018-19 but turned negative in the year 2019-20 and even in the period of investigation.
- l. Average inventory has increased sharply over the injury period. The closing inventory in the proposed POI was almost 40% of the annual domestic sales.
- m. The domestic industry has recorded a positive growth in the volume parameters, whereas its growth has been negative in price parameters.
- n. Price undercutting is positive for China PR and negative for Korea RP. Price undercutting for China PR in some of the months during the POI has been as high as 26%.
- o. Price undercutting is marginally negative for the subject countries because the domestic industry has been forced to match its prices with the low -priced subject goods from the subject countries to sell in the market.
- p. There are significant imports below the selling price of the domestic industry.
- q. Price underselling is positive.
- r. The landed prices of the imports are below the cost of sales of the domestic industry.
- s. While the volume of imports from the European Union is above the *de – minimis* limit, the landed price of such imports has been significantly higher than that of

selling price of the domestic industry as well as the landed price of the imports from the subject countries.

- t. Demand has increased over the injury period and any possible decline in demand is not a cause of injury to the domestic industry.
- u. The domestic industry has not faced any constraints relating to raw materials shortage, power shortage, impact of any tax differential, lack of adequate capacity or investment constraints, etc. in relation to the production or sales of the subject goods.
- v. The domestic industry in 2013 and 2018 was declared as a 'sick' unit as per the SICA Act. However, the SICA Act was repealed, and the domestic industry came out of the purview of the same. Further, after the recommendation of the creditors, the domestic industry underwent restructuring. Post restructuring, the domestic industry's performance has improved from 2020 to 2022.
- w. The applicant's operations have now been EBITDA positive, with an impressive growth in year over year revenues. The applicant has recorded a positive EBITDA in the financial year ending 2020, 2021 and 2022.
- x. The exceptional items amounting to Rs 2744 crore were on account of writing back of loans. This was in line with the restructuring exercise that was undertaken by the company in coordination with JMFARC resulting in the company's debt becoming leaner and sustainable.
- y. Volume of imports from Korea as considered by the Authority in the preliminary finding is understated. There is only one producer in Korea and the Authority can verify the claim of the applicant from the data provided by the Korean producer.
- z. There has been significant decline in the import price of the subject goods from the subject countries after the commencement of commercial production of the subject goods by the domestic industry.
- aa. The law does not require that both price undercutting and price suppression or depression must be examined to see the impact of price effect on the domestic industry. As per law only one should be examined either price undercutting or price suppression or depression.
- bb. The selling price of the domestic industry is fluctuating as there is a fluctuation in the landed price of the subject imports from the subject countries. This is further pushing the customers to bargain the prices with the domestic industry.
- cc. The inventory holding of the domestic industry has been increasing, as the import price of the subject goods is declining. The PUC is of high value with low shelf life. Thus, the domestic industry is left with only one option which is to stop its production.
- dd. Due to the continued dumping and decline in the import price of the subject goods from the subject countries, the domestic industry has been forced to reduce its selling price. This has resulted into financial losses, cash losses and negative returns to the capital employed.

- ee. The performance of the company as a whole is irrelevant in the investigation as the rules clearly state that the Authority needs to examine the performance of the domestic industry with respect to the product under consideration. Further, the domestic industry has charged the finance cost on working capital in the calculation of the cost of production.
- ff. There has been a significant rise in the volume of imports from the subject countries in the post-POI period.
- gg. It has not been shown by the Government of Korea as to how cumulative assessment is not appropriate. A mere claim that the share of imports from Korea is lower in total imports does not suffice the requirements.
- hh. The imports from the subject countries compete with each other. Imports from both the countries are like article. None of the producers from the subject countries have claimed any difference in their product.
- ii. The imports from both the subject countries are used interchangeably. The producers from the subject countries have also sold the product to the same set of customers.
- jj. Import price of the subject goods from the subject countries have moved in tandem.
- kk. There is no reason to compare the prices of the exporting producers with import price. The price of the raw materials of the domestic industry are international prices as the same has been purchased from unaffiliated companies. Further, the response of the producers clearly establishes that they are dumping the subject goods.
- ll. Post restructuring, the applicant has been able to improve its performance in 2020-21 and 2021-22. Further, the applicant has been able to write off its bad debts of 2013, which shows that the applicant is recovering and if such bad debts were to be removed, it will become clear that the applicant is in profit.
- mm. The applicant has stopped its production as it was not able to fetch prices even more than the raw material prices.
- nn. The submission of the interested parties that return on NIP should not be allowed at 22% has no merit as the Authority has been allowing return at 22% almost consistently in every case for s without considering the actual rate of return earned by the domestic industry during the period when there was no dumping.
- oo. The financial losses suffered by the domestic industry has led to the accumulation of such high loan volumes. However, the situation has changed now, and the domestic industry has recorded better performance. The fact that the domestic industry's total debt exceeds the total equity by huge margin, does not prevent it from seeking appropriate remedy from imports.
- pp. The bad debts amounting to Rs.825 Crore which were written off in FY21 pertained to a period 2013 - 14 and were irrecoverable despite all efforts by the company. The bad debts do not pertain to UDCA and such expenses have not been charged to UDCA cost in the costing formats provided along with the application.

- qq. The applicant was earning profits till the end of financial year 2013-14 and revenue showed an increasing trend. However, in 2013, company went through various financial challenges, which directly impacted the profitability of the company as a whole.
- rr. The applicant despite all its efforts between 2013 and 2016 found it untenable to continue its operations and suspended its operations and plants were shut. However, during the financial year 2017 and 2018, the applicant has gradually re-started operations at 5 out of 8 manufacturing sites, including the Vitalife Division where the PUC is produced. The domestic industry has not charged any expense pertaining to the 3 plants which are not operational.
- ss. The product has a shelf life of 24 months and the applicant has never faced a situation where it was forced to sell at low prices because a significant life of the product had expired. However, because of the low-shelf life and high inventory, the applicant was forced to suspend production.
- tt. The reason behind the significant fluctuation in the prices is the fact that the consumers had placed the order before and the shipment was received at a much later date. The customers negotiate with the applicant based on these prices. In order to sell its product, the applicant domestic industry is not left with any option to undertake these sales

G.3 Examination by the Authority

- 63. The Authority has taken note of the various submissions made by the other interested parties and the domestic industry and has analyzed the same considering the facts available on record and the applicable laws. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the interested parties.
- 64. Article 3 of the WTO Agreement on Anti-Dumping and Annexure II of the Rules provide that in case where the subject imports from more than one country are being simultaneously subjected to an anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
 - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

65. The other interested parties from Korea have opposed the cumulation of subject imports from the two subject countries on a two-fold ground, that imports from Korea only account for 1/5 of the dumped import volume and therefore, they do not compete with imports from China PR. In order to ascertain whether cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles, the following parameters are required to be examined: -
- a. Whether the products supplied by different parties are like articles and are comparable in properties?
 - b. Whether the domestically produced products and the imported products are interchangeable?
 - c. Whether there is direct competition between the domestic product and the imported product and inter-se between the imported product?
 - d. Whether the consumers are using domestic material and imported material interchangeably and the exporter and the domestic industry have sold the same product to same set of customers?
 - e. Whether the import price from the subject countries have moved in tandem?
66. The Authority notes that:
- a. The subject good are being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than de minimis limits prescribed under the Rules.
 - b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - c. Cumulative assessments of the effects of imports are appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.
67. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from the subject countries on the domestic industry.
68. The goods produced by the domestic industry are like articles to the subject goods from the subject countries. The subject goods produced by the domestic industry and subject goods imported from subject countries can be used interchangeably. Further, the users of the subject goods have switched between the two sources. The imports prices of the subject goods from the two subject countries have also moved in tandem. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from China PR and Korea RP.

69. Rule 11 of the Rules read with Annexure II to the Rules 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 effects 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 such dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared to the price of the like article in India, or whether the effect of such imports is otherwise to depress the 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 examined in accordance with the principles laid down in Annexure II to the Rules.
70. It has been submitted by the interested parties that the volume of subject imports from Korea considered by the Authority in the preliminary finding are low. The information regarding the volume of imports considered by the Authority, information provided by the applicant and volume reported by the Korean producers is shown below.

SN	Imports from Korea	UOM	2018-19	2019-20	2020-21	POI
1	As per DG System's data	KG	3,462	9,122	9,860	10,075
2	As per applicant's data	KG	18,501	19,377	22,025	21,500
3	As per exporter's data	KG	18,221	19,151	23,275	26,950

71. During the physical verification conducted at the premises of the responding producer from Korea, it was found that the entire volume of exports made by the Korean producer to a particular importer in India were not reflected in the DG Systems data. This had resulted in the under reporting in the volume of imports from Korea. Since there is only one producer from Korea which has exported to India, the Authority has considered the volume of imports from Korea based on the exports reported by the Korean producer in their response. Further, this information has been duly reconciled with the information provided by the applicant.
72. The other interested parties have made several submissions with respect to the domestic industry's declaration as a sick unit and that it had ceased to operate between the period 2013-2016. The Authority notes that the information provided pertains to a period which was prior to the injury period. It is noted that the Sick Industrial Companies (Special Provisions) Act, 1985, was repealed in 2016 and on the basis of information on record, the winding up application came out of the purview of the Act. Further, all winding up applications filed against the applicant were withdrawn by 2018. Further, no evidence has

been submitted that the production and sale of the domestic like product has declined on account of the past sickness of the domestic industry. The Authority is required to examine if the subject goods are being dumped and whether domestic industry has suffered material injury as a consequence. In order to examine the same, the Authority has considered the data pertaining to the PUC only for the injury period.

73. As regards the contention that the domestic industry had a history of losses which are impacting the performance of the PUC, the Authority notes that the financial challenges faced by the domestic industry were completely prior to the commencement of production of the like article. Further, the domestic industry has not charged these costs to the PUC. Therefore, the past history of the domestic industry cannot be linked with the adverse performance of the PUC.
74. On the submissions raised by the other interested parties with regard to the increase in applicant's inventory due to the inferior quality of the products supplied, the Authority notes that the interested parties have not supplied any substantive evidence to establish this claim.
75. It has also been contended that the PUC has a limited shelf life which is impacting the selling price of the applicant. The Authority notes that the reason behind the piling up of inventories is the low price of the dumped imports. It is also seen that the product has a shelf life of 24 months. Therefore, the applicant was forced to make sales as a consequence of rise in inventory. This fact establishes the extent of injury being caused by the dumped imports to the domestic industry.
76. As regards the comments on long-term viability of the domestic industry due to continuous losses, the Authority notes that the current performance of the domestic industry at the company level has shown growth. The domestic industry's revenue has shown year on year improvement and the domestic industry has recorded positive earnings before depreciation in 2021 - 22 on company level.
77. As regards the issue of normated data, it is noted that the domestic industry had provided the normated as well as actual data. The injury analysis has been carried out on the actual data of the domestic industry.
78. On the issue of normal value, with respect to submissions related to the non-consideration of export price of the subject goods from the European Union that the subject goods from the European Union and the subject countries do not operate in the same market segment, the Authority notes that it has not considered the prices of the European Union to compute the normal value.

79. With respect to the submissions of other interested parties related to the start-up difficulties that could have impacted the performance of the domestic industry, it is noted that the domestic industry has been in operation for more than four years. During the POI, the contribution earned by the domestic industry has been negative. Presently, the domestic industry has been selling the subject goods significantly below the price of the raw material, which shows that it is the low-priced subject imports which has forced the domestic industry to sell the subject goods at such low prices.
80. It has been contended that the raw material cost and the selling price of the domestic industry should be examined to analyse why the applicant has been selling below the raw material cost. The information pertaining to the cost of raw material, the selling price of the domestic industry and the landed price of imports is given below.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Selling Price	Rs/Kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>65</i>	<i>68</i>	<i>62</i>
2	Landed Price	Rs/Kg	24,405	19,757	17,019	16,293
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>81</i>	<i>70</i>	<i>67</i>
3	Raw material cost	Rs/Kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>90</i>	<i>93</i>	<i>89</i>

81. It is noted that over the injury period, the raw material price of the domestic industry has declined only by 11 index points whereas the landed price of the subject imports has declined by 33 index points. It can also be seen that the landed price of imports is below the raw material cost of the domestic industry in the POI as well as the year preceding the POI. With the continuous decline in the landed value of the subject imports, the domestic industry's selling price has further declined which ultimately led to a situation wherein the domestic industry sold the product at a significant lower price than even its raw material cost.
82. It has been contended by the other interested parties that the import price has declined due to the decline in the raw material price of the exporters. It is seen that while the raw material cost has declined only by 11 index points, the import price of the subject imports has declined at a much higher rate. Further, the domestic industry has imported raw material from unaffiliated suppliers and therefore, the prices of the domestic industry also reflect international price. During the examination of response filed by Daewoong Bio, the producer from Korea RP, it is noted that the prices of the raw material for total sales as well as export sales to India has increased in the POI as compared to the preceding year. The Authority also notes that it has found positive dumping even from the data filed by the responding producers and the dumping margin is significantly high. Therefore, the

contention that the decline in import price is due to decline in raw material price cannot be accepted.

83. With regard to the submissions that COVID-19 pandemic is a major cause for the injury caused to the domestic industry, the Authority notes that when country wide lockdown was imposed due to the outbreak of the pandemic, the domestic industry being engaged in the pharmaceutical sector, which forms part of essential services, was allowed to undertake production. The interested parties have not established how the pandemic impacted the performance of the domestic industry.
84. With regard to issues raised by the interested parties on the intermittent production of the like article by the domestic industry, and low-capacity utilization, the Authority notes that since the product has limited shelf life and the sales volumes of the domestic industry remained materially below the production volume, the domestic industry was forced to undertake production intermittently. It produced in some months, which led to an increase in the inventory, and consequently, further production was halted. It was submitted by the applicant that when the production volumes were kept low initially, the production became more continuous. On the basis of monthly records, it is noted that the applicant undertook significant reduction in the production due to a steep rise in inventory. The applicant was forced to cease production and remain out of production for quite a long period. However, it is noted that while production was ceased, the sales continued from piled up stocks.
85. The Authority considers that the low production by the domestic industry is not due to factors other than dumping and therefore it would be appropriate to consider the actual cost of production of the domestic industry for the purpose of determination of profit, cash profit and return on investment. Therefore, the Authority has considered the actual cost of production during the POI for the purpose of determination of profit, cash profit and return on investment.

SN	Period	Capacity	Opening Stock	Production	Domestic Sales	Closing stock	Capacity Utilisation
		KG	KG	KG	KG	KG	%
1	Oct-20	***	***	***	***	***	***
2	Nov-20	***	***	***	***	***	***
3	Dec-20	***	***	***	***	***	***
4	Jan-21	***	***	***	***	***	***
5	Feb-21	***	***	***	***	***	***
6	Mar-21	***	***	***	***	***	***
7	Apr-21	***	***	***	***	***	***
8	May-21	***	***	***	***	***	***

9	Jun-21	***	***	***	***	***	***
10	Jul-21	***	***	***	***	***	***
11	Aug-21	***	***	***	***	***	***
12	Sep-21	***	***	***	***	***	***
	Total	***	***	***	***	***	***

SN	Period	Capacity	Opening Stock	Production	Domestic Sales	Closing stock	Capacity Utilisation
		KG-Trend	KG-Trend	KG-Trend	KG-Trend	KG-Trend	%- Trend
1	Oct-20	100	100	-	100	100	-
2	Nov-20	100	50-70	-	60-80	40-60	-
3	Dec-20	100	20-40	-	10-30	30-50	-
4	Jan-21	100	20-40	100	20-40	170-190	100
5	Feb-21	100	100-120	10-30	10-30	200-220	10-30
6	Mar-21	100	120-140	30-50	20-40	250-270	30-50
7	Apr-21	100	140-160	-	60-80	190-210	-
8	May-21	100	110-130	-	110-130	120-140	-
9	Jun-21	100	70-80	-	0-20	110-130	-
10	Jul-21	100	70-80	-	-	110-130	-
11	Aug-21	100	70-80	10-30	70-90	80-100	10-30
12	Sep-21	100	50-60	-	40-60	60-80	-

86. The other interested parties have submitted that out of the eight plants of the domestic industry only 5 plants are in operation and therefore, the cost of three other plants should be excluded. The Authority notes that it has verified the information provided by the applicant. The three plants were shut down by the applicant after its financial issues during the period 2013-16 and production has not commenced on these plants. The expenses incurred in these non- operational plants have not been included in arriving at the total cost of the PUC.
87. The Authority notes that it is not necessary that all parameters of injury must show deterioration. Some parameters may show deterioration, while some others may not. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and other interested parties.

G.3.1. Volume effect of dumped imports on the domestic industry

a. Assessment of demand/ apparent consumption

88. For the purpose of the present investigation, demand or apparent consumption of the subject goods in India has been defined as the sum of domestic sales of the domestic industry in India and imports from all sources. The demand so assessed is given in the table below:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Sales of domestic industry	KG	***	***	***	***
	Trend	Indexed	100	89	91	123
2	Sales of other Indian producers	KG	***	***	***	***
	Trend	Indexed	100	464	188	48
3	Imports from subject countries	KG	53,741	56,349	83,135	70,815
	Trend	Indexed	100	105	155	132
4	Import from other countries	KG	37,298	44,060	47,866	47,650
	Trend	Indexed	100	118	128	128
5	Total demand/ consumption	KG	***	***	***	***
	Trend	Indexed	100	114	140	128

89. It is seen that the demand for the PUC has increased consistently over the first three years of the injury period, with a marginal decline in the POI, as compared to the immediately preceding period. Overall, the demand has increased over the injury period. The volume of imports has also increased during the entire injury period except in the above POI but is still significantly above the base year level. Further, despite a marginal decline in demand the sales of the domestic industry have increased.

b. Import volumes from the subject countries

90. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports from the subject countries, either in absolute terms or relative to production or consumption in India. The same is analyzed as follows:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Subject countries	KG	53,741	56,349	83,135	70,815
i	China PR	KG	35,520	37,198	59,860	43,865
ii	Korea RP	KG	18,221	19,151	23,275	26,950
2	Other countries	KG	37,298	44,060	47,866	47,650
3	Total	KG	91,039	1,00,409	1,31,001	1,18,465
4	Subject countries import in relation to -					
i	Indian production	%	***	***	***	***
	Trend	Indexed	100	176	123	146

ii	Demand	%	***	***	***	***
	Trend	Indexed	100	92	111	103
iii	Total imports	%	59.03%	56.12%	63.46%	59.78%

91. It is seen that: -

- a. The volume of imports from the subject countries have increased till the year 2020-21 but has declined in the POI. However, the decline in the volume of imports has been in relation to imports from China only and not from Korea. The volume of imports from Korea has grown consistently and is significantly above the base year level.
- b. While the imports in the POI have declined as compared to the year 2020-21, the imports have increased as compared to the base year. Overall, the subject imports from the subject countries have increased during the injury period except in the POI.
- c. Despite the decline in the volume during the POI, the imports from the subject countries continue to hold a significant share in demand.
- d. The imports from the subject countries have increased consistently and significantly over the injury period in relation to the total imports in India, the demand in India and production in India.
- e. The level of demand in the POI was significantly high as compared to production and domestic sales of the domestic industry. Thus, the decline in demand in the POI as compared to preceding year was not a cause of injury to the domestic industry. The domestic industry could have achieved a capacity utilization of 100% in the POI in the absence of dumped imports in the POI. The capacity utilization of the domestic industry was however only ***%.

G.3.2 Price effect of the dumped imports on the domestic industry

92. With regard to the effect of the dumped imports on the prices of the domestic industry, it is required to be examined whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries has been examined through price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, and net sales realization (NSR) of the domestic industry have been compared with landed price of imports of the subject goods from the subject countries.

a. Evolution of price

93. The Authority has examined the trend of import prices and raw material cost over the injury period and is shown below.

SN	Period	Raw material cost – Rs/KG	Trend	Landed price Rs/KG	Trend
1	2018-19	***	100	24,405	100
2	2019-20	***	90	19,757	81
3	2020-21	***	93	17,019	70
4	POI	***	89	16,293	67

94. It is seen that the raw material cost has decreased by 11 index points over the injury period. However, the landed price has declined by 33 index points. The landed price in the POI is below the raw material cost of the domestic industry.
95. It is seen that prior to the commencement of production by the applicant, imports from the subject countries were priced in the range of 330-340 USD/KG. However, post the commencement of production by the applicant, import prices have started declining and are in the range 210-220 USD/KG.
96. The Authority compared the import price from subject countries and non-subject countries. It is seen that the decline in the import price from subject countries was too steep & significant as compared to non-subject countries

SN	CIF Price	UOM	2018-19	2019-20	2020-21	POI	Decline in POI
1	Subject Countries	Rs/KG	23,573	19,084	16,414	15,816	-33%
a	China	Rs/KG	22,887	18,535	15,289	14,014	-39%
b	Korea RP	Rs/KG	24,911	20,150	19,308	18,749	-25%
2	Other Countries	Rs/KG	31,896	30,223	29,539	29,612	-7%

b. Price undercutting

97. For the purpose of price undercutting analysis, the net sales realization of the domestic industry has been compared with the landed value of imports from each of the subject countries. Accordingly, the undercutting effects of the dumped imports from the subject countries work out as follows:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Net Sales Realisation	Rs/Kg	***	***	***	***
2	Subject Countries as a whole					
i	Landed Price	Rs/Kg	24,405	19,757	17,019	16,293
ii	Price Undercutting	Rs/Kg	***	***	***	***

iii	Price Undercutting	%	***	***	***	***
iv	Price Undercutting	Range %	(0-10)%	(15-25)%	(0-10)%	(0-10)%
3	China PR					
i	Landed Price	Rs/Kg	24,146	19,554	16,129	14,785
ii	Price Undercutting	Rs/Kg	***	***	***	***
iii	Price Undercutting	%	***	***	***	***
Iv	Price Undercutting	Range %	(0-10)	(20-30)	0-10	(0-10)
4	Korea RP					
I	Landed Price	Rs/Kg	24,911	20,150	19,308	18,749
Ii	Price Undercutting	Rs/Kg	***	***	***	***
Iii	Price Undercutting	%	***	***	***	***
Iv	Price Undercutting	Range %	(0-10)%	(15-25)%	(10-20)%	(15-25)%

98. The Authority notes that the price undercutting is marginally negative in case of China PR which shows that the domestic industry's prices and import prices of the PUC from China are moving in tandem. However, the price undercutting is significantly negative in case of Korea RP. The overall price undercutting is also negative.

99. With respect to the submission that the applicant has been selling below the import price of the PUC, the domestic industry has explained that there has been a significant fluctuation in the price of the imported product due to the difference in the time of placement of order. It has also been claimed that the customers negotiate with the domestic industry based on the import prices and in order to sell the product, the domestic industry is not left with any option but to undertake these sales. The claim of the applicant is in line with the transaction wise import data which shows significant fluctuation.

Bill Of Entry Number	Bill of Entry Date	Country	VOLUME	ASSESSABLE VALUE(Rs.)	Price
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***

***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***

100. From the above table it is seen that, the low-priced imports have forced the domestic industry to reduce their selling prices in competition to the landed price of the imports. The Authority notes that the law does not require that both price undercutting and suppressing/depressing effect of imports co-exist at the same time. This is particularly when the domestic industry has been forced to sell at low prices due to dumped imports and rising inventories. Therefore, when the price of the domestic industry is suppressed/depressed to such a significant extent that it is unable to earn even a positive contribution, then price undercutting may not be a relevant factor.

c. Price Suppression and Depression

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

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Cost of Sales	Rs/Kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	102	127	96
2	Selling Price	Rs/Kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	65	68	62
3	Landed Price	Rs/Kg	24,405	19,757	17,019	16,293
	<i>Trend</i>	<i>Indexed</i>	100	81	70	67
4	Cost of raw material	Rs/Kg	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	100	90	93	89

102. It is seen that the landed price of imports from the subject countries has declined over the injury period and is much below the cost of sales of the domestic industry. It is also seen that the landed price of imports is in fact lower than the cost of raw material of the domestic industry. While the cost of sales of the domestic industry has increased upto 2020-21, it has declined in the POI. At the same time, the selling price has consistently declined during the entire injury period. The significantly low import price has prevented

the price increase of the domestic industry. Therefore, the Authority that the imports have depressed the prices of the domestic industry.

G.3.3. Economic Parameters of the domestic Industry

103. Annexure II to the Rules provides that the examination of the impact of the dumped imports on the domestic industry should include an objective 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 below. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

a. Capacity, production, capacity utilization and domestic sale

104. Capacity, production, capacity utilization and domestic sales of the domestic industry over the injury period is given in the table below: -

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Capacity	KG	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
2	Production	KG	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>60</i>	<i>126</i>	<i>72</i>
3	Capacity Utilisation	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>60</i>	<i>126</i>	<i>72</i>
4	Domestic Sales	KG	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>89</i>	<i>91</i>	<i>123</i>

105. It is seen that-

- The domestic industry started production in February 2018. Thereafter, the capacity of the domestic industry has remained constant.
- The production and capacity utilization declined in the year 2019-20, increased thereafter in the year 2020-21 but has declined again in the POI.
- The production and the capacity utilization undertaken by the domestic industry are significantly low.
- The domestic industry submitted that it could not undertake production in 8 months of the POI. Further, it could not undertake production in 5 months of the last 6 months of the period of investigation.

- e. The domestic sales of the domestic industry declined in the year 2019-20 but have increased thereafter. Overall, the domestic sales have increased during the injury period.
- f. Considering the demand that was met by dumped imports and the capacities installed by the domestic industry, it is seen that the domestic industry could have utilized its plant to cater ***% demand in the country. The capacity utilization of the domestic industry however, not only declined, but also was at a very low level in the POI. The domestic industry was forced to intermittently stop production of the subject goods.

b. Market share

106. Market share of the domestic industry over the injury period is shown in table below:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Share of domestic industry	%	***	***	***	***
	Trend	Indexed	100	78	66	96
2	Share of other producers	%	***	***	***	***
	Trend	Indexed	100	406	135	37
3	Share of subject countries	%	***	***	***	***
	Trend	Indexed	100	92	111	103
4	Share of other countries	%	***	***	***	***
	Trend	Indexed	100	104	92	100

107. The market share of the domestic industry declined till the year 2020-21 but has increased and reached to the base year level in the POI. While the market share shows an increasing trend in the POI, it is also seen that the market share of the domestic industry is significantly low, considering demand for the product and capacities created by the domestic industry. It is seen that the market share of the dumped imports has increased as compared to the base year and declined as compared to preceding year. However, the market share of dumped imports has remained quite significant, considering the capacity created by the domestic industry and its capacity utilization.
108. It is also noted that there are significant imports from other countries at prices materially higher as compared to the imports of the PUC from the subject countries and such subject goods do not compete with the imports from the subject countries. As per the information provided by the applicant, these imports are for exports of formulations and not meant for consumption in the domestic market. The applicant has further submitted that these imports are being made as their customers have approved supplier of UDCA. It is further noted that two users have participated in the present investigation but have not disputed the above facts. The Authority further notes that much higher prices of imports from non-subject countries establishes acceptance of these much higher prices by the consumers.

c. Profitability, return on investment and cash profits

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

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Cost of Sales	Rs/Kg	***	***	***	***
	Trend	Indexed	100	102	127	96
2	Selling Price	Rs/Kg	***	***	***	***
	Trend	Indexed	100	65	68	62
3	Profit / Loss	Rs/Kg	***	***	***	***
	Trend	Indexed	-100	-154	-211	-145
4	Profit / Loss	Rs Lacs	***	***	***	***
	Trend	Indexed	-100	-136	-193	-179
5	Cash Profit	Rs Lacs	***	***	***	***
	Trend	Indexed	-100	-153	-237	-220
6	Profit before Interest & Tax (PBIT)	Rs Lacs	***	***	***	***
	Trend	Indexed	-100	-139	-205	-198
7	Return on Capital Employed (ROCE)	%	***	***	***	***
	Trend	Indexed	-100	-196	-305	-371

110. It is seen that-

- The domestic industry has been in continuous losses over the entire injury period.
- The loss per unit and losses before tax suffered by the domestic industry has increased over the injury period.
- Cash loss and losses before interest have increased over the injury period.
- The return earned by the domestic industry is materially negative.

111. The other interested parties have argued that there has been an increase in the cost of sales despite no such commensurate increase in the price of raw material. The Authority has verified the costing information provided by the domestic industry from the record maintained by it. Further, it is noted that the cost of sales of the domestic industry was in fact lowest in the POI.

d. Inventories

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

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
----	-------------	-----	---------	---------	---------	-----

1	Opening Inventory	KG	***	***	***	***
	Trend	Indexed	100	80,953	38,617	1,63,106
2	Closing Inventory	KG	***	***	***	***
	Trend	Indexed	100	48	306	77
3	Average Inventory	KG	***	***	***	***
	Trend	Indexed	100	148	354	278

113. It is noted that that as compared to the base year, average inventory held by the domestic industry increased in the year 2019-20 and further increased sharply in the year 2020-21. the average inventory of the domestic industry, continues to remain significant, but it has declined in the POI. The domestic industry has submitted that the decline in the inventory in the POI was due to the fact that it had not undertaken production for 5 months of the last 6 months of the period of investigation due to the presence of low price dumped imports and inability of the domestic industry to sell the production.

e. Employment, wages and productivity

114. Employment, wages, and productivity of the domestic industry over the injury period is given in the table below.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	No of Employees	Nos	***	***	***	***
	Trend	Indexed	100	76	117	93
2	Salary & Wages	Rs Lacs	***	***	***	***
	Trend	Indexed	100	46	132	104
3	Productivity per day	KG/Day	***	***	***	***
	Trend	Indexed	100	60	126	72
4	Productivity per employee	KG/Nos	***	***	***	***
	Trend	Indexed	100	79	107	78

115. The number of employees and the salary paid by the domestic industry shows a fluctuating trend and has moved in line with the production. Similarly, the productivity per day and per employee have also moved in tandem with the production.

f. Growth

116. The growth in terms of production, capacity utilization, domestic sales volume, inventories, profits, cash profits and return on investment is as per below table:

SN	Particulars	UOM	2019-20	2020-21	POI
1	Production	Y/Y	-40%	111%	-42%
2	Sales	Y/Y	-11%	3%	35%

3	Profit/(Loss) per unit	Y/Y	-54%	-37%	31%
4	Inventory	Y/Y	48%	140%	-21%
5	Market share	Y/Y	-22%	-16%	47%
6	Profit before tax	Y/Y	-36%	-42%	7%
7	Cash profit	Y/Y	-53%	-55%	7%
8	Profit before Interest & Tax (PBIT)	Y/Y	-39%	-47%	-3%
9	Return on Interest (ROI)	Y/Y	-96%	-55%	-22%

117. The Authority notes that the growth of the domestic industry in terms of production, inventory, PBIT and ROI has been negative. While, the growth in terms of sales, profit, market share, profit before tax and cash profit has been positive for the domestic industry, it is seen that the domestic industry had very adverse performance in these parameters in the POI.

g. Magnitude of dumping

118. Magnitude of dumping is an indicator of the extent to which the dumped imports are causing injury to the domestic industry. The data shows that the dumping margin determined against the subject countries is above the *de minimis* level and is significant. The Authority has determined, that the dumping margin of the cooperating exporters is significant during the POI.

h. Ability to raise capital investment

119. The domestic industry is suffering financial losses and has not been able to earn a positive contribution. Due to the competition faced by the dumped imports, the operations of the industry have been adversely impacted.

G.3.4. Injury margin/Price underselling for cooperative producers/exporters

120. The Authority has determined the non-injurious price (NIP) for the domestic industry on the basis of the principles laid down in the Rules read with Annexure III, as amended. The NIP of the PUC has been determined by adopting the information/data relating to the cost of production for the POI. The NIP of the domestic industry has been worked out and it has been compared with the landed price from each of the subject countries for calculating injury margin.

SN	Particulars	NIP USD/KG	Landed price USD/KG	Injury margin		
				USD/KG	%	Range
1	China PR					

a	Zhongshan Belling Biotechnology Co., Ltd	***	***	***	***	150-160
b	Sichuan Xieli Pharmaceutical Co., Ltd.	***	***	***	***	130-140
c	Suzhou Tianlu Bio-pharmaceutical Co., Ltd	***	***	***	***	150-160
d	Others	***	***	***	***	170-180
2	Korea RP					
a	Daewoong Bio Incorporated	***	***	***	***	90-100
b	Others	***	***	***	***	110-120

G.3.5. Conclusion on injury

121. The Authority concludes that dumped imports from subject countries have increased over the injury period in absolute terms, and in relation to total consumption and production. Imports of the subject goods from the subject countries are entering India at a price lower than its associated normal value, resulting in dumping. There has been a significant decline in the import prices over the injury period. The landed price is below cost of sales of the domestic industry which has depressed the prices of the domestic industry. The capacity utilization of the domestic industry is very low as they have not been able to sell desirable quantities in the market due to the low-priced dumped imports in the market. The contribution earned by the domestic industry is also negative in the period of investigation. Because of the dumped imports from the subject countries, the domestic industry has sold the subject goods at losses. The performance of the domestic industry has steeply deteriorated in respect of profits, cash profits and return on capital employed as a result of volume and price effect to such an extent that the domestic industry suffered financial losses, cash losses and negative return on capital employed in the period of investigation. The domestic industry has recorded a negative growth in several factors. Therefore, in view of the foregoing, the Authority concludes that the domestic industry has suffered material injury.

H. NON-ATTRIBUTION ANALYSIS

122. The Authority 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 the domestic producers, developments in technology and the export performance and the productivity of the

domestic industry. It has been examined below whether the above said factors other than dumped imports could have contributed to the injury to the domestic industry.

a. Volume and prices of imports from third countries

123. Barring the subject countries, 47% of the imports are from non-subject countries and are particularly from European Union. However, the landed price of imports from European Union are significantly higher than the landed price of imports from the subject countries, selling price and non-injurious price of the domestic industry. The interested parties have also contended that imports from subject countries are not competing with the domestic industry.

b. Contraction in Demand

124. It is seen that the demand of the subject goods has increased over the injury period with marginal decline in the POI as compared to the immediately preceding year.

c. Changes in the pattern of consumption

125. No interested party has produced any evidence relating to any known material changes in the pattern of consumption of the PUC.

d. Trade restrictive practices

126. No interested party has produced any evidence relating to any known trade restrictive practice, which could have caused injury to the domestic industry.

e. Development in technology

127. No evidence has been brought before to the Authority by any interested party concerning any known and material changes in the technology that could have caused injury to the domestic industry.

f. Export performance of the domestic industry

128. The domestic industry is not engaged in export operations.

g. Performance of other products of domestic industry

129. The domestic industry has provided the data for the PUC's performance and the same has been adopted by the Authority for the purpose of injury analysis.

h. Productivity of the domestic industry

130. The domestic industry has provided the data relating to their productivity. It is seen that the productivity per day has moved in tandem with its production.

i. Factors establishing causal link

131. The Authority, after examining the factors mentioned above, concludes that the domestic industry has not suffered injury in the POI due to other factors. Further, the following factors show that the injury to the domestic is due to subject dumped imports
- a. The volume of dumped imports from subject countries has increased over the injury period in absolute terms and in relation to production and consumption. Resultantly, the domestic industry has not been able to produce and sell in significant quantities in the domestic market.
 - b. Because the domestic industry has not been able to sell in the domestic market, it has been forced to suspend its production in order to prevent pile up of inventories.
 - c. The import price is below the cost of production of the domestic industry thereby depressing the prices of the domestic industry. As a result, the industry has been forced to sell at losses.
 - d. The adverse impact of the imports on the selling price of the domestic industry has led to a significant loss, cash losses and negative return on capital employed throughout the injury period.
 - e. The growth of the domestic industry has become negative in respect of several economic parameters.
 - f. The Authority, thus, finally concludes that there exists a causal link between the dumping of the subject goods and injury to the domestic industry.

I. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

I.1 Submissions by the other interested parties

132. The submissions made by the other interested parties with regard to the Indian industry's interest are as follows:
- a. Imposition of anti-dumping duty on imports of the subject goods is not desirable because the product is an essential pharmaceutical product and a life-saving drug.
 - b. If duties are imposed, the domestic industry will enjoy monopolistic position and it already has no competition except from imports.
 - c. Information submitted by the domestic industry regarding impact on users and consumers cannot be relied upon because the information cannot be verified.
 - d. The domestic industry cannot be expected to know the cost structure of the user industry entirely and also the price component of UDCA in the final formulations or medicines.
 - e. Contrary to the claims of the domestic industry, the cost of UDCA plays a major role in the final price of the product. Cost to price ratio would increase between 20 – 70 % based on the percentage of UCDA used in the final formulation.
 - f. The applicant does not have sufficient capacity to cater to the domestic demand. Further, the applicant has admitted that imposition of anti-dumping duty would lead to stoppage of imports from the subject countries.

- g. The basic customs duty is sufficient to provide protection to the applicant.
- h. If domestic industry is unable to produce consistently and altogether stops production, anti-dumping duty for 5-year period will be redundant and will require a prolonged mid-term review investigation procedure for its withdrawal.
- i. The imposition of anti-dumping duty on imports from the subject countries will only result in shifting of imports from the subject countries to non-subject countries.
- j. It is incorrect to assert that India is dependent on China for imports as there are substantial quantity of imports from non – subject countries as well.
- k. The applicant has unnecessarily referenced the Penicillin case. A competitive market depends on the number of sellers providing the like article in the market. Contrary to penicillin case, in the present investigation, imports from Italy will take the market share of the imports from China and thereby, reduce competition in the Indian market.
- l. The imposition of anti-dumping duty will lead to stoppage of imports from Korea and China and the supply chain in the domestic market will collapse. The users will have to maintain higher level of UDCA.
- m. The customers will bear the burden of the increase in cost on account of the anti-dumping duty. The cost will increase by 30-70% based on UDCA Pharma Products.
- n. The absence of end-users' response does not mean the lack of negative influence on them.
- o. Indian finished drugs manufacturers do not benefit from the India – Korea FTA because of the similar HS codes of UDCA and CDCA.
- p. The alternative source is from the European Union is baseless as those imports are at 50% higher prices than the imports from Korea RP.
- q. The applicant purchases its raw materials from the supplier which is an acquisition of Italian producers ICE.
- r. The contention that the applicant can cater about 55- 60 % of the demand cannot be accepted. The applicant lacks experience in mass production and cannot establish a mass production system in a short period of time to meet the Indian demand.
- s. If UDCA imports from China lose their place in the Indian market due to the imposition of the anti-dumping duties, the Indian industry will inevitably become more dependent on ICE, Italy.
- t. The absence of an importer's response to the questionnaire does not mean such industries are not facing injury. The letters from the importers are already provided along with the comments on the preliminary findings.
- u. Imposition of anti-dumping duties will make ICE Italy, which has engaged itself in aggressive expansion all over the world, become a dominating force in the Indian UDCA market as well.
- v. Under the rapidly evolving global trade environment, a stable supply of raw materials drugs is a key factor for the health of the Indian people. For the past 20 years, Daewoong Bio has been steadily supplying high-quality UDCA.

- w. UDCA is not only used in the treatment of rare diseases as claimed by the domestic industry but also for the treatment of common diseases such as gallstones.

I.2 Submissions by the domestic industry

133. The submissions made by the domestic industry with regard to the Indian industry's interests are as follows:

- a. The imposition of anti-dumping duties will allow the domestic industry to compete with the dumped imports and would be in the interest of the domestic manufacturers.
- b. The consumers will have to maintain a higher degree of inventory if they have to depend on the imported goods. However, in the case of procurement from the domestic industry, inventory holding can be kept at much lower levels.
- c. The prices in the market will remain fair and competitive only in the presence of domestic production.
- d. Arch Pharma is a major producer in India. Continued dumping in significant quantities can lead to the stoppage of production completely.
- e. The current prices of UDCA acid in the domestic market is not viable for any producer. Therefore, the domestic industry has been time and again forced to curtail or suspend its production.
- f. The expression public interest does not limit itself to the consumer industry alone and is, in fact, a much wider term which covers the domestic industry as well.
- g. The domestic industry a capacity of *** KG and has an existing share of merely ***%. If the measures are imposed on the imports from China PR and Korea RP, then the domestic industry will be able to cater to 55-60% of the demand (not considering the imports from the non-subject countries).
- h. With very minor modifications in its plant, the domestic industry can expand its capacity to 1,00,000 KG which does not require any major investment. The Indian industry is committed to making further investments in India.
- i. The increase in the price of UDCA is not going to have a significant impact in the cost of treatment for excess cholesterol in bile primary biliary. It is not a widely used medicine.
- j. The reliance on imported API for such a rare disease medicine is not in the interest of public at large.
- k. The impact of anti-dumping duty on a single capsule of ursocol ranges from Rs. 2.39 to Rs. 7.17, depending on the UDCA content of the capsule.
- l. Imposition of anti-dumping duties will not restrict the imports. The imports will continue to happen from all the sources. The objective of anti-dumping duty is to ensure just and fair price competition in the market and not the prevention of imports. There are significant imports happening from the European Union.

- m. India has long been dependent on China PR for APIs. The producers from China PR have offered the subject goods at very low prices which had impacted the Indian industry. Once the Indian industry is wiped out, the producers from China will increase their prices sharply which would negatively impact the users.
- n. The producers from China PR have supplied Penicillin-G at a price Rs 562 per KG and the Indian industry was unable to compete with these prices. As the industry was wiped out, the producers from China increased their prices. The prices for the year 2020-21 were in the range of Rs 1,262 per KG. A similar situation might develop if the Indian industry is wiped out for UDCA.
- o. COVID-19 has significantly disrupted the global supply chain. Many organizations have suffered due to travel and trade restrictions. In such situation, it is in the interest of all stakeholders that dependence on imports is reduced. Imposition of duty would significantly help in achieving that objective.
- p. There would be no significant impact of the on the end products is also established by the fact that while two consumers have participated, none questionnaire response.
- q. The viability of the end users cannot be dependent on the access to raw material at unfair and dumped prices. The consumers have set up their plants considering fair market conditions.
- r. Anti-dumping duties are not meant for the protection of the domestic industry, but it is rather a tool to ensure fair market competition in the country.
- s. The purpose of anti-dumping law was well recognised, appreciated and stated by the Hon'ble Supreme Court in the matter of *Reliance Industries Ltd. v. Designated Authority*²⁴.
- t. The consumers are already enjoying concessional duty on the imports of the subject goods from Korea RP, by virtue of the India Korea Free Trade Agreement. Currently, imports of UDCA from Korea RP attract nil rate of duty.
- u. The prices of final formulation have very little correlation with the prices of the subject goods. The prices of final formulation have almost doubled since 2018 whereas the prices of UDCA have declined significantly
- v. Whereas the cost of UDCA (considering benchmark price) is only Rs 28,000 per KG, the price set by formulation manufacturer is Rs 1,85,000 per KG. The impact of anti-dumping duties will be insignificant for the end user.
- w. The users have participated but not filed response as imposition of anti-dumping duties would have no impact of duty on their performance.

I.3 Examination by the Authority

134. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the PUC in India. However, fair competition in the Indian market will not be

²⁴ (2006) 10 SCC 368.

reduced by the imposition of anti-dumping duties. On the contrary, imposition of the antidumping duties would remove the unfair advantages gained by the dumping practices, prevent the decline of the domestic industry and help maintain the 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. The 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 duty would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

135. The Authority has considered whether the imposition of anti-dumping duty shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the imposition of duties on the availability of goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.
136. The Authority issued gazette notification inviting views from all interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including possible effect of the anti-dumping duties on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from the different countries, the ability of the consumers to switch sources, the effect of anti-dumping duty on the consumers and factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty. The Authority notes that the participation of users enables them to provide information with regard to the impact of duties on their operations. The Authority can analyse and determine impact of proposed measures on the consumers and public at large, based on the information placed on record by various interested parties during the course of the investigation. However, while the users did participate in the investigation but have not placed any information on record which would enable the Authority to understand the counterfactual.
137. The Authority also notes that the imposition of anti-dumping duties will not lead to non-availability of the subject goods to the user industry. The anti - dumping duties will not restrict imports from the subject countries. Further, there are significant imports happening from non-subject countries. The domestic industry has a capacity of *** KG which can cater to ***% of the total domestic demand. It is also noted that a significant portion of the domestic demand for the subject goods is also being catered by imports

from non – subject countries. Further, the domestic industry has submitted information that the investment required to expand its capacity to 1,00,000 KG is not significant and will be sufficient to cater to the entire demand being met by the dumped imports.

138. It has also been submitted by the domestic industry that the prices of UDCA API and UDCA formulation have not moved in tandem. It is noted that while the prices of UDCA API have declined from Rs 24,136/KG in 2018-19 to Rs 15,518/KG whereas the prices of UDCA formulation have increased sharply. It is seen that even though the API prices have declined, the prices of formulation have increased. This shows that there is no nexus with the change in price of API and price of formulation.
139. The Authority also notes that barring the domestic industry, no other interested party has provided any impact assessment of the duties on the downstream products. It has been submitted that whereas cost of UDCA (considering benchmark price) is only Rs 28,000/KG, the price set up by the formulation manufacturer is Rs 1,85,000/KG. Therefore, the impact of anti-dumping duty will be insignificant for the end user.

J. COMMENTS ON DISCLOSURE STATEMENT

J.1 Submissions of the other interested parties

140. The submissions made by the other interested parties on the disclosure statement are as below:
- a. The participating producer from Korea has submitted that it has offered normal discount to its affiliate company based on the purchase quantity and, therefore affiliate sales prices should not be excluded for normal value computation.
 - b. The Authority's analysis in Para 81 of the disclosure statement with respect to decline in import price due to fall in raw material prices is unacceptable. The participating producer from Korea RP has already exhibited that its raw material prices have fallen more than its export price.
 - c. The content of UDCA in the final formulation varies as per requirements and it varies between 40,000 Rs./Kg to 125,000 Rs./Kg. Given the fact that UDCA account for 70% of the sales prices of the final formulation, any imposition of anti-dumping duty will be against the interest of the user industry.
 - d. If UDCA from Korea RP loses its places in the Indian market due to the imposition of the anti-dumping duties, the Indian industry will inevitably become more dependent on ICE, an Italian company.
 - e. The raw material used by the Indian industry is imported from ICE, Italy and its related affiliates and the imposition of the anti – dumping duties will lead to creation of ICE's monopoly in the market.
 - f. The Authority is giving undue protection to the domestic industry by applying 22% return on capital employed.

- g. The Authority has wrongly made adjustment in the export price calculation of Suzhou Tianlu Bio-pharmaceutical Co., Ltd. for losses of the Farmasino Co., Ltd which is an unrelated exporter. Since Suzhou Tianlu Bio-pharmaceutical Co., Ltd. has no control over the commercial decisions over Farmasino Co., Ltd, the adjustment is unwarranted.
- h. The Authority has not considered submissions made with respect to the annual report of the applicant validating intrinsic factors of injury.
- i. The Authority has erred by not considering the data of Raichem and Shipra's production for ascertaining total production. The Authority should have called the relevant data from the relevant department.
- j. Korea RP should have been considered as a market economy third country for the determination of normal value for producers from China.
- k. The applicant has imported the PUC during the injury period for re-sale in the Indian market which has led to increase in inventory and stoppage of production.
- l. Negative price undercutting should have ensured that the domestic industry would have captured the market share of the imports but it does not lead, to any increase in the market share. This shows the absence of causal link between the subject imports and the injury.
- m. There is no correlation between the landed price of the subject imports and the cost of raw material. Despite the decline in demand, the domestic sales of the domestic industry and the market share have increased.
- n. The factors disclosed by the Authority clearly show that there is no correlation between import price and the profitability of the domestic industry.
- o. The domestic industry could have exported the subject goods in order to prevent pile up of the inventory and continue its production. However, it chose not to export and to increase its inventory and stop its production.
- p. If domestic industry is unable to produce consistently and stops production, in near future, the anti-dumping duty for a full 5 years period will be redundant and will require prolonged mid-term review investigation procedure for its withdrawal.
- q. The overall business of the domestic industry is not in a good shape. It cannot be assumed with surety that the domestic industry would operate as a going concern for the next 5 years and will continue production of subject goods.
- r. The Authority should recommend a reference price form of duty in the final findings. Such duty should be recommended only for a period of two years.
- s. The domestic industry has started production recently and the injury suffered by it might be because it is a new industry.
- t. There is a demand and supply gap in India and benchmark form of duty will ensure availability of the subject goods to the user industry.

J.2 Submissions of the domestic industry

141. The submissions made by the domestic industry on the disclosure statement are as below:

- a. As per Rule 11, the injury is required to be seen with respect to PUC and the hence the performance of the company at a company level is entirely irrelevant.
- b. The benchmark form of duties may not serve the intended purpose as there are significant imports from the subject countries happening in the duty-free schemes such as advance authorization and SEZ/EOU Zones.
- c. The Authority had in past various investigations such as Melamine from China and Caustic Soda found that the users had evaded anti-dumping duty.
- d. Unless the duties are imposed for 5 years, the domestic industry would not be able to recover from the injury suffered due to dumped imports.
- e. The extent of injury found by the Authority is so significant that the industry has not been able to get even a positive contribution. The industry will need time to recover from such adverse performance.
- f. The domestic industry started production in February 2018 and has been in production for more than 4 years now. The domestic industry has established itself now.
- g. The present investigation is not to examine if the dumped imports have caused material retardation to the domestic industry. However, the present investigation is to examine if the domestic industry is suffering material injury due to dumped imports.
- h. The domestic industry has all the licenses and certificates which required significant efforts. The domestic industry will not stop production all of a sudden.
- i. As submitted before, the current capacity of the domestic industry can be expanded to 1,00,000 MT without significant new investment.
- j. The Authority recommended duties for a period 5 years even in cases wherein the domestic industry had commenced production during the injury period. However, in the instant investigation, the domestic industry has commenced the production of the subject goods prior to the injury period. Therefore, anti-dumping duties should be recommended for a period of five years.

J.3 Examination by the Authority

142. The Authority has examined the post disclosure submissions made by the domestic industry, and the other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the disclosure statement and the present final findings. As regards the comments on the injury to the domestic industry and causal link, the injury analysis made by the Authority hereinabove *ipso facto* addresses the various submissions made by the interested parties. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.

143. As regards the comment on the imports made by the domestic industry, the Authority notes that it has examined the transaction wise data and found no imports have been made by the applicant in the injury period. The other interested parties have also not provided any evidence of imports made by the domestic industry. Therefore, the contention that the domestic industry's inventory has increased due to imports made by it cannot be accepted.
144. As regards the comments on the inclusion of production of Raichem and Shipra in ascertaining the total Indian production, the issue has been already addressed in the disclosure statement. The Authority had sent communication to both the producers, but no response was received. Further, the information provided by the other interested parties was with respect to the capacity of these producers and not the production. None of the other interested parties have provided any information in this regard. Therefore, the Authority has proceeded on facts available with it to determine the total Indian production.
145. As regards the submissions of the other interested parties with respect to consideration of Korea RP as market economy third country for computation of normal value, the Authority notes that Korea RP is one of the subject countries, the information pertaining to price cannot be used for computation of normal value for China PR and therefore, the Authority has relied on the third limb of para 7 of Annexure I and constructed the normal value of China PR accordingly.
146. As regards the comments on exclusion of the sales to affiliated party in the computation of normal value for the participating producer from Korea, the Authority notes that the sales to affiliated parties were found to be more than **% of total sales in the domestic market. The average price of the product sold in the home market to affiliated parties was found to be about **% lower than the average price to unaffiliated customers. Therefore, the affiliated sales have not been considered for determination of normal value in Korea RP.
147. As regards the submissions regarding adjustments with respect to the export price for losses of the unrelated exporter, the Authority notes that the same has been done as per the consistent practice of the Authority.
148. As regards the contention that the export price from Korea RP has declined because of the decline in the raw material cost, the Authority notes that from the information filed by the Korean producer it was seen that the raw material cost has in fact increased. Further, the Authority has found that the domestic selling price of the producer from Korea RP is higher than its export price. Therefore, the contention that the raw material price decline has led to decline in the export price cannot be accepted.

149. With regards to argument made by the other interested parties that there is no correlation between the landed price of the subject imports and the cost of raw material, the Authority notes that a decline or increase in prices of raw material would inevitably impact the cost of the subject goods and consequently, the landed prices itself. In the present case, the import price has declined much more than the decline in the price of the raw material.
150. The other interested parties have submitted that despite a decline in demand, the domestic industry's market share and sales have increased. The Authority notes that there has been a marginal increase in sales and market share of the domestic industry which represents an insignificant share of capacity of the domestic industry. The Authority has already found that the subject imports from the subject countries are being sold in India at dumped and injurious prices.
151. As regards the submission made with respect to the PUC forming a significant share of the cost of the final formulation, the Authority notes that no evidence has been brought forward by the other interested parties in the support of the claim. On the other hand, the domestic industry has provided verifiable evidence in support of the argument that the product under consideration does not form significant part of the cost of final formulation. Further, it has also been shown that the price of the final formulation has not moved in line with the price of the product under consideration.
152. As regards the comments on the annual report of the applicant, the Authority notes that it has examined all the submissions made by the interested parties whichever were found to be relevant. No costs have been claimed on account of previous losses, high finance cost or other plants shut down. The cost claimed has been duly verified from the records maintained by the applicant.
153. As regards the submissions regarding the computation of non-injurious price, the Authority has computed NIP as per its consistent practice in accordance with Annexure III of the Anti – dumping Rules, 1995.
154. It has been contended that there is a demand and supply gap in the country and the Indian industry is unable to meet the demand. The Authority notes that the demand-supply gap in the country does not bar the domestic industry from seeking redressal from dumped imports. As held by the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority, demand-supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at un-dumped prices.
155. As regards the comments that anti-dumping investigation will lead to monopoly situation in the domestic market, the Authority notes that the anti-dumping duties will not restrict imports from the subject countries and imports will continue to happen. Further, it is also

seen that there is another producer of the like article in India and hence, the question of monopoly in the domestic market does not arise.

156. With regard to the arguments made by the other interested parties regarding monopoly / dominant situation that could be created by levy of ADD on the subject goods from Korea RP, and consequent increase in the volume of ICE, Italy's imports of the subject goods into India, it is noted that the import price of the subject goods from Korea RP are dumped, and are significantly lower than that of the subject goods imported from ICE, Italy. Even after imposition of the anti-dumping duties, the price of the subject goods from Korea RP would be lower than the ICE Italy's imports and therefore, no question of monopoly or dominance by any firm would arise in the Indian market.

K. CONCLUSION & RECOMMENDATIONS

157. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority notes the following.
- a. The applicant is an eligible domestic industry within the meaning of Rule 2(b) of the AD Rules, 1995. The application satisfies the criteria of standing in terms of Rule 5(3) of the AD Rules, 1995.
 - b. The product produced by the domestic industry is like article to the product under consideration imported from the subject countries.
 - c. The application contained all information relevant for the purpose of initiation of the investigation and also contained evidence to justify initiation of the present investigation.
 - d. Considering the normal value and export price for the subject goods, dumping margin for the subject goods from the subject countries has been determined, and the margin is positive and significant.
 - e. The volume of dumped imports from the subject countries have increased over the injury period in absolute and relative terms.
 - f. The landed price of subject imports has declined significantly and is below the cost of sales of the domestic industry which has depressed the prices of the domestic industry.
 - g. The domestic industry has not been able to produce and sell its like product in significant quantities in the domestic market and its share is significantly below the level which it could have catered.
 - h. The domestic industry has suffered financial and cash losses.
 - i. The domestic industry has earned a negative return on capital employed in its domestic operations. The losses suffered are to such a significant extent that the domestic industry has earned a negative contribution.
 - j. There are no other factors which could have caused injury to the domestic industry.

- k. The material injury suffered has been caused by the dumped imports of the subject goods from the subject countries.
 - l. The imposition of anti-dumping duties will not have any significant adverse impact on public interest. The subject goods constitute merely 15 % of the final formulation and therefore, imposition of anti-dumping duty on the subject goods would not have a significant impact on the end user.
 - m. There was considerable decline in the landed value of the subject goods from the subject countries, particularly in the landed value of the subject goods from China PR declined significantly after the domestic industry began production. Hence, if the domestic industry is further injured, the price of the subject goods from the subject countries will rise again.
158. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. After conducting the investigation into dumping, injury and causal link as per the information/ data submitted by the interested parties and in terms of the provisions laid down under the Anti-Dumping Rules, 1995 the Authority is of the view that imposition of ADD is necessary to offset dumping and consequent injury. Therefore, Authority considers it necessary and recommends imposition of the anti-dumping duties on the imports of the subject goods from the subject countries.
159. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. The Authority considers that the anti-dumping duty in the form and manner recommended in the preliminary findings is appropriate in the given factual matrix of the case, and has adopted the same for the present findings as well. The anti-dumping duty will be equal to the difference between the landed value of subject goods and the amount specified as reference price in the corresponding entry in column (7), provided that the landed value is less than the amount indicated in column (7), and is recommended to be imposed for a period of 5 years. The Authority, therefore, considers it necessary and recommends imposition of antidumping duty on imports of subject goods from the subject countries in the form and manner described hereunder from the date of issue of the notification of imposition of provisional duty by the Central Government vide Notification No. 25/2022- Customs dated 18th August 2022
160. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3B, 9, 9A of the Customs Tariff Act, 1975.

Duty Table

SN	Heading	Description of goods	Country of origin	Country of exports	Producer	Reference Price	Unit	Currency
1	2	3	4	5	6	7	8	9
1	29*	Ursodeoxycholic Acid	China PR	Any country including China PR	Zhongshan Belling Biotechnology Co., Ltd.	435.10	KG	USD
2	-do-	-do-	China PR	Any country including China PR	Sichuan Xieli Pharmaceutical Co., Ltd.	438.75	KG	USD
3	-do-	-do-	China PR	Any country including China PR	Suzhou Tianlu Biopharmaceutical Co., Ltd.	450.40	KG	USD
4	-do-	-do-	China PR	Any country including China PR	Any other producer excluding producers mentioned in Sl. No. (1), (2) and (3)	465.94	KG	USD
5	-do-	-do-	Any country other than China PR and Korea RP	China PR	Any	465.94	KG	USD
6	-do-	-do-	Korea RP	Any Country including Korea R	Daewoong Bio Incorporated	378.38	KG	USD

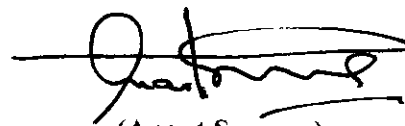
7	-do-	-do-	Korea RP	Any Country including Korea RP	Any other producer excluding producer mentioned in Sl. No. (6)	381.93	KG	USD
8	-do-	-do-	Any country other than China PR and Korea RP	Korea RP	Any	381.93	KG	USD

**2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2930 2941 and 2942. However, the product is majorly imported under 29181690 and 29181990.*

161. Subject to the above, the Preliminary Findings notified on 30th June, 2022 is hereby confirmed.

L. FURTHER PROCEDURE

162. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.


(Anant Swarup)
Designated Authority