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

F. No. 6/36/2019-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: 7th January, 2021

NOTIFICATION

FINAL FINDINGS

Case No. ADD - OI - 32/2019

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

F. No. 6/36/2019-DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as "the Rules" or "the AD Rules") thereof:

A. BACKGROUND OF THE CASE

1. The Designated Authority (hereinafter referred to as "Authority") received an application through TPM Consultants, from M/s Aarti Drugs Ltd. (hereinafter also referred to as "the Applicant" or "petitioners")) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as "the Act") and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as "the Rules") for imposition of anti-dumping duty on imports of "Ciprofloxacin Hydrochloride" or "Ciprofloxacin HCL" (hereinafter also referred to as "the product under consideration" or "PUC" or "subject goods") from People's Republic of China (hereinafter also referred to as the "subject country"). M/s Godavari Drugs Limited, another domestic producer of the subject goods, supported the application filed by the Applicant.

2. The Authority, on the basis of sufficient prima-facie evidence submitted by the Applicant, issued a public notice vide Notification No. 6/36/2019- DGTR dated 10th January 2020, published in the Gazette of India, initiating the subject investigation in accordance with Rule 5 of the Rules to determine existence, degree and effect of the alleged dumping of the subject goods,

originating in or exported from the China PR, 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, considered it appropriate to recommend interim duties and issued preliminary finding vide Notification No. 6/36/2019- DGTR dated 15th June 2020, recommending imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from China PR. Accordingly, the Central Government vide Notification No.28/2020-Customs(ADD) dated 2nd September 2020 imposed provisional anti-dumping duties on imports of the subject goods, originating in or exported from the China PR which are valid for 6 months.

B. PROCEDURE

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

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

b. The Authority issued a public notice dated 10th January 2020, published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods from subject country.

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

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

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

   i. M/s Zhejiang Guobang Pharmaceutical Co. Ltd
   ii. M/s Zhejiang Jingxin Pharmaceutical Imp
   iii. M/s Zhejiang Langhua Pharmaceutical Co Ltd.

f. The Embassy of the subject country in India was also requested to advise the exporters/producers

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

g. In response to the initiation of the subject investigation, the following exporters/producers from the subject country filed exporter's questionnaire response:

i. M/s Zhejiang Langhua Pharmaceutical Co Ltd
ii. M/s Zhejiang Guobang Pharmaceutical Co Ltd
iii. M/s Zhejiang Jingxin Pharmaceutical Import & Export Co Ltd
iv. M/s Shangyu Jingxin Pharmaceuticals Co Ltd

h. The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

i. M/s Pharma Zone
ii. M/s Shalina Laboratories Pvt Ltd
iii. M/s Minerva Biogenix Pvt. Ltd.
iv. M/s Pinnacle Life Science Private Limited
v. M/s Laborate Pharmaceutical India Limited
vi. M/s Sneha Medicare Pvt Ltd
vii. M/s Africure Pharmaceuticals (India) Private Limited
viii. M/s Del Trade International Private Limited
ix. M/s Sevantilal & Sons
x. M/s Bal Pharma Limited
xi. M/s Pratistha Pharma
xii. M/s Granules India Limited
xiii. M/s C J Shah And Co
xiv. M/s Medico Remedies Limited
xv. M/s Aurobindo Pharma Limited
xvi. M/s Cadila Pharmaceuticals Ltd.
xvii. M/s Flamingo Pharmaceuticals Ltd.,
xviii. M/s Prashi Pharma Private Limited
xix. M/s Syncom Formulations (India)Limited.
xx. M/s Micro Labs Ltd
xxi. M/s Mancare Pharmaceuticals Pvt. Ltd.
xxii. M/s Gorang International
xxiii. M/s Granules India Limited
xxiv. M/s Brawn Laboratories Ltd
xxv. M/s Theon Pharmaceuticals Ltd.
xxvi. M/s Agog Pharma Ltd.
xxvii. M/s Aquatic Remedies Limited
xxviii. M/s Medopharm
xxix. M/s Umedica Laboratories Pvt. Ltd.

i. None of the importers/users except M/s Micro labs Limited has responded and filed importer's

questionnaire response.

j. The Authority sent notice of initiation to the following other domestic producers, intimating them of the initiation of investigation with a request to provide relevant information to the Authority in the form and manner prescribed:

i. M/s Aurobindo Pharma Limited
ii. M/s Dr. Reddy's Laboratories Ltd.
iii. M/s Neuland Laboratories Limited
iv. M/s Emmennar Pharma Private Limited
v. M/s Sreepathi Pharmaceuticals Limited
vi. M/s Sun Pharmaceutical Industries Ltd.

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

l. The Authority made available non-confidential version of the evidence presented/submissions made by various interested parties in the form of a public file kept open for inspection by the interested parties. Submissions made by all the interested parties to the extent considered relevant at this stage have been taken into account in these final findings.

m. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and its analysis after due examination of the transactions.

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

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

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

q. The Period of Investigation for the purpose of the present anti-dumping investigation is from April 2018 – June 2019 (15 months). The examination of trends in the context of injury analysis covered the periods April 2015- March 2016, April 2016-March 2017, April 2017-March 2018 and the POI.

r. Due to the worldwide outbreak of COVID-19 and consequent restrictions imposed by different countries, including India, the Authority in accordance with Rule 6(6) of the AD Rules and Trade Notice No. 01/2020 dated 10th April 2020, conducted oral hearings through video conferencing on 19th October 2020 to provide an opportunity to the interested parties to present relevant information orally before the then Designated Authority in office.

s. All the parties who had attended the above mentioned oral hearings were advised to file written submissions of the views expressed orally, followed by rejoinders, if any. The arguments made in such written submissions and rejoinders received from the interested parties have been considered, to the extent deemed necessary, for the purpose of these final findings.

t. The submissions made by the interested parties during the course of this investigation, including in response to the Preliminary Findings, wherever found relevant, have been addressed by the Authority, in these Final findings.

u. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

v. The Authority has considered the arguments raised and information provided by all the interested parties till this stage, to the extent the same are supported with evidence and considered relevant to the present investigation.

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

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

y. The exchange rate for the POI has been taken by the Authority as US$1 = 70.73

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

"The product under consideration is "Ciprofloxacin Hydrochloride" or "Ciprofloxacin HCL".

Ciprofloxacin Hydrochloride is used to treat different types of bacterial infections, including skin infections, bone and joint infections, respiratory or sinus infections, urinary tract infections, and certain types of diarrhoea. It acts as anti-infective agent, a topoisomerase IV inhibitor, an antibacterial drug, an EC 5.99.1.3 [DNA topoisomerase (ATP-hydrolysing)] inhibitor, a DNA synthesis inhibitor, an antimicrobial agent, an environmental contaminant and a xenobiotic.

The product under consideration is classified under Chapter 29 of the Customs Tariff Act in the name of 'Ciprofloxacin HCL and its salts' (subheading 29419030). The Custom classification is indicative only and not binding on the scope of the investigation."

C.1 Views of the domestic industry

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

a. The product under consideration (PUC) is Ciprofloxacin HCL, a quinolone that is quinolin-4(1H)-one bearing cyclopropyl, carboxylic acid, fluoro and piperazin-1-yl substituents at positions 1, 3, 6 and 7, respectively.
b. The prescribed unit of measurement for the product under consideration is weight in Kg/ MT
c. Ciprofloxacin HCL is classified under Chapter 29 of the Customs Tariff Act in the name of 'Ciprofloxacin HCL and its salts'. The dedicated code for Ciprofloxacin and its salts is 29419030. However, the customs classification is only indicative and is not binding on the scope of the present investigations.
d. The goods produced by the Applicant are like article to the imported goods as they are comparable in terms of chemical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods, and are technically and commercially substitutable.
e. There is no known significant difference in the technology employed by the domestic industry and the producers in subject country.

C.2 Views of the other interested parties

7. None of the other interested parties has made any submission with regard to PUC.

C.3 Examination by the Authority

8. The product under consideration, as defined in the notice of initiation, is "Ciprofloxacin Hydrochloride" or "Ciprofloxacin HCL". Ciprofloxacin Hydrochloride is used to treat different types of bacterial infections, including skin infections, bone and joint infections, respiratory or sinus infections, urinary tract infections, and certain types of diarrhoea. It acts as anti-infective agent, a topoisomerase IV inhibitor, an antibacterial drug, an EC 5.99.1.3 [DNA topoisomerase (ATP-hydrolysing)] inhibitor, a DNA synthesis inhibitor, an antimicrobial agent, an environmental contaminant and a xenobiotic.

9. The product under consideration is classified under Chapter 29 of the Customs Tariff Act under the tariff code 29419030, in the name of 'Ciprofloxacin HCL and its salts'. The Customs classification is indicative only and not binding on the scope of the investigation.

10. None of the interested parties have made any submissions for modification of the scope of product under consideration post initiation of investigation. Accordingly, the Authority has considered the product under consideration, as defined in the notice of initiation, for the purpose of the present final findings.

11. The Applicant claimed that the Ciprofloxacin HCL produced by it and that imported from the subject country are produced using the same basic raw materials having broadly similar manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The contention of the Applicant has not been disputed by the other interested parties. The Authority holds that the product produced by the domestic industry are like article to the product under consideration imported from subject country in terms of Rule 2(d) of the Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Views of the domestic industry

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

a. The application has been filed by M/s Aarti Drugs Ltd. and supported by M/s Godavari Drugs Limited, another producer of the product under consideration.

b. There are six more known domestic producers of the product under consideration, namely,
   i. M/s Aurobindo Pharma Limited,
   ii. M/s Dr. Reddy's Laboratories Ltd.,
   iii. M/s Neuland Laboratories Limited,
   iv. M/s Emmennar Pharma Private Limited,
   v. M/s Sreepathi Pharmaceuticals Limited and
   vi. M/s Sun Pharmaceutical Industries Ltd.

c. The Applicant is neither related to an importer in India nor an exporter from the subject country, and has not imported the product under consideration from the subject country.

d. The Applicant holds a major proportion of total domestic production of the subject goods in India and thus, constitutes domestic industry.

e. The applicant has assessed the production of the other producers based on market intelligence as there is no published information available. The Authority sent a communication to other domestic producers advising them to file information in the form and manner prescribed concerning injury determination. However, none of the other domestic producers have filed complete injury information. The evidence submitted on the record and verified by the Authority, shows that the Applicant commands a major proportion and the applicant, along with the supporter, accounts for more than 50% of the total production of the subject goods in India. None of the other producers have disputed the above facts.

f. The applicant was never against calling information from other domestic producers to assess the total Indian production and the standing of the domestic industry. However, if other domestic producers have not cooperated with the Authority, the domestic industry cannot be penalised for the same.

g. The Authority has recorded the preliminary findings on the basis of information of applicant and since injury to the domestic industry is not based on data of the supporting domestic producer, the possibility that such domestic producer may not have provided information as per format does not vitiate the determination.

D.2. Views of the other interested parties

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

a. No proof or any evidence is given to support the actual percentage of production of all other producers, and that Neuland's Laboratories Limited and M/s Dr. Reddy's Laboratories Ltd have only produced to export. As per the Annual Report, these two producers sell more than 30% of their production in the Domestic Market.

D.3 Examination by the Authority

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

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

15. The application has been filed by M/s Aarti Drugs Ltd. The Applicant is not related to any importer or exporter of subject goods in the subject country, nor have they imported subject goods from subject country. The Applicant is the largest producer of the subject goods in the country. Further, the application filed by the Applicant was supported by M/s Godavari Drugs Ltd., another domestic producer of the subject goods. Apart from the Applicant and supporter, following are the other Indian producers of the subject goods in India:
    i. M/s. Aurobindo Pharma Limited
    ii. M/s Dr. Reddy's Laboratories Ltd.
    iii. M/s Neuland Laboratories Limited
    iv. M/s Emmennar Pharma Private Limited
    v. M/s Sreepathi Pharmaceuticals Limited
    vi. M/s. Sun Pharmaceutical Industries Ltd.
16. At the stage of initiation and thereafter, the Authority sent a communication to other domestic producers advising them to file information in the form and manner prescribed with regard to injury determination. However, none of other domestic producers have filed complete injury information in the prescribed format.

17. As regards the submission that no evidence has been provided to support the actual production of non-petitioning other producers, the Authority notes that none of the interested parties have provided evidence contrary to evidence presented by the applicant. Some interested parties relied upon the annual report of Neuland's Laboratories Limited and M/s Dr. Reddy's Laboratories Ltd and contended that these companies sell more than 30% of their production in the Domestic Market. It is however noted the annual report of these companies show segment analysis of the company's turnover and is not specific to the product under consideration.

18. The evidence on record shows that the Applicant commands a major proportion (43%) in the total domestic production in India. Further, the Applicant, along with the supporter, account for more than 50% of the total production of the subject goods in India. Accordingly, the Authority holds that the Applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1 Views of the domestic industry

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

a. Applicant has disclosed all the essential information in the non-confidential version of the application in accordance with Rule 7 of the Rules and as per Trade Notice No. 10/2018 dated 7th September 2018.

b. Indexed information has been provided wherever possible. The injury analysis is essentially an analysis of trend which can be easily seen through trends of various parameters provided in the application.

c. The non-confidential version of the response filed by the other interested parties is grossly deficient and should be rejected.

d. Zhejiang Langhua Pharmaceutical Co Ltd has claimed excessive confidentiality with regard to shareholding structure, production process, full value chain, and production facilities. It has failed to disclose details of its related parties and procurement of raw materials.

e. Zhejiang Langhua has claimed product list and corporate structure as confidential, even though the same is available in public domain.

f. Shengyu Jingxin Pharmaceutical Co Ltd has claimed excessive confidentiality with regard to the working of the company itself, the holding company and its activity, and other related companies engaged in production of the subject goods. Further, it has not provided details of its shareholding structure, channel of distribution, product list, raw material procurement, product description and production process.

g. Zhejiang Jingxin Pharmaceuticals Export and Import Co Ltd (Trader) has claimed excessive confidentiality with regard to its shareholding structure, sales flow chart, and its related company(ies) engaged in the production of the subject goods.

h. Supporting producers have neither provided relevant information to the applicant nor the applicant has authority to force them as they have not authorized the applicant to disclose even indexed data. Indexed data also carries significant information.

i. NIP is a highly business-sensitive information and cannot be disclosed on an actual basis or even in a range. The Authority also does not disclose NIP or normal value or export price even in a range. The interested party is assuming that the Authority proceeds blindfold.

j. The applicant has already submitted the non-confidential version of DGCI&S Transaction wise import data vide letter dated 7th February 2020.

k. The NCV application mentions that balance sheets of the applicant can be seen on the companies' website. Quality Policy, Sales Policy, of the applicant is highly business-sensitive information, disclosure of which would be of significant competitive advantage to the competitors.

E.2. Views of the other interested parties

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

a. The standard provided for the disclosure of the 'Non-Injurious Price' in Trade Notice 10/2018

dated 7th September, 2018 is 'Aggregated actual data must be provided in actual figure range +/- 10%'. The same has not been complied with by the domestic industry and the domestic industry has also not shown any good cause for such confidentiality. It seems that the NIP may have been deliberately concealed since the import price of the subject imports is higher than the non-injurious price.

b. Godavari Drugs Limited is a supporting domestic producer in the subject investigation. Trade Notice No. 13/2018 dated 27th September 2018 states the information required to be provided by supporting domestic producers and the prescribed formats for the same. Trade Notice 14/2018 dated 1st October 2018 provides guidelines for disclosure of such information in confidential and non-confidential version. The requirements of neither of the trade notices have been complied with. The supporting domestic producer has provided no relevant information to the Respondent.
c. The Petitioner has violated the provisions of confidentiality as per Rule 6 and & of the AD Agreement and Trade notices 10 of 2018, 13 of 2018 and 14 of 2018.
d. The Petitioner has not provided Transaction wise import data in excel format to the Respondent as per the recent ruling of Hon'ble CESTAT in Exotic Decor Pvt Ltd. Versus Designated Authority dated 12th June 2020.
e. The Annual reports, Quality Policy, Sales Policy, of the Petitioner and the supporting Industry as confidential. The Authority has violated Article 6.5 of the AD Agreement. Reliance placed on Panel Report in EC – Fasteners (China)
f. The Respondent has the right to know the calculation done by the Authority for determining the NIP and injury margin as it will have an impact on the margin of the Exporters and requests to provide a non- confidential summary of the same.

E.3 Examination by the Authority

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

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

23. As regards information from supporting producers, the Authority has recorded present findings on the basis of information of Applicant domestic industry and has not taken into account the support to the petition. Since injury to the domestic industry is not based on data of the supporting domestic producer, the possibility that such domestic producer may not have provided all information strictly as per format does not vitiate the present determination and right of the Applicant domestic industry. The Authority has prescribed a format for supporting companies only with a view to analyse the performance of such supporting domestic producers. In a situation where supporting domestic producers have not provided information in the prescribed formats, the Authority has not examined possible injury to such other domestic producers. However, the right of Applicant with respect to "standing" within the meaning of Rule 5(3) cannot be diluted even if the supporting domestic producers merely support the

petition without providing any information whatsoever.

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

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

25. As regards the contentions with regard to confidentiality of information, it is noted that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice.

26. As regards the contention that excel file of transaction-by-transaction imports were claimed confidential by the domestic industry, the procedure for sharing and procuring import data has been laid down in the Trade Notice 07/2018 dated 15th March 2018. It provides that (i) the sorted import data relied upon by the domestic industry can be shared in hard copy & (ii) interested parties can seek authorization from the Authority for seeking raw transaction by transaction import data from DGCI&S. Hard copy of the sorted import data was made accessible to the interested parties based upon declaration/undertaking as per prescribed format. The interested parties who requested for procurement of import data from DGCI&S and provided undertaking as per Trade Notice 07/2018 were also granted authorization to obtain import data in excel file from DGCI&S. The Authority thus notes that the procedure now being applied is

consistent, uniform across parties and investigations and provides adequate opportunity to the interested parties to defend their interests.

F. MISCELLANEOUS SUBMISSIONS

F.1. Views of the domestic industry

27. Following are the submissions made by the Applicant with regard to scope of the miscellaneous submissions:

a. There is a gap of only 6 months and 10 days and not 7 months as mischievously alleged by the exporter. The domestic industry has submitted the application five months from the date of ending of POI in terms of the Trade Notice No. 15/2018 dated 22nd November 2018. Thus, the petition was timely filed.

b. The time limits prescribed in the manual are only internal guidelines and not statutory deadlines which the Authority may waive, and the right of waiver is mentioned in the disclaimer to the manual

c. The recent amendment to the AD Rules made vide Notification No. 9/2020- Customs (NT) dated 2 February 2020 came after the initiation of investigation and any amendment cannot be imposed retrospectively unless it is specifically provided.

F.2 Views of the other interested parties

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

a. There is a gap of 7 months between the date of initiation and the end of period of investigation. It is an established principle, as per manual and the recent amendment to the AD Rules made vide Notification No. 9/2020- Customs (NT) dated 2 February 2020, that the period of investigation cannot be older than 6 months on the date of initiation. It is submitted that such an outdated period of investigation will not be able to reveal the true picture of the market and will lead to skewed results.

F.3 Examination by the Authority

29. As regards submissions concerning the length of POI or its proximity to date of initiation, the Authority notes that the POI chosen for the case is consistent with the legal position at the time of initiation and the practice being followed by the Authority. While it may be desirable to minimise the time gap between end of the POI and date of initiation in order to keep date of initiation as proximate as possible to the end of the POI, the Authority notes that there was no legal provision proscribing initiation of an investigation if the POI was older than six months on the date of initiation. The application was filed by the applicant within the time limits prescribed by the Authority and therefore the Authority was required to consider the same within the framework of legal provisions prevailing at the time of initiation.

30. It is further noted that the Rules have been amended vide Notification No. 9/2020- customs (N.T.) dated 2nd February 2020 wherein Rule 2 (da) and Explanation to Rule 22 have been

inserted, incorporating the following provisions:

"The POI shall:-

(i) not be more than six months old as on the date of initiation of investigation.

(ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months."

31. It is, however, noted that the above amendment has been carried out after the initiation of the present investigation.

32. With regard to 15 months POI taken by the Authority in this investigation, it is noted that the application in the instant case was filed on 3rd December, 2019. The Authority considers that the investigation period should normally be 12 months period. The Authority can however consider a period longer than 12 months (15 or 18 months), if it is found that such longer period also includes a complete accounting year, and there are no peculiar facts showing that fixation of a longer period of 15 or 18 months as the investigation period would be inappropriate. Considering all aspects, the Authority considered it appropriate to have the POI of 15 months.

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

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

(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

(b) Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

G.1 Views of the domestic industry

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

a. China PR should be considered as a non-market economy, in line with the position taken by the

Authority in previous cases, and by investigating authorities in other countries.

b. The cost and price of the Chinese producers cannot be relied upon for determination of normal value, and accordingly, the normal value should be determined in accordance with the provisions of para 7 of Annexure I of the Rules.

c. The subject goods are produced mainly in China PR and India. Normal value could not be determined based on price or constructed value in a market economy third country. The Applicant has determined the normal value of subject goods based on cost of production of the subject goods in India with addition of administrative & selling expenses and a reasonable amount of profit.

d. The dumping margins determined in the preliminary findings are understated. The responding exporters should be treated as non-cooperative and accordingly allowed the highest margin determined for the non-cooperative exporters. The impact of dumping on the domestic industry is significant.

e. The Chinese producers have not even filed a MET questionnaire and the responding producers/exporters are not entitled to be accorded individual normal value as they have not established that normal value can be determined based on their own data.

f. The Authority can only consider their data for export price determination, that too if the same is complete in all respect. The applicant requests the Authority to re-examine and determine the export price for each of the responding exporters.

g. The normal Value has been constructed based on the cost of production of the domestic industry which is highly business-sensitive information, disclosure of which would be of significant competitive advantage to the competitors and consumers and would seriously impact the interest of the applicant.

h. Chinese producers are practicing dumping all over the world and the Authority may direct them to provide full invoice-wise details of exports to the rest of the world and determine the dumping margin in third country exports.

G.2. Views of the other interested parties

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

a. The dumping margin should be determined based on the data provided by the respondent

b. The analysis of the treatment of each cost element in the computation of normal value should be provided for computation of dumping margin. This is against the provisions of transparency in AD law.

c. The Normal value calculated by the Authority is unreliable as the Authority should have first utilized the first two methods before constructing the Normal Value. Reliance placed on Hon'ble Supreme Court decision in Shenyang Matsushita S. Battery Co. Ltd. v. Exide Industries Ltd. and others, (2005) 3 SCC 39 and anti-dumping cases of European Commission against China PR.

36. None of the interested parties has made any submission with regard to MET Claim. It has been submitted that the export price, landed value and dumping margin should be determined on the basis of the actual data in the exporter's questionnaire response submitted to the Authority.

G.3 Examination by the Authority