

No. 15/3/2013-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara building, 5, Parliament Street, New Delhi

Dated 02.10.2014

NOTIFICATION

(Final Findings)

Subject: Final Findings Notification in the Sunset Review of anti dumping duty imposed on the import of Diclofenac Sodium originating in or exported from China PR-reg.

No. 15/3/2013-DGAD: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time.

A. Background of the case

1. Whereas having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules or the Rules), definitive anti-dumping duty was originally recommended by the Designated Authority (hereinafter referred to as the Authority) on the imports of 'Diclofenac Sodium' (hereinafter referred to as 'DFS' or the subject goods) originating in or exported from China PR (hereinafter referred to as subject country) vide Final Findings Notification No. 14/4/2007-DGAD dated 29th May, 2008 and whereas the Central Government imposed the definitive anti-dumping duty w.e.f. 10th April, 2008 vide its Notification No 91/2008-Customs dated 30th July, 2008.
2. Whereas M/s Aarti Drugs Ltd and M/s Amoli Organics Pvt Ltd filed a duly substantiated application before the Authority in accordance with the Act and the AD Rules alleging dumping of 'Diclofenac Sodium' originating in or exported from China

PR and requested the Authority for review and continuation of the anti-dumping duties in existence.

3. And whereupon in accordance with Section 9 A (5) of the Act, read with Rule 23 of the AD Rules, the Authority issued a public notice dated 9th April, 2013, published in the Gazette of India, Extraordinary, initiating the sunset review investigation to review the need for continued imposition of duties in force and to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.
4. And whereas, the antidumping duty as notified vide Notification No. 91/2008-Customs dated 30th July, 2008 was extended by the Central Government up to 9th April, 2014 vide Notification No. 31/2013-Customs (ADD) dated 13th November, 2013 in terms of Section 9(A)(5) of the Act.

B. Procedure

5. In this investigation, the procedure described hereinbelow has been followed:
 - i. The Authority received a duly substantiated Sunset Review application from M/s Aarti Drugs Ltd. and M/s Amoli Organics Pvt. Ltd., as domestic industry, for review and continuation of the duty in force on imports of Diclofenac Sodium originating in or exported from China PR. The petitioners submitted prima facie evidence in this regard requesting for review and continuation of the anti dumping duty in force.
 - ii. The Authority intimated to the Embassy of China in New Delhi that it has received a petition from the domestic industry to initiate sunset review investigation against imports of the subject goods originating in or exported from China PR.
 - iii. The Authority, on the basis of prima facie evidence submitted by the petitioners to justify initiation of the investigation, initiated sunset review investigation against imports of the subject goods originating in or exported from China PR vide initiation notification dated 9th April, 2013.
 - iv. The scope of the present review covers all aspects of Notification No. 14/4/2007 - DGAD dated 29th May, 2008.
 - v. The Embassy of China in New Delhi was informed about the initiation of the investigation in accordance with Rule 6(2) of the AD Rules.
 - vi. The Authority sent copies of initiation notification dated 9th April, 2013 to the Embassy of China in India; known exporters/producers from the subject country; known importers and other interested parties in India as per the information available with the Authority. These parties were requested to file response in the form and manner prescribed and make their views known to the Authority in

writing within the prescribed time limit. Copies of the exporter's questionnaire and market economy treatment questionnaire were also sent to the known exporters/producers from the subject country. Copies of the letter and the exporter questionnaires sent to the exporters/producers in China PR were also sent to the Embassy of China in India along with a list of known exporters / producers with a request to advise the known exporters / producers from the subject country as also other exporters / producers from the subject country to respond to the questionnaires within the prescribed time limits.

- vii. Questionnaires were sent to the following known exporters/producers in the subject country in accordance with Rule 6(4) of the AD Rules to elicit relevant information:

Shandong Yibao Biologics Co., Ltd Xinglong Industrial Garden, Xinglongzhuang Town, Yanzhou City, Shandong Province, China	Shenzhen Zhijun Pharmaceutical Co.,Ltd Block 5, Bagualing Industrial District Shenzhen, P.R. China
Comfortcomms Group Co. Limited 26D, Dushihuayuan, Xinzhou Road, Futian Dist., Shenzhen, Guangdong, China	Shanxi Haizheng Scientific Tech. and Trade Co., Ltd. 6/F, Building 1, 17 Liu Lane, Yingze District, Taiyuan City, Shanxi Province, China
GBB Group Co., Ltd. Development Zone, Binzhou Shandong, China	Skyrun International Group Sunshine Corporation , 50 Zhonghua Road, Nanjing, Jiangsu, China
Hebei Jiheng(Group) Pharmaceutical Co., Ltd., 368 Jianshe Street Hengshui City, Hebei , China,	Shandong Reyoung Pharmaceutical Co., Ltd. , 6 Erlangshan Road, Yiyuan County, Shandong Province, China
Hebei Veyong Animal Pharmaceutical Co., Ltd. 383 East Heping Road, Shijiazhuang City, Hebei Province, China	Wuhan Lihua International Trade Corporation 1205B Jiuyun Garden, 34 Jiangnan North Road, Wuhan City, Hubei Province, China
Medico (Shijiazhuang) Industries & Trade Co., Ltd. Room 7G, Block A, City Garden, 159 Xinhua Road, Shijiazhuang City, Hebei Province, China	The TNN Development Limited Room 2901, Rainbow Building, 23 Renmin Road, Zhongshan District, Dalian City, Liaoning Province, China

- viii. None of the above producers/exporters or any other producer/exporter filed the questionnaire response.
- ix. Questionnaire was also sent to the following known importers, users and associations of the subject goods in India seeking necessary information:

NATCO PHARMA LIMITED NATCO HOUSE	UNIBIOS LABS LTD. 5, C-6, Poonam Darshan
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Road No : 2,Banjara Hills Hyderabad-500 033	Poonam Nagar, Andheri (E) , Mumbai-400093
MARKSANS PHARMA LTD. Corporate Office 601-622, 6th Floor, Chintamani Plaza, Mohan Studio Compound, Andheri - Kurla Road, Andheri (East). Mumbai - 400 099.	

- x. In response to the initiation notification, none of the importers, users or associations filed importer's questionnaire response.
- xi. The import data for the period of investigation and preceding three years was obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S).
- xii. The Authority made available the non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7) of the AD Rules.
- xiii. Exporters, producers and other interested parties who neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- xiv. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all the interested parties to present their views orally in an Oral Hearing held on 8th January, 2014. Only the domestic industry participated in the Oral Hearing. The domestic industry was requested to file written submissions of the views expressed orally. However, after this Oral Hearing, a new incumbent took over as the Authority and, therefore, the new Authority also provided opportunity to all the interested parties to present their views orally in an Oral Hearing held on 5th August, 2014. Again, only the domestic industry participated in the Oral Hearing. The domestic industry was requested to file written submissions of the views expressed orally. However, with reference to the second Oral Hearing, NATCO Pharma Ltd, Hyderabad, submitted a letter to the Authority declaring that they were importing the subject goods for export purpose only and that they had been exporting the same to their overseas customers against the orders. To this effect, NATCO Pharma Ltd submitted copies of some shipping bills and invoices along with the letter. The arguments made in the written submissions received from the domestic industry have been considered, wherever found relevant, in this investigation.

- xvi. The Period of Investigation (POI) for the purpose of the present review is October 2011 to December 2012. However, injury analysis covered the years April 2009–March 2010, April 2010–March 2011, April 2011–March 2012 and the POI. The data beyond the POI has also been examined to determine the likelihood of dumping and injury.
- xvii. The verification to the extent deemed necessary was carried out in respect of the information and data submitted by the domestic industry.
- xviii. Information provided by the domestic industry 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.
- xix. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has relied upon the 'facts available'.
- xx. The original date to complete the investigation was up to 08.04.2014. However, at the request of the Authority, this date was extended by the Ministry of Finance up to 08.10.2014.
- xxi. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 23.09.2014. Only the Domestic Industry responded to the Disclosure Statement and no opposing interested party responded to the said Disclosure Statement. The post Disclosure Statement submissions received from the domestic industry have been considered, to the extent found relevant, in this Final Findings Notification.
- xxii. *** In this Final Findings Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the AD Rules.
- xxiii. The US exchange rate for the POI has been taken as Rs. 53.04 = 1 US\$ as per notifications issued by the Ministry of Finance.

C. Product under consideration and Like Article

C.1 Views of the Domestic industry

- 6. The product under consideration is 'Diclofenac Sodium' (DFS). The product involved in the previous investigation and in the present sunset review investigation is the same as has been held by the Designated Authority in the previous investigation. DFS is a basic organic chemical, normally classified under Chapter 29 of the Customs Tariff Act. DFS is a non-steroidal anti-inflammatory drug (NSAID) taken to reduce inflammation and an analgesic reducing pain in conditions such as in arthritis

or acute injury. Diclofenac Sodium is also described as 2-[(2,6-Dichlorophenyl), Amino] Benzene Acetic Acid Mono Sodium Salt; [0-(2,6- Dichloroanilino) Phenyl Acetic Acid Sodium Salt. DFS has two grades-tablet and injectable grade. There is no significant difference in the two grades. DFS is white or slightly yellowish crystalline powder, slightly hygroscopic in nature and sparingly soluble in water. The product is classified under Customs Tariff heading no. 2942.0090. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation. The goods produced by the domestic industry and imported from the subject country are like articles in accordance with the Rules.

C.2 Examination by the Authority

7. Product under consideration in the present investigation is Diclofenac Sodium originating in or exported from China PR. DFS is a basic organic chemical, normally classified under Chapter 29 of the Customs Tariff Act. DFS is a non-steroidal anti-inflammatory drug (NSAID) taken to reduce inflammation and an analgesic reducing pain in conditions such as in arthritis or acute injury.
8. The present investigation is a sunset review investigation and the authority confirms that the scope of the present investigation is the same as the scope of product attracting anti dumping duty at present.
9. This product is classified under Customs Tariff heading no. 2942.0090 as per Indian Trade Classification. The Customs and ITC HS classifications are, however, indicative only and in no way binding on the scope of the present investigation.
10. The product under consideration in the present sunset review will remain the same as in the original investigation.
11. The goods manufactured by domestic industry and exported from the subject country are identical and technically and commercially substitutable. Therefore, the Authority holds that the subject goods produced by the domestic industry are like article, as per Rule 2(d) of the Rules Supra, to the product under consideration.

D. Scope of the Domestic Industry

D.1 Views of the Domestic industry

12. The petition was filed by M/s Aarti Drugs Ltd. and M/s Amoli Organics Pvt. Ltd. There are three more producers of the product in the country, namely, Kairav Chemicals Ltd, Meditech Chemicals Pvt. Ltd & Sara Exports Ltd, the last two being part of Globus Pharmachem. Notwithstanding that in case of sunset review standing is not required to be examined, it is submitted that the petitioners command 74% share in total Indian production in the POI and, therefore, constitute a 'major proportion' of the total Indian production.

13. It is further noted that M/s Aarti Drugs Ltd has imported the subject goods under advance license directly as also through their affiliated company, Suyash Laboratories Ltd. It is submitted that:

- i) Aarti has imported the product under consideration under Advance Licence. Since imports were for exports, considering past decisions of the Authority, the company should be treated as eligible domestic producer.
- ii) Aarti has not acted as a trader. Aarti has undertaken significant process on the imported product and has exported the downstream product.
- iii) Aarti is supporting the present petition. Aarti has not opposed the petition.
- iv) The behavior of Aarti is not different as compared to other Indian producers who are not importing the subject.
- v) Aarti predominantly manufactures the product in India. Aarti imports the product from China only under Advance Licence and processes it further to sell downstream product in the market.
- vi) Aarti is not resorting to imports in order to benefit from dumping. Thrust of Aarti has not turned to imports. The company's thrust continues to be on own production. Aarti has imported the product only to remain competitive in the export market.
- vii) The proposed anti dumping duty shall apply on exports made by the supplier concerned. Aarti has not sought exclusion for this supplier. Any imports made by Aarti, if not under advance licence, would also have been subjected to such anti-dumping duties.
- viii) Aarti's production continues to be quite significant. Sale of the product under consideration by Aarti continues to be from production.
- ix) Imports made by Aarti are quite low considering production and consumption of the product in the country as may be seen from the table below.

Particulars	Unit	Period of Investigation (POI- Oct 2011-Dec 2012)
Imports by Aarti Drugs	MT	***
Total Imports in India	MT	63.35
Production of Aarti Drugs	MT	***
Consumption in India (including captive)	MT	1860
Imports by Aarti Drugs in relation to-		
➤ Imports in India	%	***
➤ Production of Aarti Drugs	%	***
➤ Consumption in India	%	0.54

14. However, the company is not related to any producer-exporter of the subject goods outside India or an importer in India. Therefore, the question of possible ineligibility within the meaning of rule 2(b) does not arise.

D.2 Examination by the Authority

15. Rule 2(b) of the AD Rules defines domestic industry as under:-

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

16. The application was filed by M/s Aarti Drugs Ltd. and M/s Amoli Organics Pvt Ltd. on behalf of the domestic industry. There are three more producers of the product in the country, namely, Kairav Chemicals Ltd., Meditech Chemicals Pvt. Ltd. And Sara Exports Ltd., with the last two being part of Globus Pharmachem. While Meditech and Sara Exports have extended support to the petition, Kairav Chemicals has neither supported nor opposed the petition. As per the information available, the applicants account for major proportion in the Indian production of the subject goods and, therefore, constitute the domestic industry within the meaning of the Rules.
17. It is noted that M/s. Aarti Drugs Ltd. has regularly imported the subject goods under advance license directly as also through their affiliated company, Suyash Laboratories Ltd, for the production of downstream products manufactured for export purpose. It is noted in this regard that the focus of Aarti Drugs Ltd is not for importing the subject goods. Imports have been made under advance license for production of downstream products meant for export sales. The purpose of imports is to remain competitive in the export market of the downstream products. Imports made by Aarti Drugs Ltd constitute insignificant share of total production and consumption in the country. Aarti Drugs Ltd is predominantly a producer of the subject goods and sales made by Aarti Drugs Ltd are from its own production.
18. From the imports made by Aarti Drugs Ltd during the POI, the Authority notes that a) the imports are insignificant to cause self-inflicted injury to the domestic industry and b) the imports by Aarti Drugs Ltd got cleared under advance license scheme. In view of this and keeping in view the reasoned position in this regard taken by the Authority in past cases, the Authority does not consider it appropriate to exclude Aarti Drugs Ltd from the scope of the domestic industry.

19. The Authority also notes that Rule 2(b) prevailing on the date of initiation of this investigation granted discretion to the Authority in those situations where a domestic producer is either an importer of the subject goods or is related to an importer or exporter of the subject goods in the subject country. This has been upheld by the Hon'ble High Court of Chennai in the matter of Nirma Ltd. vs. Saint Gobain Glass India Ltd. wherein the High Court has, inter alia, held as follows:

(i) the term "domestic industry" as it was amended on 27.2.2010, has not taken away the discretionary power of the Designated Authority and the Designated Authority is entitled to proceed further;

20. In view of the above, the Authority holds that M/s Aarti Drugs Ltd is eligible as domestic industry. The production of the petitioners, namely, M/s Aarti Drugs Ltd M/s Amoli Organics Pvt Ltd. and account for a major proportion in the Indian production of the subject goods. The petitioners, therefore, constitute domestic industry and have standing to file the petition within the meaning of the Rules.

E. Assessment of Dumping – Methodology and Parameters

E.1 Views of the Domestic industry

21. The Domestic Industry, in brief, has claimed the following:

- i. The product under consideration is being produced only in India and China. The Indian producers are selling the product not only in the domestic market but also globally to a large number of countries. In most of these countries, the domestic industry is facing competition from same Chinese suppliers who have been dumping the product in such third countries as well. Since the product under consideration is produced only in India and China; in the larger public interest, it is vital that the product continues to be produced in India, which is possible only if the operations remain viable and the domestic industry is protected from dumping of the product in the country.
- ii. Diclofenac Sodium has a long history of continued dumping in the country for more than a decade.
- iii. After imposition of anti-dumping duty, the volume of imports declined. However, there are still significant imports of the product. Though import volume of Diclofenac Sodium has declined, imports of intermediate product (Indolinone) have started entering the country. In fact, the volume of import of Indolinone is increasing.
- iv. Indolinone is an intermediate in the production of Diclofenac Sodium. The value addition required to convert Indolinone to Diclofenac Sodium is insignificant. Thus, the Chinese exporters have found a way to circumvent anti dumping duty on Diclofenac Sodium by exporting Indolinone to India.
- v. China's World exports show that there is massive Chinese export to various third countries. Revocation of anti dumping duty would divert exports to India.

- vi. Chinese producers have huge supply ability for the product under consideration as against a meager Indian demand of around 1300 MT.
- vii. None of the Chinese exporters have responded to the Authority with prescribed questionnaire response.
- viii. In the present case, none of the Chinese producers have claimed MET and therefore in any case, question of granting market economy status to Chinese producers does not arise. In view of the same, the normal value is required to be determined on the basis of Para-7 of Annexure-I to the Rules.
- ix. Petitioners have determined Normal Value in China on the basis of cost of production in India, duly adjusted. Consumption norms of one of the petitioner companies have been considered for major raw materials and power.
- x. Export Price - Petitioners had earlier relied upon the IBIS data to assess the volume and value of subject import in India. Post initiation of investigations, the petitioners have procured information with regard to imports from DGCI&S. Analysis of this information shows that the volume and price of imports reported in IBIS and DGCI&S data are quite comparable. Therefore, the Designated Authority is requested to determine export price on the basis of DGCI&S data. The export price has been adjusted for expenses such as ocean freight, marine insurance, commission, port expenses, inland freight, bank commission and VAT difference; which may have been incurred by the exporter for exporting the material to India.
- xi. Exporters and producers from China have continued to dump DFS in the Indian market.
- xii. Dumping of the product under consideration is likely to intensify from subject country, should the current anti dumping duty be revoked.

E.2 Views of the opposing interested parties

22. None of the opposing interested party has filed any questionnaire response or legal submission, or has otherwise provided necessary information during the course of the present investigation. However, certain users of the product under consideration, namely, Shital Chemical Industry, Khambhat; Supra Inter Chem, Vadodara; Deedy Chemicals Pvt Ltd; Pharmson Chemical, Ahmadabad; Supra Combines, Vadodara; S N Chemicals, Bhilwara; yhvi Chemicals, Valsad; Base Metal, Vadodara; Meridian Chemibon Pvt Ltd, Mumabai; Itas Pharmaceuticals, Chemicals, Ankleshwaer and Indian Drug Manufacturers' Association, Mumbai, have represented to continue duty on DFS in the light of its low import and low prices of prices Indolinone, used in the manufacture of DFS.

E.3 Examination by the Authority

a) Normal value

23. The Authority had sent questionnaires to the known exporters/producers in the subject country, advising them to provide information in the form and manner prescribed. There has been no response to the questionnaire nor has there been any submission by the producers/exporters in China PR.
24. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules.
25. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s) /producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:
- the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
 - the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - the exchange rate conversions are carried out at the market rate.
26. The Authority notes that none of the producers/exporters of the subject goods from China PR has submitted response to either the exporter's questionnaire or the market economy questionnaire consequent upon the initiation notice issued by the Authority. Since none of the Chinese companies has claimed market economy treatment, the Authority has not determined whether any of the Chinese producers could be granted market economy treatment.
27. As none of the Chinese producers/ exporters has responded, the Authority has proceeded in accordance with Para 7 of Annexure - I to the Rules. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country

export sales, as well as cost of production and cooperation of such producers in third country is required. No information with regard to prices and costs prevalent in these markets have been provided either by the applicants or by the exporters or other interested parties, nor any publicly available information could be accessed, nor the Chinese companies have responded or made any claim with regard to an appropriate market economy third country. In the absence of sufficient information on record regarding the other methods as are enshrined in para 7 of Annexure I of AD Rules, the Authority has determined the normal value by adopting the method of “other reasonable basis” for the POI and the review being a sunset review, also for the post POI.

28. The Authority has, therefore, constructed the normal value for China PR on the basis of the cost of production in India, duly adjusted, including selling, general and administrative expenses and profit and considering the international prices of major raw materials. Accordingly, the constructed normal value for Chinese exporters determined in the POI and post POI is as per the Dumping Margin Table below.

b) Export Price

29. As none of the exporter/producer has provided any information that can be used for determination of the export price, the Authority has determined the ‘Export Price’ for all exporters from China PR on the basis of imports into India. For the purpose of determining the net export price, the Authority has taken into account transaction wise import data received from DGCIS. In view of non cooperation from Chinese producers, price adjustments have been allowed on the basis of facts available. Accordingly, export price has been adjusted for ocean freight, marine insurance, commission, port expenses, bank charges, inland freight, VAT difference etc. The net export price determined by the Authority for the POI and the review being a sunset review, also for the post POI is as per the Dumping Margin Table below.

c) Dumping Margin

30. On the basis of the normal value and export price so determined at ex-factory level; the dumping margin during the POI and the review being a sunset review, also for the post POI for all exporters/ producers from China PR as per the Dumping Margin Table below:

Dumping Margin Table

Particular	Unit	POI (Oct 2011-Dec 2012)	Post POI (Jan 2013- Dec 2013)
Exchange Rate	US\$/INR	53.04	58.95
Normal Value	US\$/Kg	***	***
Net Export Price	US\$/Kg	***	***
Dumping Margin	US\$/Kg	***	***
Dumping Margin - %	%	***	***
Dumping Margin range%	%	0-10	15-30

F. Assessment of Injury and Examination of Causal Link

Injury to the domestic industry

F.1 Views of the domestic industry

31. The Domestic Industry has submitted that:

- i) Petitioners constitute domestic industry within the meaning of the Rules.
- ii) The petitioners have claimed injury based on its information relating to the product under consideration.
- iii) Demand for the product has shown declining trend over the period. The decline in demand to some extent is due to import of Indolinone, which has been converted into DFS and sold in the market.
- iv) The volume of imports from China has declined over the injury period, which should be attributed to the current antidumping duty in force and imports of intermediate product (Indolinone). In fact, the volume of import of Indolinone is increasing. Should the present anti-dumping duty on Diclofenac Sodium be revoked, there would definitely be increase in the volume of imports of Diclofenac Sodium from the subject country.
- v) Though the market share of dumped Chinese imports declined over the injury period, the imports have continued to enter at dumping prices.
- vi) Price undercutting and price underselling is significantly positive in the absence of anti dumping duty.
- vii) Cessation of anti dumping duty is likely to lead to intensified dumping and injury to the domestic industry. This is clearly established by (i) significant price undercutting, (ii) price underselling, (iii) significant capacities in China.
- viii) The domestic industry has expanded its capacity. Even though the domestic industry was able to improve its production to some extent, the domestic industry lost sales volume in the POI.
- ix) Capacity utilization and market share of the domestic industry has continuously declined after increasing upto 2011-12.

- x) Though the domestic industry has been able to make profits, the profitability in POI has declined as compared to base year 2009-10.
- xi) Producers/exporters in China are having excessive production capacities.
- xii) The export orientation of some of the Chinese suppliers suggests that revocation of anti dumping duty would open the floodgates for dumping the material in the Indian market.
- xiii) The anti dumping duty in force has been effective in keeping a check on the volume of imports from China. In case anti dumping duty is revoked and consequently dumped imports from the subject country increase; the domestic industry would be vulnerable to injury.
- xiv) Volume and prices of imports not sold at dumping prices, contraction in demand, changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, the export performance and productivity of the domestic industry have not caused claimed injury to the domestic industry.
- xv) Factors such as positive price undercutting and price underselling; import causing price suppression, deterioration in performance of the domestic industry in respect of sales volumes, market share, profits, return on investment and cash flow establish that the injury to the domestic industry is being caused by dumped imports.
- xvi) The anti dumping duty on Diclofenac Sodium is required to be extended further for a period of five years. Further, anti dumping duty needs to be extended to imports of Indolinone to prevent circumvention.
- xvii) The same quantum and form of anti dumping duty is required to be extended further for the reason that the dumping of product under consideration has significantly shifted to dumping of Indolinone. Further, the price at which Indolinone is imported into India clearly shows that if the present anti dumping duty is not extended further and if the present quantum of anti dumping duty is not extended to import of Indolinone, the domestic industry is likely to suffer injury. The modification of the quantum of duty shall imply continued injury to the domestic industry, as the imports of Indolinone shall cause injury to the domestic industry.

F.2 Views of the opposing interested parties

32. None of the opposing interested party has filed any questionnaire response or legal submission, or has otherwise provided necessary information during the course of the present investigation.

F.3 Examination by the Authority

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

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

34. For the examination of the impact of the dumped imports on the domestic industry in India, the indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, magnitude of margin of dumping etc. have been considered in accordance with the Annexure II of the rules supra.
35. Present investigation is a sunset review investigation of the anti dumping duty in force. Rule 23 provides that provisions of Rule 11 shall apply on mutatis mutandis basis. The Authority has therefore, determined injury to the domestic industry considering, mutatis mutandis, provisions of Rule 11 read with Annexure II. Further, since anti dumping duties are in force on imports of product under consideration, the Authority considers that the fact of existing anti dumping duties on the product imported from the subject country is required to be considered while examining the injury to the domestic industry. The Authority has examined whether existing measures is required to be extended to counteract dumping and injury.

I. Volume Effect

36. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. In this regard, Annexure II (ii) of the AD Rules provides as under:

“While examining the volume of dumped imports the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

a.) Assessment of Demand and Market Share

37. For the calculation of the domestic consumption/demand of the product under consideration, the Authority has added sales volume of the domestic industry and other Indian producers to the total imports into India. Imports for the purpose have been determined on the basis of transaction wise import data received from DGCI&S. Demand for the product over the injury period was as follows.

Demand excluding both Indolinone & captive consumption

Particulars	MT	2009-10	2010-11	2011-12	POI (annualized)
Imports-China	MT	142	47	88	51
Imports-Other Countries	MT	-	-	-	0.04
Domestic Industry merchant sales	MT	452	610	572	447
Other Producers' sales	MT	430	370	366	376
Total demand		1,024	1,027	1,026	874
Market Share in Demand	%				

Imports- China	%	13.88%	4.61%	8.59%	5.80%
Imports- Other Countries	%	0.00%	0.00%	0.00%	0.00%
Domestic Industry merchant sales	%	44.15%	59.37%	55.71%	51.16%
Other Producers' sales	%	41.97%	36.02%	35.69%	43.04%

Demand excluding Indolinone & including captive consumption

	MT	2009-10	2010-11	2011-12	POI (annualized)
Imports-China	MT	142	47	88	51
Imports- Other Countries	MT	-	-	-	0.04
Domestic industry sales	MT	452	610	572	447
Captive consumption	MT	72	195	397	348
Other producers' sales	MT	430	370	366	376
Captive of other producers		60	66	61	49
Total Demand	MT	1,157	1,288	1,484	1,270
Market Share in Demand	%				
Imports- China	%	12%	4%	6%	4%
Imports-Other Countries	%	0%	0%	0%	0%
Domestic industry sales	%	39%	47%	39%	35%
Captive consumption	%	6%	15%	27%	27%
Other producers' sales		37%	29%	25%	30%
Captive of other producers		5%	5%	4%	4%
Total Demand		100%	100%	100%	100%

38. Further, the domestic industry has submitted that volume of imports of Indolinone should also be added in the import volume of Diclofenac Sodium for the purpose of assessment of demand for the ultimate product in the country. In that case the demand position of the country is as follows:

Demand including both Indolinone and captive consumption

Demand including Captive	Unit	2009-10	2010-11	2011-12	POI (annualized)
Sales of Domestic Industry	MT	524	805	969	795
Sales of Other Indian Producers	MT	490	436	427	425
Imports- Subject Country-DFS	MT	142	47	88	51
Imports- Subject Country-Indolinone	MT	165	210	299	218
Imports from Subject	MT	307	257	387	269

Country-DFS + Indolinone					
Imports-Other Countries	MT	0	0	0	0.04
Total Demand	MT	1,321	1,498	1,783	1,489
Market Share in Demand including captive					
Domestic Industry	%	40%	54%	54%	53%
Other Indian Producers	%	37%	29%	24%	29%
Subject Country	%	23%	17%	22%	18%
Other Countries	%	0%	0%	0%	0.003%

Demand including Indolinone and excluding captive consumption

Demand excluding Captive	Unit	2009-10	2010-11	2011-12	POI (annualized)
Sales of Domestic Industry	MT	452	610	572	447
Sales of Other Indian Producers	MT	430	370	366	376
Imports- Subject Country-DFS	MT	142	47	88	51
Imports- Subject Country-Indolinone	MT	165	210	299	218
Imports- Subject Country-DFS + Indolinone	MT	307	257	387	269
Imports-Other Countries	MT	0	0	0	0.04
Total Demand	MT	1,189	1,237	1,325	1,092
Market Share in Demand excluding captive					
Domestic Industry	%	38%	49%	43%	41%
Other Indian Producers	%	36%	30%	28%	35%
Subject Country	%	26%	21%	29%	25%
Other Countries	%	0%	0%	0%	0.004%

39. The Authority notes that:

- i. The demand for the product under consideration has shown decline in the POI as compared to the base year as well as previous year.
- ii. Whereas the import volume of Diclofenac Sodium has declined, the import volume of Indolinone has increased over the injury period.
- iii. The market share in demand of the subject country declined over the injury period.
- iv. Market share of the domestic industry has increased in the POI as compared to the base year. However, the same has decreased as compared to the previous year.

b.) Import Volume and market share

40. The information regarding imports and market share is provided in the table below.

Imports excluding Indolinone

Particulars	Unit	2009-10	2010-11	2011-12	POI (annualized)
China - DFS	MT	142	47	88	51
Other Countries	MT	-	-	-	0.04
Total Imports	MT	142	47	88	51
Imports in relation to					
➤ Total Imports	%	100%	100%	100%	100%
➤ Production	%	16%	4%	7%	4%
➤ Consumption (including captive)	%	11%	4%	5%	3.43%
➤ Consumption (excluding captive)	%	12%	4%	7%	5%

41. Further, the domestic industry has submitted that volume of imports of Indolinone should also be consider in the import volume of Diclofenac Sodium for the purpose of assessment of import volume and market share in DFS.

Imports including Indolinone

Particulars	Unit	2009-10	2010-11	2011-12	POI (annualized)
China - DFS	MT	142	47	88	51
China - Indolinone	MT	165	210	299	218
Other Countries	MT	-	-	-	0.04
Total Imports	MT	307	257	387	269
Imports in relation to					
➤ Total Imports	%	100%	100%	100%	99.99%
➤ Production	%	35%	22%	30%	20%
➤ Consumption (including captive)	%	23%	17%	22%	18%
➤ Consumption (excluding captive)	%	26%	21%	29%	25%

42. The Authority notes from the above that:

- i. The volume of imports of DFS declined in the POI as compared to base year as well as the previous year. However, volume of imports including Indolinone from China has increased in 2011-12 and then declined in the POI as compared to base year 2009-10. The domestic industry has claimed that the present situation exists because of the anti dumping duty in force. Should the present anti dumping duty be revoked, there would definitely be substantial increase in the volume of dumped imports.
- ii. The market share of subject country in total imports is significant.
- iii. The market share of imports from the subject country in relation to production and consumption in India is also significant. It is noted that this is despite the anti dumping duty levied on the imports of the subject goods from the subject country.

43. The domestic industry has claimed that though import volumes of Diclofenac Sodium have declined, imports of intermediate product (Indolinone) started coming in the country to circumvent the anti dumping duty. In fact, the volume of import of this product is increasing and is significant. Should the present anti-dumping duty on Diclofenac Sodium be revoked, there would definitely be increase in the volume of imports of Diclofenac Sodium from the subject country. Further, if the anti dumping duty is continued only on Diclofenac Sodium, the imports of Indolinone would keep causing injury to the domestic industry. There is a strong likelihood of significant increase in the volume of dumped imports from China. Considering the export potential of the Chinese producers, the volumes would once again surge in the event of revocation of anti dumping duty or continuation of anti dumping duty only on imports of Diclofenac Sodium. The authority notes that the issue of circumvention of anti dumping duty is beyond the purview of present case.

II. Price Effect

44. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules states as under:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

a.) Price Undercutting and Price Underselling

45. It was examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of recurrence of adverse price effect in the event of cessation of duty. Since the present investigation is a sunset review investigation, the Authority

is required to consider what would be the extent of price undercutting, if the current duties are allowed to cease. In this context, the Authority has undertaken an analysis of the net sales realization, non-injurious selling price of the domestic industry and the landed price of the imports from the subject country during the period of investigation.

46. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting and price underselling. For this purpose, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with the landed value of imports from the subject country. The net sales realization was arrived at after excluding excise duty, rebate, discount and taxes. Landed value of imports has been calculated by adding 1% landing charge, applicable basic customs duty and cess to the CIF value of the subject imports. The landed value of imports was compared with net sales realization of the domestic industry so determined. The trend of undercutting and underselling is given below:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Landed price of import	Rs/MT	3,14,993	3,75,900	4,65,467	5,47,054
NSR of domestic industry	Rs/MT	***	***	***	***
Price undercutting	Rs/MT	***	***	***	***
Price undercutting %	%	***	***	***	***
Price undercutting Range%		25-60	15-30	15-35	0-15
Non-injurious Price	Rs/MT				***
Price Underselling	Rs/MT				(***)
Price Underselling	%				(***)
Price Underselling Range	%				(0-10)

47. The Authority notes that:

- The landed price of imports was below the selling price of the domestic industry, thus resulting in price undercutting in the market. Further, the level of price undercutting was significant.
- The landed price of imports was above the NIP of the domestic industry. Thus, the imports were not resulting in price underselling in the market.

b.) Price suppression/depression

48. The Authority notes that in a sunset review investigation, the Authority is required to examine whether there was a significant adverse price effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of significant adverse price effect in case of revocation of anti dumping duty.
49. To examine price suppression and depression effect, the Authority has examined cost of sales and selling price per unit of the domestic industry during the POI and the injury period. The trends in this regard are given in the table below:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs/MT	***	***	***	***
<i>Indexed</i>		100	114	130	133
Selling Price	Rs/MT	***	***	***	***
<i>Indexed</i>		100	97	123	126

50. From the above, the Authority notes that cost of sales of the domestic industry increased consistently over the injury period. The Authority further notes that the selling price also shows the same trend except in 2010-11. However, the increase in the selling price is less than the increase in the cost of sales in the POI as compared to the base year. Whereas the cost of production increased by 33%, the selling price increased only 26%. Thus, cessation of anti dumping duty would lead to significant adverse price suppression effect in the domestic market.

III. Economic Parameters Affecting Domestic Industry

51. As per the Annexure II to the AD Rules, the determination of injury shall involve an objective examination of the consequent impact of the imports of subject goods on domestic producers of the subject goods. The relevant extract of the said Rule is reproduced herein below –

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

a) Sales, Capacity, Production, and Capacity Utilization

52. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry. Capacity, production, capacity utilization and sales volumes of the domestic industry have been as under:-

Particulars	Unit	2009-10	2010-11	2011-12	POI (annualized)
Installed capacity	MT	1,060	1,340	1,520	1,640
Production	MT	872	1,194	1,269	1,354
Capacity Utilization	%	82%	89%	84%	83%
Domestic Sales	MT	452	610	572	447
Captive sales	MT	73	194	396	347
Export sales	MT	365	468	392	568
Total Sales	MT	890	1,272	1,360	1,362

53. The Authority notes that: -

- The domestic industry has expanded its capacity throughout the injury period.
- Production of the domestic industry increased over the injury period.
- Capacity utilization of the domestic industry increased up to 2010-11 and then declined till POI.
- Domestic sales increased up to 2010-11 and then declined till POI.
- The domestic industry has been able to enhance capacities for the product under consideration and increase its production & sales after imposition of anti dumping duty.

b) Market Share

54. Market share of domestic industry and other parties are as follows:

(a) Excluding Indolinone imports and excluding captive consumption

Particulars	UOM	2009-10	2010-11	2011-12	POI (annualized)
Market Share in Demand	%				
Imports SSR China	%	13.88%	4.61%	8.59%	5.80%
Other Countries	%	0.00%	0.00%	0.00%	0.005%
Domestic industry	%	44.15%	59.37%	55.71%	51.16%
Other Producers	%	41.97%	36.02%	35.69%	43.04%

(b) Excluding Indolinone imports and including captive consumption

Particulars	UOM	2009-10	2010-11	2011-12	POI (annualized)
Market Share in Demand	%				
Imports SSR China	%	12%	4%	6%	4%
Other Countries	%	0%	0%	0%	0.003%
Domestic industry sales	%	39%	47%	39%	35%
Captive consumption	%	6%	15%	27%	27%
Other producers		37%	29%	25%	30%
Captive of other producers		5%	5%	4%	4%
Total Demand		100%	100%	100%	100%

(c) Including Indolinone imports and including captive consumption

Market Share in Demand including captive	UOM	2009-10	2010-11	2011-12	POI
Domestic Industry	%	40%	54%	54%	53%
Other Indian Producers	%	37%	29%	24%	29%
Subject Country	%	23%	17%	22%	18%
Other Countries	%	0%	0%	0%	0.003%

(d) Including Indolinone imports and excluding captive consumption

Market Share in Demand excluding captive	UOM	2009-10	2010-11	2011-12	POI
Domestic Industry	%	38%	49%	43%	41%
Other Indian Producers	%	36%	30%	28%	34%
Subject Country	%	26%	21%	29%	25%
Other Countries	%	0%	-	-	0.004%

55. It is noted from the table above that the market share of the domestic industry has improved and market share of dumped Chinese imports declined over the injury period. The domestic industry has contended that anti dumping duty has been able to help them in improving its share in the market but revocation of anti dumping duty is likely to result in decline in market share of the domestic industry, given the current import prices of the product and import prices of Indolinone in the POI.

c) Profitability

56. The cost of sales, selling price and profit and loss of the domestic industry shows as follows:

Particulars	UOM	2009-10	2010-11	2011-12	POI (annualized)
Cost of Sales	Rs/MT	***	***	***	***
<i>Indexed</i>		100	114	130	133
Selling price	Rs/MT	***	***	***	***
<i>Indexed</i>		100	97	123	126
Profit/loss	Rs/MT	***	***	***	***
<i>Indexed</i>		100	9	86	86

57. It is noted that: -

- Cost of sales increased over the injury period.
- Selling price of the domestic industry also increased in the same period. However, the increase in selling price was far lower than increase in cost.
- Whereas both the selling price and the costs have increased, the increase in cost (33%) is significantly higher than the increase in the selling price (26%).

d) Cash Profit and Return on Investment

58. Cash profit and return on investments earned by the domestic industry from the sales of the subject goods in the domestic market were as under: -

Particulars	UOM	2009-10	2010-11	2011-12	POI (annualized)
Profit/loss	Rs. Lacs	***	***	***	***
<i>Indexed</i>		100	12	109	85
Cash Profit	Rs. Lacs	***	***	***	***
<i>Indexed</i>		100	29	116	94
Profit before Interest and Tax	Rs. Lacs	***	***	***	***
<i>Indexed</i>		100	24	109	90
Return on Capital Employed-NFA	%	***	***	***	***
<i>Indexed</i>		100	18	62	48

59. The Authority notes that:

- i) Profit, cash profit and return on investment declined in 2010-11. The profits increased in 2011-12 and then declined in the POI. The profits during POI are lower as compared to previous year as well as the base year.
- ii) Return on investment and cash profits have followed the same trend as that of profits.

e) Inventories

60. Inventory position of the domestic industry is given in the table below:

Inventories (in MT)	2009-10	2010-11	2011-12	POI
Average stock	***	***	***	***

61. It is seen from the above table that inventories with the domestic industry increased over the injury period. The domestic industry has claimed that they cannot afford to hold high stock of inventories and have to dispose of the same at whatever prices they can sell the product in the domestic or export market. Despite this, the level of inventories increased over the injury period.

f) Employment, Wages and Productivity

62. The number of employees employed by the domestic industry, its productivity and wages paid show as follows:

Particulars	Unit	2009-	2010-11	2011-	POI
Employment	Nos.	330	333	329	332
Wages		***	***	***	***
	Rs. Lacs				
Productivity Per employee	MT	***	***	***	***

63. The Authority notes that employment in the domestic industry has remained almost at the same level, whereas wages have increased during the POI as compared to the previous year as well as the base year. The productivity per employee of the domestic industry has improved in the injury period.

g) Factors affecting domestic prices

64. Consideration of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports

that might be affecting the prices of the domestic industry in the domestic market would show that the landed value of imported material from the subject country is significantly below the selling price of the domestic industry causing price undercutting in the Indian market. The domestic industry has submitted that the benchmark for the Indian producers' prices is the import prices from China. There is no viable substitute to this product. Demand for the product was showing significant jump and could not have been a factor responsible for price suppression faced by the domestic industry. It is, thus, evident that the only factors responsible for the domestic industry prices are the import prices of the product from China and the cost of production of the domestic industry.

h) Magnitude of Dumping Margin

65. The Authority notes that dumping margin from the subject country is positive both in the POI and the post POI.

i) Ability to raise fresh Investment

66. The domestic industry is a multi product company. Therefore, dumping of the subject goods has not affected the ability of the domestic industry to raise capital.

j) Growth

67. The analysis of the growth of the domestic industry over the previous years in respect of some important parameters reflects the following trend:

Growth	UOM	2009-10	2010-11	2011-12	POI
Production	%	-	37%	6%	7%
Domestic Sales Volume	%	-	35%	-6%	-22%
Capacity Utilization	%	-	6.91%	-5.61%	-0.98%
Selling price domestic	%	-	-3%	27%	2%
Profit Before Tax	%	-	-88%	776%	-22%
Cash Profit	%	-	-71%	301%	-19%
Return on capital employed (NFA basis)	%	-	-9.59%	7.16%	-1.70%
Market Share	%	-	14.05%	0.61%	-0.97%

68. The Authority notes that negative trend is observed in terms of the majority of parameters such as sales, capacity utilization, profits, return on investment, cash profits, market share etc. All these parameters show negative growth in the POI as compared to previous year 2011-12. This situation is despite anti dumping duty in force.

k) Conclusion on Injury

69. In view of the above, the Authority concludes that: –

- a) There is continued dumping of the product under consideration from China. While the volume of imports of Diclofenac Sodium has declined in the POI, imports of intermediate product, Indolinone have increased in the POI;
- b) Even though the domestic industry was able to improve its production to some extent, the increase was disproportionate to the increase in capacity.
- c) The domestic industry is suffering price suppression.
- d) Whereas both cost of production and selling price increased, the increase in selling price was lower than the increase in cost of production.
- e) The landed price of imports was above the NIP of the domestic industry in the POI and, thus, the imports were not resulting in price underselling in the market. Price underselling is negative and thus shows no injury to the domestic industry in the POI.

IV. Likelihood Of Continuation Or Recurrence Of Dumping & Injury

70. The domestic industry in its submissions claimed that the requirement under a sunset review is to examine whether revocation of anti dumping duty is likely to lead to continuance or recurrence of dumping and injury to the domestic industry. All such factors brought to the notice of the Authority have been examined to find if there is a likelihood of continuation of dumping and injury in the event of withdrawal of the duty. The Authority has determined whether the subject goods are likely to continue to enter the Indian market at dumped prices in the event of withdrawal of anti dumping duties and whether injury to the domestic industry is likely due to these dumped imports if the duty is removed.

71. In addition to the examination of continued dumping and injury, likelihood of continuation or recurrence of dumping and injury to the domestic industry has also been examined by the Authority on the basis of information and evidence as submitted by various interested parties during the course of the investigations.

72. With respect to likely dumping and injury to the domestic industry in the event of cessation of anti dumping duty, the petitioners have claimed that: -

- i) Cessation of anti dumping duty is likely to lead to dumping and injury to the domestic industry. This is clearly established by significant price undercutting, price underselling in the post POI period, significant capacities in China and import price of Indolinone.
- ii) India and China are the only two known countries having production facilities for the product under consideration. Petitioners are competing with the

Chinese producers in the global market and, therefore, have knowledge about their excessive capacities and low prices at which they can export the product.

- iii) The export orientation of some of the Chinese suppliers suggests that revocation of anti dumping duty would open the floodgates for dumping the material in the Indian market.
- iv) The anti dumping duty in force has been effective in keeping a check on the volume of imports of Diclofenac Sodium from China.
- v) The fact that the Chinese producers are exporting Indolinone and the price at which the Chinese producers are exporting Indolinone in the Indian market clearly establishes the price at which the Chinese are likely to export the product under consideration in the absence of anti dumping duty.
- vi) The increase in import price and consequently decline in the import volumes in the present period is thus artificial and is governed by the fact of impending sunset review.
- vii) The prices prevailing in Indian market are quite attractive for the foreign producers to export significant volumes, in case anti dumping duty is revoked.
- viii) The landed price of imports in the post POI period is far lower than the selling price and NIP of the domestic industry. Imports were already causing price suppression. Resultantly, the domestic industry was unable to increase its prices when the costs were increasing in the current POI.
- ix) Should the present anti-dumping duty on Diclofenac Sodium be revoked, there would definitely be increase in the volume of imports of Diclofenac Sodium from the subject country.
- x) The import price of DFS increased in the present POI but declined significantly in the post POI, as is seen from the table below.

Year	CHINA PR	
	Volume(MT)/DFS	Price (Rs/kg)
2009-10	142.21	295.33
2010-11	47.38	352.43
2011-12	88.20	436.41
POI (Oct2011-Dec2012)	63.30	512.90
2012-13	29.10	543.46
Apr-13	12.70	448.56
May-13	16.70	439.12
Jun-13	19.50	431.21

- xi) The price of Indolinone and DFS increased in the POI and declined in the post POI. Therefore, this supports the contention of the domestic industry that the price of DFS in the POI is not representative for determination of likely situation in the event of cessation of anti dumping duty.

Year	Import price Rs./kg	
	Indolinone	DFS

2009-10	331.55	295.33
2010-11	345.83	352.43
2011-12	390.76	436.41
POI (Oct2011-Dec2012)	438.94	512.90
2012-13	450.59	543.46

- xii) The Chinese producers are holding significant capacities, as would be seen from the table below showing capacities with the known Chinese producers. Petitioners further submit that this is not exhaustive list of Chinese producers.

SN	COMPANY	Supply ability (MT/ year)
1	Zhejiang Chemicals Import & Export Corp.	1,200
2	The TNN Development Limited	6,240
3	Hangzhou Uniwise International Co., Ltd	1,200
4	Jiaxing Suns Int'l Trade Co., Ltd.	1,000
5	Hangzhou Ruijiang	520
6	Henan Tianfu Chemicals	2,000
7	China Foodpharm Group Co Ltd.	1,500
8	Tangying Yongqi	1,000
9	Total Supply Ability	14,660

- xiii) Further, the table below shows the export orientation of the known Chinese producers, which clearly shows high export orientation of the Chinese producers.

SN	COMPANY	EXPORT %
1	China Foodpharm Group Co. Ltd	71%-80%
2	Yan'an Changtai Pharmaceuticals Co. Ltd.	31%-40%
3	Anhui Suntran Chemicals Co. Ltd	71%-80%
4	Hubei Yuancheng Pharmaceutical Co. Ltd	41%-50%
5	Suzhou Toprun Imp & Exp Trading Co. Ltd.	91%-100%

- xiv) Though, the production and sales volume of the domestic industry has increased, the profitability per unit has declined in the post POI period.
- xv) Cessation of anti dumping duty is likely to lead to dumping and injury to the domestic industry.
- xvi) In the event of revocation of the anti-dumping duty, the product is likely to be dumped more intensively and undercut the prices of the domestic industry more significantly.

Examination by the Authority

73. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from China. Under the Rules, the Authority is required to determine whether continued imposition of anti dumping duty is warranted. This also requires examination of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In the present investigation, there are continued dumped imports. Further, the dumping margin in the original as well as the present investigation is significant and that there are favorable market conditions in the Indian market as far as demand and price for the subject goods are concerned. The Authority considers that there is no reason to believe that dumping is not likely to intensify if the duty is revoked. The following analysis shows the likelihood of dumping and consequent injury to the domestic industry in the event of revocation of the duty.

Level of current and past dumping and injury margins

74. The Authority notes that:

- i) The present investigation has shown positive dumping margin in the POI and the post POI. The past investigation had also shown positive dumping. The volume of import has remained significant.
- ii) The Authority also notes that the prices in the current period show positive dumping margin and are indicative of likely situation with cessation of anti dumping duty where the dumping is likely to intensify.
- iii) The injury margin though negative in the POI is positive in the post POI. Dumping margin is also positive in the post POI.

Export Orientation and Supply Ability of Chinese Suppliers

- iv) The Authority notes that the Chinese exporters are largely export oriented. Supply ability of the Chinese producers is far higher than the total Indian demand. Considering the fact that the product is produced only in China and India, cessation of anti dumping duty is likely to lead to intensified dumping of the product in the Indian market.

Price attractiveness of Indian market

- v) The Authority notes that the dumping and injury margin in the post POI is positive showing the price attractiveness of the Indian Market.

Significant exports to Third Countries

- vi) Exports of product under consideration from China to third countries are significant. In fact the product is produced mainly in China and India. The Authority further notes that though as far as imports of the subject goods into India in the post POI

are concerned, the dumping and injury margins in the post POI are positive and thus show likely dumping of the subject goods in India causing likely injury to the domestic industry, yet the Authority has analysed the World Trade Atlas Data and the analysis shows that the majority of exports from China to third countries in the post POI are much below the export price to India. Therefore, in the event of expiry of anti dumping duty, dumping of the product under consideration from China is likely to increase.

75. Based on the above, the Authority holds that:

- i) the Chinese producers have been exporting the product at dumping prices in the POI and post POI;
- ii) The import price of DFS in the post POI is below the post POI NIP showing positive injury margin in the post POI.
- iii) Chinese producers are holding significant capacities for the product under consideration;
- iv) Chinese producers are having very high export orientation, and dumped imports have continued to enter in the country even after the anti dumping duty has been in force.
- v) Price suppression indicates the likely adverse price effect of dumped imports on domestic industry in the event of expiry of the anti dumping duty in force. In the event of revocation of anti dumping duties, the domestic industry would face threat of imports from the subject country.
- vi) The import price of the product in the post POI period is materially lower than the selling price of the domestic industry, thus showing that the imports from China are likely to lead to further suppressing effect on the prices of the domestic industry in the market.
- vii) Dumping of the product under consideration is likely to intensify from the subject country, should the current anti dumping duty be revoked; Price undercutting is positive.
- viii) The import price of the product in the post POI period to majority of the third countries is materially lower than the selling price of the domestic industry, thus showing that in case of the diversion of these exports to India, the same are likely to cause injury to the domestic industry.
- ix) In view of the above, in case of expiry of existing duty, exporters from China would further channelize their output in the Indian market, as they are already holding excessive capacities and are in fact selling subject goods to third countries at substantially lower prices. All such circumstances would result in likelihood of injury to the Domestic Industry.
- x) It is, therefore, concluded that the dumping and injury is likely to continue if the anti dumping duty is revoked.

V. Causal link

76. Annexure-II to the Rules provides as follows with regard to Causal Link:

“It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the Designated Authority. The Designated Authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must 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 dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.”

77. The Authority examined whether other factors listed under the Rules caused injury to the domestic industry.

a) Volume and value of imports not sold at dumping prices:

78. It is noted that the domestic industry is facing injury from dumped imports from China. Imports from other countries are not significant in volume. The domestic industry contended that the product under consideration is produced only in India and China. It cannot, therefore, be said that the volume of imports not sold at dumping prices have caused injury to the domestic industry.

b) Contraction in demand:

79. Demand of the product under consideration in the Indian market continues to be significant. Further, India and China are the only two countries known to be producing the product under consideration. Cessation of anti dumping duty under the situation is likely to lead to intensified injury to the domestic industry.

c) Changes in the patterns of consumption:

80. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is not a factor that could have contributed to the injury to the domestic industry.

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

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

e) Developments in technology:

82. Technology for production of the product has not undergone any change nor are there any likely changes in the coming future. Developments in technology are, therefore, not a factor of injury.

f) Export performance:

83. The petitioners export the product under consideration. The export volume has increased over the injury period. Moreover, information relating to domestic sales has been taken into consideration for assessment of injury to the extent possible.

Particulars	Unit	2009-10	2010-11	2011-12	Oct'11-Dec'12
Export Sales	MT	365	468	392	710

g) Performance of other products produced and sold by the domestic industry:

84. The petitioners are multi product companies. The information provided for the product under consideration does not contain any information of other products. The Authority has relied upon information with regard to product under consideration only for the present purpose. Therefore, the performance of other products did not cause the claimed injury to the domestic industry.

85. In view of the foregoing, the Authority holds that other factors listed under the Rules have not caused claimed injury to the domestic industry. The Authority further examined factors that establish that injury to the domestic industry is caused by continued dumping.

- (i) Imports from the subject country are likely to cause significant price undercutting in the event of expiry of anti dumping duty.
- (ii) The price of imports in the post POI period and import price of Indolinone during the injury period and thereafter clearly shows that the imports are likely to cause significant price undercutting and underselling in the event of cessation of anti dumping duty.
- (iii) Existence of significant price undercutting in the event of expiry of anti dumping duty is likely to result in consumers switching over to the imported material.
- (iv) The anti dumping duty in force has been effective to significant extent in keeping a check on the volume of imports from China in the period of investigation and, therefore, there is sufficient reason to believe that the volume would definitely surge in the event of revocation of anti dumping duties; given the fact that the producers in the subject country are holding sufficient capacities.
- (v) In case duty is revoked and consequently imports from the subject country increase, the Domestic Industry would be forced to reduce the prices of the product concerned significantly.
- (vi) In the event of cessation of anti dumping duty, the domestic industry would be forced to reduce the prices. Its natural impact would be on the profitability of the domestic industry. Decline in profits would lead to decline in cash flow and return on investment. If the domestic industry chooses to maintain its normal price levels, it is likely to lose its sales volume as consumers would increasingly switch over to the imports.

86. It is, thus, concluded that the injury to the domestic industry is likely in the event of cessation of anti dumping duty. The product is likely to be exported at dumping prices in the event of cessation of anti dumping duty and the domestic industry is likely to suffer injury in case the present duty is not extended further.

Magnitude of injury and injury margin

87. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports from the subject country to determine injury margin. The injury margin has, thus, been worked out as follows:

	POI	Post POI
Particular	USD/MT	USD/MT
Non Injurious Price (NIP)	***	***
Landed Price	10.31	8.06
Injury Margin	(***)	***
Injury Margin-%	(***)	***
Injury Margin-% Range	(0-10)	15-25

Indian Industry's interest:

88. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured by using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

G. Post Disclosure Statement submissions by the Interested Parties

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

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

G.2 Post Disclosure Statement submissions by the Domestic Industry

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

- i) None of the foreign producers has cooperated or even participated in the review investigations.
- ii) The imports have continued to enter at dumping prices. The volume of imports of Indolinone have increased.
- iii) Price undercutting and price underselling is significantly positive in the absence of anti dumping duty.
- iv) NIP may be re-determined considering actual cost of production of the domestic industry and return on net present value of the investment.
- v) Both dumping margin and injury margin are significant and positive in the post POI, implying likelihood of dumping and injury.
- vi) The anti dumping duty on Diclofenac Sodium is required to be extended further for a period of five years.
- vii) Duty may be imposed in fixed form and in US\$ terms.

G.3 Examination by the Authority

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

H. Conclusion and Recommendation

92. The Authority notes that none of exporters from China PR and importers/users and other opposing interested parties in India participated in the investigation, i.e., they neither submitted post initiation responses nor participated in the Oral Hearing or made any post Disclosure Statement submissions. Having regard to the contentions raised, information provided and submissions made by the domestic industry and facts available before the Authority and on the basis of above analysis including analysis of likelihood of continuation of dumping and injury and post Disclosure Statement submissions made by the Domestic Industry, the Authority concludes and recommends that:

- a. There is continued dumping of the product under consideration from China. While the volume of imports of Diclofenac Sodium has declined in the POI, imports of intermediate product, Indolinone have increased in the POI.
- b. Even though the domestic industry was able to improve its production to some extent, the increase was disproportionate to the increase in capacity.
- c. The domestic industry is suffering price suppression.

- d. Whereas both cost of production and selling price increased, the increase in selling price was lower than the increase in cost of production.
- e. The Chinese producers have been exporting the product at dumping prices in the POI and post POI.
- f. The import price of DFS in the post POI is below the post POI NIP showing positive injury margin in the post POI.
- g. Chinese producers are holding significant capacities for the product under consideration.
- h. Chinese producers are having very high export orientation, and dumped imports have continued to enter in the country even after the anti dumping duty has been in force.
- i. Price suppression indicates the likely adverse price effect of dumped imports on domestic industry in the event of expiry of the anti dumping duty in force. In the event of revocation of anti dumping duties, the domestic industry would face threat of imports from the subject country.
- j. The import price of the product in the post POI period is materially lower than the selling price of the domestic industry, thus showing that the imports from China are likely to lead to further suppressing effect on the prices of the domestic industry in the market.
- k. Dumping of the product under consideration is likely to intensify from the subject country, should the current anti dumping duty be revoked; Price undercutting is positive.
- l. The import price of the product in the post POI period to majority of the third countries is materially lower than the selling price of the domestic industry, thus showing that in case of the diversion of these exports to India, the same are likely to cause injury to the domestic industry.
- m. In view of the above, in case of expiry of existing duty, exporters from China would further channelize their output in the Indian market, as they are already holding excessive capacities and are in fact selling subject goods to third countries at substantially lower prices. All such circumstances would result in likelihood of injury to the Domestic Industry.
- n. It is, therefore, concluded that the dumping and injury is likely to continue if the anti dumping duty is revoked.
- o. The Authority, thus, in order to remove likely injury to the domestic industry, considers it necessary to recommend continuation of definitive anti dumping duty on all imports of the subject goods from the subject

country levied by the Central Government vide its Notification No 91/2008-Customs dated 30th July, 2008, with the modification that the duty levied vide Notification No 91/2008-Customs dated 30th July, 2008 as Rs 144 per kg be modified to read as US\$ 2715 per MT.

93. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

94. An appeal against the order of the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J K Dadoo)

Designated Authority